



2025/2079(INL)

30.6.2025

DRAFT REPORT

with recommendations to the Commission on the 28th Regime: a new legal framework for innovative companies
(2025/2079(INL))

Committee on Legal Affairs

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(Initiative – Rule 47 of the Rules of Procedure)

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Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that he received input from the following entities or persons in the preparation of the draft report: ..	

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with recommendations to the Commission on the 28th Regime: a new legal framework for innovative companies
(2025/2079(INL))**

The European Parliament,

- having regard to Article 225 of the Treaty on the Functioning of the European Union,
 - having regard to Articles 50 and 114(1) of the Treaty on the Functioning of the European Union,
 - having regard to Article 352(1) of the Treaty on the Functioning of the European Union,
 - having regard to Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)¹,
 - having regard to Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters²,
 - having regard to Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC³,
 - having regard to Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law⁴,
 - having regard to the Communication from the Commission of 28 May 2025, entitled ‘The EU startup and scaleup strategy’ ([COM\(2025\)270](#)),
 - having regard to Enrico Letta’s report of 17 April 2024 entitled ‘Much more than a market’,
 - having regard to Mario Draghi’s report of 9 September 2024 entitled ‘The future of European competitiveness’,
 - having regard to Rules 47 and 55 of its Rules of Procedure,
- A. whereas enterprises, specifically small and medium-sized enterprises (SMEs), start-ups and scale-ups, across the Union face widely varying rules from one Member State to another; whereas this regulatory diversity and the costs of navigating unfamiliar environments hinder the pan-European financing of companies;
- B. whereas a unified European system could be achieved not only by means of a stand-alone

¹ OJ L 177, 4.7.2008, p. 6, ELI: <http://data.europa.eu/eli/reg/2008/593/oj>.

² OJ L 351, 20.12.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/1215/oj>.

³ OJ L 257, 28/08/2014, p. 73, ELI: <http://data.europa.eu/eli/reg/2014/910/oj>.

⁴ OJ L 169, 30.6.2017, p. 46, ELI: <http://data.europa.eu/eli/dir/2017/1132/oj>.

legal act of the Union but also by introducing a set of rules which operate alongside the national legal system existing in each Member State;

- C. whereas many start-ups and scale-ups in the Union are developing breakthrough technologies; whereas those enterprises are often acquired by foreign enterprises before they mature; whereas such acquisitions are often below the Union's merger control thresholds;
- D. whereas innovative companies need access to venture capital, pan-European mobility, scalability, high-skilled workers, ~~protection against 'killer acquisitions'~~ and long-term investments;

General principles

1. Welcomes the Commission's commitment to submit a legislative proposal on a 28th regime for innovative companies (the '28th regime'), which should consist of a legislative proposal for a ~~regulation directive~~ with Article ~~352(1)s 50 and 114(1)~~ of the Treaty on the Functioning of the European Union (TFEU) as the legal basises;
2. ~~Supports the use of Is firmly opposed to using~~ Article 352(1) TFEU as a legal basis ~~-for establishing a 28th regime as it enables the creation of a uniform, optional legal form at EU level; because that would delay the adoption of the legislative proposal due to the requirement for unanimity; is critical about the use of enhanced cooperation as referred to in Article 20 of the Treaty on European Union and Article 329 TFEU or intergovernmental agreements for the purpose of establishing the 28th regime;~~
3. ~~Underlines that while unanimity is required, this approach is essential to ensure full legal harmonisation, reduce fragmentation, and provide startups and SMEs with a truly pan-European company form; considers that relying solely on Articles 50 and 114 TFEU would limit the scope of the proposal and risk reinforcing complexity through divergent national implementations; Acknowledges the fact that Articles 50 and 114(1) TFEU require harmonisation measures in company law that necessitate implementation in the national law of Member States; considers that maximum harmonisation is to be preferred in this case in order to ensure uniform rules in all Member States;~~
4. Considers the 28th regime as a step towards further deepening the internal ~~market, and greater~~market, ~~greater~~ European integration ~~and unifying the Single Market, to help startup and scaleup to grow and thrive;~~
5. Reiterates that companies which voluntarily opt in to the 28th regime should be bound by its rules;
6. Emphasises that a company's choice to opt in to the 28th regime must be automatically recognised in national legal orders of all 27 Member States;
7. Is mindful of the risk that a 28th regime could enable the circumvention of mandatory domestic protections for weaker parties; underlines that the 28th regime must not become a vehicle to undermine existing levels of protection; insists that safeguards be set out by way of substantive rules which have a high level of protection and by way of conflict-of-law rules which ensure the application of mandatory domestic rules;

