European cross-border associations

2023/0315(COD) - 13/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 490 votes to 69, with 64 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on European cross-border associations.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

Subject matter

The proposed Directive lays down measures coordinating the conditions for establishing and operating ' **European cross-border associations**' (ECBAs), in order to facilitate the effective exercise by non-profit associations of their rights related to the freedom of establishment, free movement of capital, freedom to provide and receive services and free movement of goods in the internal market.

Members stated that in order to ensure that the socio-economic potential of non-profit associations and related entities and their contribution to the European integration is fully exploited, **all barriers, hindering the cross-border operation of their activities should be removed**.

Rules applicable to ECBAs

Member States should ensure that an ECBA shall carry out or have in its statute the objective to carry out activities in at least two Member States and have founding members with links to at least two Member States, either:

- based on citizenship or legal residence in the case of natural persons; or

- based on the location of their registered office in the case of legal entities.

By one year after the entry into force of this Directive and following consultation of stakeholders, including non-profit associations, each Member State should identify the single most similar or most commonly used **legal form of non-profit association** in its domestic legal order and notify the Commission and the ECBA Committee thereof.

The constitution of an ECBA, including through conversions or mergers, as well as the transfer of an office should not be used to undermine workers' or trade union rights, representation, consultation or working conditions nor creditors rights, in accordance with applicable Union and national law as well as collective agreements.

Legal personality

Member States should ensure that an ECBA has the right to at least conclude contracts and perform legal acts, be a party to legal proceedings, own movable and immovable property, carry out economic activities, employ staff, receive, solicit and dispose of donations and other funds, participate in public tenders, and apply for public funding. The ECBA should be allowed to do so without the need to register in any Member State other than the home Member State or to fulfil additional administrative requirements other than those required of the identified legal form.

Statutes

The statutes of an ECBA should be provided in writing and include the following information: (i) a detailed description of its objectives, a statement of its non-profit purpose and a description of its cross-border dimension; (ii) a declaration that the ECBA will respect the values of the Union.

Governance

The executive body of an ECBA should be composed of a minimum of three persons, of which at least two persons are natural persons that are Union citizens or legally resident in the Union, or legal entities with a non-profit purpose established in the Union, through their representatives.

Membership

The membership criteria of an ECBA should be regulated by its statutes. Moreover, Member States should ensure that each member of an ECBA has one vote, unless the ECBA decides to allow a differentiation including by making a distinction between full members who can vote and associate members who cannot vote. In all cases, any differentiation in voting rights shall be set out in the statutes.

Judicial review

Member States should ensure access to effective complaint mechanisms in accordance with national law.

Merger of existing non-profit entities into an ECBAs

The amended text included a new article stating that Member States should ensure that two or more existing non-profit entities that are legally established in on or more Member States, can merge into an ECBA where: (a) one or more non-profit entity, on being dissolved without going into liquidation, transfers all its assets and liabilities to another existing ECBA, being the acquiring ECBA; or (b) one or more non-profit entity, on being dissolved without going into liquidation, transfers all its or their assets and liabilities to an ECBA that it or they form, being the newly established ECBA.

Register

Each Member State should designate a national register and responsible public body, for the purposes of registration of ECBAs and should inform the Commission thereof.

Involuntary dissolution

Member States may provide for the involuntary dissolution of an ECBA, provided that the dissolution is preceded by a risk assessment, that it is prescribed by law, appropriate for the attainment of the objective pursued, does not go beyond what is strictly necessary, and that the dissolution is proportionate to the objective pursued, and only on the basis of one of the following reasons:

- a serious threat to public order or public security;

- a flagrant and repeated breach of the values of the Union through its activities;

- a conviction for a particularly serious criminal offence of the ECBA or of the members of its executive body committed in the name, on behalf or for the benefit of the ECBA;

- a conviction for a serious criminal offence of a member of the executive body for a particularly serious criminal offence committed after the creation of the ECBA where participation in the executive body by such person would constitute a threat to public order.

ECBA Committee

The Commission should be assisted by a Committee called the ECBA Committee. The Committee should monitor the implementation of this Directive and promote the exchange of information, experience and best practices as well as the coordination of policy approaches among national governments, competent authorities, and the Commission. The Commission should inform the Council and the European Parliament about the activities of the Committee on an annual basis.