The European private company statute

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The committee adopted the own-initiative report by Klaus-Heiner LEHNE (EPP-ED, DE) containing recommendations to the Commission on the European private company statute. The existing European Company (SE) statute is designed for large limited companies, but the committee wanted the Commission to draft a European Private Company (EPC) statute to help Europe's small and medium-sized enterprises (SMEs) to do business across borders.

The report was adopted under a special procedure provided for in Article 192 of the EC Treaty allowing Parliament to make a formal request to the Commission to come forward with a legislative proposal.

The report set out a number of detailed recommendations:

- an EPC statute should be based, as far as possible, on EU legislation, and thus dispense with references to national laws. The company law provisions of the European Company regulation should therefore apply exclusively, and the areas of law regulated in the proposal should be withdrawn from the jurisdiction of the Member States;

- it should be possible for an EPC to be established *ex nihilo*, or on the basis of an existing company, or following a merger between companies or in the context of a common subsidiary. It should also be possible to transform a European Private Company into a European Company;

- the EPC statute should apply to companies with a minimum capital of EUR 10 000 or the equivalent in another country at the time of registration. The minimum capital which determines the liability of members would not necessarily have to be paid in;

- the annexes to the proposed regulation should contain: (a) model articles of association which members may adopt wholly or in part; (b) for every Member State, the types of company with which the EPC is equated in respect of areas not covered by the regulation; (c) the designations of the company bodies in the various official languages of the EU;

- the EPC should be subject to the harmonised accounting provisions (as contained in Directives 78/660 /EEC and 83/349/EEC) which apply in each Member State to the equivalent type of company;

- an EPC must be able to merge, change its registered office, split and change into a European joint stock company, as far as possible according to Community law which has been harmonised. It must also be possible for national companies to convert into EPCs, with existing employee rights being maintained; this also applies to the re-conversion of an EPC into a national legal form.

The recommendations also included provisions on the organisation of the EPC, the liability of executive directors to the company and insolvency procedures.