The 28th regime for innovative companies

8. Is of the opinion that the 28th regime should establish a single, EU-level company form, accessible to limited liability companies not listed on the stock market; considers that relying on national implementation risks creating 27 parallel regimes, undermining the goal of a unified company form that enables scaling and operating across the Single Market; calls instead for a fully digital centralised European form governed by uniform~~mainly concern company law rules and that only limited liability companies not listed on the stock market should be able to participate in it; considers that the 28th regime should be a set of rules that must be~~

~~incorporated into existing or new national corporate forms;~~

9. Proposes naming the corporate form covered by the 28th regime the ‘European Start-Up and Scale-Up’ company (ESSU); calls for the abbreviation ‘ESSU’ to be added to existing national corporate form abbreviations;
10. Underlines that the 28th regime’ is without prejudice to Union and national law in the area of individual and collective labour law and the rules on employee codetermination;
11. Highlights the need to simplify company formation and registration; calls for procedural complexity to be reduced and for the registration procedure for creating an ESSU to be completed within 48 hours; calls for the possibility to submit company documents online throughout the lifecycle of the corporate form and for the full implementation of the ‘once only’ principle for the registration of an ESSU; considers that digital procedures, such as digital meetings for general assemblies and board meetings, should be possible;
12. Calls for the creation of a centralized, EU-managed digital incorporation platform ~~uniform Union-level digital company register~~ to serve as a direct entry point for registering ESSUs, that allows companies to incorporate and operate fully online across the EU, without reliance on national company registries; underlines that this platform should be multilingual, support cross-border operability, and be accessible in English as default to reduce barriers and legal costs for SMEs and startups; complementing and extending the existing Business Register Interconnection System (BRIS);
13. Calls for the further development and adaptation of a Union company identifier to streamline registration, boost transparency and trust, facilitate company identity verification, and combat fraud and tax evasion;
14. ~~Considers that the possibility to register as an ESSU should not be limited to a new category of ‘innovative companies’ or to other limiting factors; warns that creating such a new category would add unnecessary red tape; clarifies that it should only be possible for natural or legal persons that are resident or established in the Union to establish an ESSU;~~
- ~~15. Considers that it should be possible for an ESSU to operate as an autonomous single company or as a subsidiary company of an ESSU parent company;~~
- ~~16.15. Stresses that the registered seat of a company must be in one of the 27 Member States in order to qualify for registration as an ESSU; underlines that the seat and registered office may be in different Member States;~~
- ~~17. Underlines that productivity growth, innovation and social inclusion must go hand-in-hand; is of the view that consideration should be given to the creation of employee stock ownership plans for employees of an ESSU so that they can gain an ownership interest in the company;~~

Safeguards

- ~~18.16. Stress the importance of creating an environment in which European innovative companies can grow, scale and remain globally competitive, warns against an overemphasis on~~ Underlines the need to protect European innovative companies from

~~'killer acquisitions', a term which lacks clear empirical basis in the startup ecosystem and risks distracting from real challenges startup and scaleup face, such as access to capital, talent and a unified market and to prevent the relocation of innovation, often supported by European public research funds, to outside of the Union; considers merger regulation as insufficient to address the issue of 'killer acquisitions'; calls for including optional forms of steward ownership, asset locks and different classes of shares, especially dual class shares, including veto shares, as part of the legislative proposal;~~

~~19.~~17. _____ Is concerned about the risk of undermining the existing standards for the protection of the weaker party in the national legal orders of the Member States;

~~20.~~18. _____ Considers the use of conflict-of-law rules as a more appropriate way of addressing the protection of the weaker party than substantive rules in the new legislative proposal; calls for matters relating to employee codetermination to be determined by the law of the real seat of the company, which is the place of the company's central management;

Access to capital

~~21.~~19. _____ Calls for the elaboration of model documents to be used within the entire Union for shareholder agreements and articles of association;

~~22.~~20. _____ Considers that the new legislative proposal should contain harmonised rules on equity- like debt instruments, enabling investors to invest in a company without acquiring rights of control over that company;

Dispute Resolution

~~23.~~21. _____ Considers that an alternative dispute resolution mechanism should be established for disputes relating to ESSUs to ensure fast and specialised dispute resolution; further believes that Member States should consider introducing a special panel within their national courts dedicated to disputes between companies relating to ESSUs and that it should be possible for such special panels to conduct the dispute resolution in English;

Final provisions

~~24.~~22. _____ Requests that the Commission submit, by the first quarter of 2026 on the basis of ~~Article 352(1) TFEU~~~~Articles 50 and 114 TFEU~~, a proposal for a regulation ~~directive~~ following the recommendations set out in the Annex hereto;

~~25.~~23. _____ Instructs its President to forward this resolution and the accompanying recommendations to the Commission and the Council.

