

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

2023/0089(COD) - 24/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 550 votes to 3, with 19 abstentions, a legislative resolution 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 objectives of this Directive aim to increase the amount and improve the reliability of company data available in business registers or through the system of interconnection of registers, and to enable direct use of company data available in business registers when setting up cross-border branches and subsidiaries and in other cross-border activities and situations.

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

Preventive control

Member States should provide for preventive **administrative, judicial or notarial control**, or any combination thereof, of the instrument of constitution, the company statutes and any amendments to those documents.

Documents and information to be disclosed by partnerships

Member States should ensure compulsory disclosure by the types of partnerships listed in Annex IIB of at least the following documents and information:

- the name of the partnership; the legal form of the partnership; the registered office of the partnership or equivalent; the registration number of the partnership;
- the maximum amount of liability or contribution of limited partners, where this information is recorded in the national register;
- the instrument of constitution, and the statutes if they are contained in a separate instrument, if the filing of these documents to the register is required by national law;
- the **particulars of the partners, directors or other statutory representatives** who are authorised to represent the partnership in dealings with third parties and in legal proceedings, and information as to whether those persons are authorised to represent the partnership alone or are required to act jointly, or, if not applicable, information about the nature and scope of the authorisation of the partners, directors or other representatives to represent the partnership and their particulars;
- the particulars of the liquidators and their respective powers, unless such powers are expressly and exclusively derived from law or from the statutes of the partnership, where this information is recorded in the national register.

Applying the 'once-only' principle

Applying the ‘once-only’ principle entails that companies are not asked to submit the same information to public authorities more than once. For example, companies should not have to resubmit the company documents or information relating to the existence and registration of the founder company and thus already submitted to the register where the company is registered when creating a subsidiary in another Member State. Applying the ‘once-only’ principle also means that the founder company should not have to resubmit the company documents or information to any authority, body or person. These authorities should directly access information that is publicly available through the system of interconnections of registers via the European e-Justice portal.

EU Company Certificate

The certificate should include the **object of the company** describing its main activity or activities, which can be expressed using the Statistical Classification of Economic Activities in the European Community (NACE) code, where such code is used for the purposes of the register pursuant to applicable national law, and where the object is recorded in the national register.

Member States should ensure that each company listed in Annexes II and IIB may obtain its EU Company Certificate in electronic format **free of charge** unless it causes a serious prejudice to the financing of the business registers but in any case each company should be able to obtain its EU company certificate free of charge at least once per calendar year. In any case, the price for obtaining the EU Company Certificate, whether by paper or electronic means, should not exceed the administrative costs thereof, including the costs of development and maintenance of registers.

Digital EU power of attorney

Member States should ensure that, in order to carry out procedures in another Member State within the scope of this Directive, in particular the formation of companies, registration or closure of branches, cross-border conversions, mergers and divisions, may use a template for the digital EU power of attorney to authorise a person to represent the company.

Member States may require that the digital EU power of attorney, any amendment to it, and any revocation is to be filed in a register. The Commission should publish the **template** for the digital EU power of attorney on the portal in all official languages of the Union.

Safeguards in case of reasonable doubt as to abuse or fraud

Where justified by reasons of public interest to prevent abuse or fraud, the authorities in another Member State may exceptionally and on a case-by-case basis where they have reasonable grounds to suspect fraud or abuse, refuse to accept information or documents about a company from a register in another Member State as evidence of the registration of a company or its continued existence, or as evidence of the specific company information subject to suspicion of fraud or abuse.

Company groups

Information about company groups is important to promote transparency and enhance trust in the business environment as well as to contribute to the effective detection of fraudulent or abusive schemes that could affect public revenues and the credibility of the single market. Therefore, information about group structures should be **publicly available** through the system of interconnection of registers for both domestic and cross-border groups.

Lastly, the Commission should assess whether **cooperatives**, which play an important role in many Member States, should be included in the scope of this Directive, taking into account their specificities.