Certain aspects of company law. Codification

2015/0283(COD) - 03/12/2015 - Legislative proposal

PURPOSE: to codify a series of Directives relating to certain aspects of company law.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with Council.

BACKGROUND: Council Directive 82/891/EEC, Council Directive 89/666/EEC, Directive 2005/56/EC of the European Parliament and of the Council, Directive 2009/101/EC of the European Parliament and of the Council, Directive 2011/35/EU of the European Parliament and of the Council and Directive 2012/30 /EU of the European Parliament and of the Council have been substantially amended several times.

On 1 April 1987, the Commission decided to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement. The Conclusions of the Presidency of the Edinburgh European Council in December 1992 confirmed this, whilst stressing the importance of codification.

The European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

CONTENT: in the interests of clarity and rationality, this proposal seeks to codify the following directives:

- Sixth Council Directive concerning the division of public limited liability companies (82/891/EEC),
- Eleventh Council Directive concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State (89/666/EEC),
- Directive 2005/56/EC of the European Parliament and of the Council on cross-border mergers of limited liability companies,
- Directive 2009/101/EC of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent,
- Directive 2011/35/EU of the European Parliament and of the Council concerning mergers of public limited liability companies,
- Directive 2012/30/EU of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital.

The new Directive will **supersede the various acts incorporated in it**; the proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

The proposed Directive lays down measures concerning the following:

- the coordination of safeguards which are required by Member States in respect of the formation of public limited liability companies and the maintenance and alteration of their capital;
- the coordination of safeguards which are required by Member States concerning disclosure requirements in respect of public and private limited liability companies;
- the disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State;
- mergers of public limited liability companies;
- cross-border mergers of limited liability companies;
- the division of public limited liability companies.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.