ANNEX TO THE MOTION FOR A RESOLUTION: RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED

1. General principles and legal basis

Parliament proposes to call the corporate form covered by the 28th regime the ‘European Start-Up and Scale-Up’ company (ESSU). The ESSU should ~~not be an~~ uniform, autonomous ~~pan-European~~ Union corporate form, ~~but a national corporate form in all Member States that must consist of certain elements that are harmonised by Union law. The abbreviation ESSU should be added to existing national corporate form abbreviations.~~

~~The ESSU should build on corporate forms established under national law. The Member States should be free as to whether they choose to allow existing national corporate forms to convert into an ESSU or to create a new national corporate form. The founders or the owners of a national corporate form should be able to voluntarily opt in to the new regime, which would allow for the use of the company label ‘ESSU’.~~

~~The existence of an ESSU should be automatically recognised by the national legal orders of all the Member States as a limited liability company.~~

~~The law applicable to the creation of an ESSU should be the law of the Member State in which the company in question is incorporated. By way of derogation from that principle and for the purpose of protecting predefined public interests, it should be possible to determine the applicable law by means of an overriding connecting factor rather than the place of incorporation.~~

The legal basis~~es~~ for the ESSU should be Article ~~352(1)s 50 and 114(1)~~ TFEU. In order to achieve legal certainty as to the constitutive elements of the ESSU, the ~~directive regulation~~ adopted under Article ~~352(1)s 50 and 114(1)~~ TFEU must be a maximum harmonisation ~~directive regulation~~. This approach ensures legal certainty, full harmonization, and usability across the EU.

Parliament is mindful of the risk that an automatically recognised ESSU could lead to a circumvention of mandatory domestic rules that protect weaker parties. The ESSU corporate rules should therefore be without prejudice to Union and national law in the area of individual and collective labour law, including employee codetermination rules, and should contain safeguards that effectively prevent the abusive use of the ESSU.

2. Scope

The ESSU should be a single, EU-level legal form with direct application in all Member States. Instead of relying on national adaptations, the ESSU should be incorporated and governed under EU law through a centralised EU platform. This avoids the creation of 27 parallel national regimes and ensures clarity, consistency, and full cross-border operability. The ESSU should be available to:

- Limited liability companies not listed on a regulated market;

- Natural or legal persons residing or established in a Member State;

Eligibility should not be conditioned on proving “innovative” status, in order to avoid subjective application of EU policy, reduce administrative burdens, and allow broad uptake among SMEs and scale-ups.

The ESSU should not be implemented through 27 national laws but rather as a single, directly applicable legal form governed by an EU regulation.

~~should provide in their national legal orders a set of rules which, when complied with, allow a national corporate form to include the abbreviation ‘ESSU’ in its company name.~~ In order to be eligible to register as an ESSU, a national corporate form should comply with the following:

- it must be a legal entity with legal capacity that is automatically recognised in all Member States on the date of its registration;
- it must be a limited liability company in which the owners’ liability for the company’s debts

is limited to the amount of their contributions;

- it must not be a listed company;
- it must have been established by one or more natural or legal persons that reside in or are established in a Member State;
- it must be possible for it to serve as an autonomous single company or as a subsidiary company of an ESSU parent company;
- its registered seat must be located in one of the Member States;

If national company law provides for a minimum paid-in capital for the establishment of a company eligible to register as an ESSU, the immediately paid-in capital must, for the purpose of the registration of that company, be set at EUR 1 and the company should be obliged to allocate at least 25 per cent⁹ of its annual profits to a legal reserve until that reserve, together with the any initially paid-in capital, reaches the minimum capital required under the national law in question.

In the interest of simplification, the possibility to register as an ESSU should not be limited to a new category of ‘innovative companies’ or to other limiting factors as that would create additional red tape and an unnecessary bureaucratic burden.

If an ESSU intends to list itself on the stock market, it should be required to convert into a public limited company under national or Union law in accordance with national and Union conversion rules.

3. Creation of the corporate form

The creation and registration of an ESSU should be done by a central EU platform, operated by the Commission. The system should be fully digital, available in all EU official languages and support English as a default language. and comply with the ‘once only’ principle. The setting up of an ESSU must be finalised within 48 hours.

Founders should be able to incorporate and manage ESSU entirely online, in line with the “once only” principle. Registration must be completed within 48 hours.

Upon creation, an ESSU should receive a unified digital identity and company identifier to streamline registration, boost transparency and trust, facilitate company identity verification, and combat fraud and tax evasion.

To facilitate the achievement of those objectives, a uniform Union-level digital company register for ESSUs should be created and operated by the Commission. Such a register would complement and extend the existing Business Register Interconnection System (BRIS). The uniform Union-level digital company register should not replace the existing national incorporation rules but, rather, serve as a common portal. When registering on the Union-level digital company register, a company must choose a Member State as the place of incorporation and, in so doing, the national law applicable to the incorporation.

