

Use of digital tools and processes in company law

2018/0113(COD) - 25/04/2018 - Legislative proposal

PURPOSE: to propose new company law rules to provide a wider range of digital solutions to companies within the Single Market.

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 the Council.

BACKGROUND: companies increasingly use digital tools in their business and they also need to interact with public authorities.

Currently the EU company law ([Directive \(EU\) 2017/1132 of the European Parliament and of the Council](#)) includes certain elements of digitalisation such as the obligation for Member States to make available online information about limited liability companies registered in central, commercial and companies registers ("registers"). However, these requirements are limited and lack precision, leading to a very diverse implementation at national level.

In addition, **certain digital processes, for instance online company registration, are not covered at all by EU law** and only a number of Member States address them at national level.

The lack of rules for online registration, filing and publication or the divergence of such rules in the Member States create **unnecessary costs and burdens to entrepreneurs** who wish to set up a new business or to expand their business by registering subsidiaries or branches or fulfil specific requirements online.

The [eGovernment action plan 2016-2020](#) specifically recognised the importance of improving the use of digital tools to meet company law requirements. The [proposed Regulation](#) which establishes the Single Digital Gateway foresees general rules for online provision of information, procedures and assistance services relevant for the functioning of the internal market.

The European Parliament, in its 2017 [resolution](#) on the e-Government Action Plan, called on the Commission to consider further ways to promote digital solutions for formalities throughout a company's lifecycle.

IMPACT ASSESSMENT: three main issues in relation to the use of digital tools in company law were examined:

- **online registration (creation of a company as legal entity) and filing of documents to the business register:** the preferred option would provide for rules on the online registration of company and branch and online filing of company documents in all Member States;
- **multiple submission of the same information by companies:** the preferred option seeks simplification by introducing rules requiring Member States to ensure that, when the register receives certain data from the company (e.g. change of company name, change of registered office or latest annual accounts), it then sends it to the register in another Member State where the company has a branch (as opposed to the company doing that);

- **online access to company information held in business registers:** the preferred option proposes to expand the set of company data to be provided free of charge by all business registers, while Member States could still charge fees for other information.

CONTENT: this proposal is aimed to **complement the existing rules on EU company law** that are codified in Directive (EU) 2017/1132.

Specifically, the proposal:

- ensures the **mandatory recognition of e-IDAS compliant electronic identification** means of Union citizens issued in another Member State and allows at the same time Member States to recognise other identification means. As a safeguard to avoid fraud, the provision allows Member States to require the physical presence of relevant persons before a competent authority but only in case of genuine suspicion based on reasonable grounds;
- requires Member States to ensure that **rules on fees for the registration and filing of documents and information online** are transparent and applied in a non-discriminatory manner; fees charged by registers should not exceed the administrative costs of providing the service; payments for the completion of online procedures could be made by means of a payment service widely available in cross-border payment services;
- ensures that those that want to set-up and operate companies and branches cross-border have easy access to **all relevant information** about registration of and filing by companies and branches;
- introduces the **possibility to register companies online** without the necessity for the applicant, or his representative, to appear in person before any competent authority or before any other person or body. Member States may opt-out from this obligation in relation to public limited liability companies given the complexity of establishment and registration of such companies; a general maximum time limit of **five working days** is established for the completion of the process for the registration of companies online;
- provides a legal framework for Member States to request information from other Member States concerning **disqualified directors**. Member States may refuse the appointment of a person as a director of a company or branch who is currently disqualified from acting as a director in another Member State;
- requires Member States to ensure that fully **online solutions** in case of submitting the necessary information to the register throughout the lifecycle of the company, similarly to the online registration of companies;;
- introduces an obligation for Member States to ensure that an applicant can obtain electronic extracts authenticated by means of trust services from the registers;
- allows, by applying the "once and for all" principle, companies to avoid having to present the same information several times to different authorities during the life cycle of a company;
- introduces online registration and online filing for branches, in the same way as for companies;
- requires Member States to **inform each other**, via the system of interconnection of business registers, about branch closures registered in a Member State other than the one where the company is registered.

BUDGETARY IMPLICATIONS: the proposal is expected to have certain budgetary implications at least on some of the Member States who may need to adapt their IT systems in order to support the new provisions. However, those setting up costs would be recovered in the medium and long term through saving time and resources in Member States' administration. There is no impact on the EU budget.