

Company law: further expanding and upgrading the use of digital tools and processes

2023/0089(COD) - 05/12/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Emil RADEV (EPP, BG) on the proposal for a directive of the European Parliament and of the Council amending Directives 2009/102/EC and (EU) 2017/1132 as regards further expanding and upgrading the use of digital tools and processes in company law.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

With a view to reducing administrative burden for companies in order for them to fully benefit from a harmonised, integrated and digitalised single market, without administrative barriers, Members proposed the following changes:

Complementary public electronic controls of identity, legal capacity and legality

The report stated that the legality of company law transactions, the protection of reliable public registers and the prevention of illegal activities require the correct and secure identification of the participants to company law transactions as well as the verification of their legal capacity. The reliable identification of the customer in line with the know-your-customer principle under AML/CFT rules is the prerequisite for any AML/CFT customer due diligence obligations and thus any ML/TF prevention.

Therefore, for the procedures within the scope of this Directive, Member States should be allowed to provide for complementary public electronic controls of identity, legal capacity and legality. Those complementary public electronic controls could include public remote audio-visual identity controls, including electronic checks of identity photos.

EU Company Certificate

To encourage companies to apply for an EU Company Certificate, the amended text stated that Member States should ensure that each company listed in Annexes II and IIB, as well as third parties which need reliable essential information about companies, may obtain its EU Company Certificate in electronic format free of charge.

EU digital power of attorney

Members consider that the EU power of attorney should be signed using qualified electronic signatures or in case the digital EU power of attorney is certified or authenticated, the certifying or authenticating authority should use qualified electronic signatures or seals. Once filed, the digital EU power of attorney should be deemed to be valid in its published form until an amendment or revocation has been published in the register. Any amendment or revocation of the EU power of attorney has to be published in the register.

Competent authorities, registers or any other third party who can demonstrate legitimate interest, should have access to the digital EU power of attorney in the register of the company. Any charge for accessing such document should be proportionate to the actual cost for the register.