Exercise of certain rights of shareholders in listed companies

2005/0265(COD) - 15/02/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by a show of hands the resolution drafted by Klaus-Heiner **Lehne** (EPP-ED, Germay) on shareholders' voting rights, and made some amendments to the Commission's proposal. Following negotiations, an oral agreement was reached with the Council and the Commission, which was reflected in the compromise amendments.

The amendments deal mainly with eight points.

- cooperatives have been explicitly removed from the directive's scope because of their special membership structure;

- on the notice for convocation (Article 5 of the Commission proposal) a distinction is made between annual general meetings (AGMs) and extraordinary general meetings (EGMs). Notices for AGMs should be 20 calendar days; notices for EGMs should depend on the way that Member States have transposed Articles 9 and 11 of the takeover directive (i.e. 'at least two weeks');

- there should also be a distinction between registered and bearer shares. This distinction takes effect in two places. First, when asking to whom the notice convening a general meeting should be sent. With registered shares this is as a rule the registered shareholder (Article 5 of the Commission proposal). Second, with registered shares it is easier to prove share ownership, which under Article 7 of the Commission proposal entitles the shareholder to vote at the general meeting. This means that the specified date required in Article 7 of the Commission proposal for registered shares can be brought nearer to the date of the general meeting than with bearer shares;

-again, the 'officially appointed mechanism' for convening the general meeting, as laid down in Article 21 (2) of the transparency directive, may be used when the notice convening the meeting can also be published by means of this mechanism (see amendment to Article 5 of the Commission proposal);

- on the Commission's proposed right to ask questions (Article 9) it is suggested that companies must answer, no later than at the general meeting, questions that are asked before that meeting. Questions put by a shareholder or shareholders with 1 % of the share capital must be answered within a reasonable time irrespective of the general meeting (the qualified right to ask questions); companies have a responsibility to answer these 'qualified' questions. Moreover any right of challenge that shareholders may have need not be extended to include questions asked before the general meeting;

- the holding of proxy rights (Article 10) needs to be enabled, or made easier, as the case may be. Proxy holders may be required only to establish their legitimacy; to implement proxy rights, Member States should be permitted only to create or maintain such rules as are designed to prevent conflicts of interest between shareholders and proxy holders. Any such rules must be necessary and proportionate. A fault in the internal relationship between the shareholder and proxy should expressly not affect their external relationship with the company;

- as with the exercise of shareholders' rights by proxy holders, the exercise of such rights by intermediaries should also be made easier. To satisfy the need for transparency, Member States should be allowed to lay down rules by means of which the identity of the person on behalf of whom the voting rights are exercised (the 'client') is disclosed;

Lastly, the report provides for the fact that amendment of Article 17 of the transparency directive does not go as far as Article 17 of the Commission proposal. The information under Article 17(1)(a) of the transparency directive (including details of the place, time and agenda of the general meeting) should continue to be governed by the transparency directive. The requirements of the present directive and the transparency directive should complement one another; they should not exclude one another. Article 17 of the transparency directive exists not least in order to ensure that locally resident shareholders have access to all the relevant information.