Use of digital tools and processes in company law

2018/0113(COD) - 11/07/2019 - Final act

PURPOSE: to revise EU rules in the field of company law in order to adapt them to the digital age.

LEGISLATIVE ACT: Directive (EU) 2019/1151 of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law.

CONTENT: this Directive amending Directive (EU) 2017/1132 is intended to facilitate and promote the use of online solutions in a company's contacts with public authorities throughout its lifecycle.

The Directive establishes procedures for companies to register limited liability companies, set up branches and file documents relating to companies and their branches in the business register entirely online. This Directive shall not oblige companies to use such procedures. Member States shall, however, be able to decide to make some or all online procedures mandatory.

Recognition of identification means for the purposes of online procedures

Member States shall ensure that electronic means of identification issued under an electronic identification scheme approved by the applicant's Member State or those issued in another Member State and recognised for the purpose of cross-border authentication in accordance with Regulation (EU) No 910/2014 can be used by applicants who are Union citizens in online procedures.

All identification means recognised by Member States shall be made publicly available.

Prevention of abuse

The Directive sets out the necessary safeguards to combat fraud and abuse that could occur in online procedures, including the control of the identity and legal capacity of persons setting up the company and the possibility of requiring the physical presence of the applicant before any competent authority where there are grounds to suspect that identity has been falsified.

Fees for online procedures

Member States shall ensure that the rules on fees applicable to the online procedures are transparent and are applied in a non-discriminatory manner. Any fees for online procedures charged by the registers shall not exceed the recovery of the costs of providing such services.

Where the completion of a procedure requires a payment, Member States shall ensure that that payment can be made by means of a widely available online payment service that can be used for cross-border payments, that permits identification of the person that made the payment and is provided by a financial institution or payment service provider established in a Member State.

Online filing of companies

Member States shall have standard models for the online filing of companies available on portals or websites for company registration, which are accessible through the single digital portal.

National standard forms and information on national obligations shall be available online in a language that is generally understood by as many users from other Member States as possible. The ‘once only’ principle, according to which a company should only submit the same information to public authorities once, shall apply.

Member States shall ensure that the online formation is completed within five working days where a company is formed exclusively by natural persons who use the templates, or within ten working days in other cases.

Member States shall ensure that where the payment of share capital is required as part of the procedure to form a company, such payment can be made online, in accordance with Article 13e, to a bank account of a bank operating in the Union. In addition, Member States shall ensure that proof of such payments can also be provided online.

Disclosure in the register

In each Member State, a file shall be opened in a central, commercial or companies register, for each of the companies registered therein. Member States shall ensure that companies have a European unique identifier (EUID) allowing them to be unequivocally identified in communications between registers through the system of interconnection of registers.

Documents provided by companies shall be stored and exchanged by national registers in a machine-readable and searchable format. In addition, further information on companies shall be made available free of charge to all interested parties in the business register.

Disqualified directors

Member States shall ensure that they have rules on disqualification of directors. Those rules shall include providing for the possibility to take into account any disqualification that is in force, or information relevant for disqualification, in another Member State. Member States shall ensure that they are able to reply to a request from another Member State for information relevant for the disqualification of directors under the law of the Member State replying to the request.

The personal data of persons referred to in this Article shall be processed in accordance with Regulation (EU) 2016/679 (GDPR) and national law.

ENTRY INTO FORCE: 31.7.2019.

TRANSPOSITION: no later than 1.8.2021 (1.8.2023 for certain provisions).