Cross border mergers and divisions

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The European Parliament adopted by 490 votes to 46, with 103 abstentions, a resolution on cross-border mergers and divisions.

Members recalled that the obstacles to full implementation of the Directive on cross-border mergers and the fact that there is no European Union law on cross-border divisions of undertakings entails manifest procedural, administrative and financial difficulties for the businesses concerned, as well as the risk of abuses and dumping.

The public consultation launched by the Commission in September 2014 provided information about the existing barriers to cross-border operations and about the amendments that needed to be made to existing legislation.

Stressing the importance of establishing a framework which regulates comprehensively the mobility of undertakings at European level, Parliament called on the Commission to devote attention to the results of the public consultation and **propose new rules on cross-border mergers and divisions** in the objectives of boosting internal market and fostering workers' rights.

Mergers: Members called for the **revision** of Directive 2005/56/EC **on cross-border mergers of limited liability companies** in order to improve its implementation and to take into account recent developments in both the case law of the CJEU on freedom of establishment of companies and in European company law.

The future legislative proposal should **contain a fresh set of rules covering divisions of companies** and should set out guidelines for further legislation on the mobility of companies.

Divisions: while recalling that Directive 82/891/EEC only regulates divisions of undertakings within a Member State, Members noted that the figures on domestic divisions show a real need to establish a **special EU framework for cross-border divisions**. They stressed that any new directive should not be used as a formal instrument for divisions in an undertaking for the purpose of forum shopping to avoid legal obligations under national law.

Necessary amendments: the resolution considered it important that future legislative proposals on the mobility of undertakings should include provisions concerning **maximum harmonisation** – particularly regarding:

- procedural standards,
- assets and liabilities and accounting issues;
- the rights of **minority shareholders**;
- the establishment of minimum standards of information, consultation and codetermination of **workers** to improve their protection, in particular against social dumping.