The uniform Union-level digital company register would establish a direct entry point for

companies to register as an ESSU. Incorporation, fillings and updates should be administered by that register only once and should be accessible across Member States on the basis of a

multilingual interface and harmonised identification standards under the eIDAS Regulation¹. The register could make use of a permissioned distributed ledger (DLT) network that records key corporate events, such as registrations or share transfers, with immutable timestamps.

4. Safeguards

The rules on ESSUs should be without prejudice to individual and collective labour law and to rules on employee codetermination.

The law applicable to individual employment contracts should be exclusively determined by Article 8 of Regulation (EC) No 593/2008.

For matters relating to employee codetermination, the applicable law should be determined by the real seat of the company, that is the place of the company's central management.

Where there is a dispute or any uncertainty as to which national law governs matters relating to employee codetermination, the management board of an ESSU, the representatives of the employees or trade unions that would have a nomination right pursuant to the national law the application of which is in dispute or uncertain should be able to request the court or tribunal of the Member State in which the company has its registered office to decide on the applicable law. That court or tribunal should have exclusive jurisdiction to settle the matter.

5. Encouraging optional long-termism

~~With a view to protecting European innovative companies from 'killer acquisitions' and to preventing the relocation of innovation, the creation of which is often supported by European public research funds, to outside of the Union, Member States may should introduce rules that allow, but do not require, for companies to ~~irrevocably~~ opt in to additional legal protection schemes, in accordance with the Treaty on the Functioning of the European Union, such as:~~

- the separation of voting rights and economic rights through different classes of shares, especially dual-class shares;
- the qualification of voting rights as non-transferable and non-inheritable;
- profit distribution to investors or economic rights holders on the basis of a contractual agreement limited either in time or in amounts and which can be terminated by either party at any time;
- the limitation of cross-border conversion into entities that have opted for the additional legal protection scheme, in particular for asset locks;

¹ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73, ELI: <http://data.europa.eu/eli/reg/2014/910/oj>).

Companies that have opted in to such additional legal protection schemes should be able to include the label ‘steward-owned’ in their company name.

Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions should be amended in order to allow Member States that have chosen to introduce their own national corporate form of steward ownership to limit the cross-border conversion of such a national corporate form to corporate forms of other Member States that also provide for similar forms of steward ownership.

6. Attracting talent

Productivity growth, innovation and social inclusion must go hand-in-hand. The ESSU should provide for optional harmonised rules across the Union on the structuring of employee stock ownership plans (‘ESOPs’), facilitated via a separate intermediary. This will not only enable SMEs, start-ups and scale-ups to attract talent and incentivise long-term commitment but also ensure the full and fair participation of employees in the value they help create through their labour and intellectual capital. The following principles must be taken into account when designing harmonised rules in the framework of the ESSU:

- as a pre-condition, such schemes should, under no circumstances, replace or diminish normal basic remuneration or any other form of contribution such as social security contributions, but should be a benefit complementary to all social and contractual rights;
- transparency must be a key principle throughout the design and implementation of such schemes;
- participation in such schemes must be non-discriminatory and open to all employees;
- participation in such schemes must remain voluntary for employees;
- such schemes must be accompanied by mechanisms to safeguard employees against unreasonable financial risks,

The Commission, in consultation with the social partners and based on best-practise examples, should design simple, elementary and basic supportive model profit-sharing agreements and guidance for ESSUs to ease implementation, improve awareness about ESOPs and converge financial participation schemes across Member States. The model agreements and guidance should include information about associated financial risks for employees, specify employee buy-out options and consider the impact on employees with a specific view to gender equality.

7. Attracting venture capital

Member States should introduce harmonised equity-like debt instruments that allow for investors to invest in companies without acquiring rights of control over a company (such as profit participation rights, silent partnerships or profit-linked loans). Such equity-like debt instruments should:

- be created by concluding a contractual agreement between the company and the investor for a capital contribution; such an agreement must specify the invested principal amount, include a defined repayment date and provide for compensation which may take the form of fixed or variable interest, or profit participation;
- be subordinate to ordinary debt claims;
- be treated as equity or equity-replacing capital for regulatory and accounting purposes.

With a view to increasing legal certainty across the 27 national jurisdictions of the internal market and to reducing market entry barriers to investment in ESSUs, the Commission should facilitate the development of model articles of association, shareholder agreements and all other relevant documents for ESSUs and establish a platform on which those model documents are made available in all official languages of the Union. -

The Commission should appoint an expert group tasked with the elaboration of standardised high-quality model articles of association that correspond to the harmonised requirements for ESSUs. That expert group should include, amongst others, founders, investors and trade unions.

The Commission should appoint a further expert group tasked with the elaboration of standardised, fair and high-quality model shareholder agreements. Such model shareholder agreements should strike a balance between the interests of founders and investors. That expert group should include, amongst others, founders and venture capital investors.

The Commission should establish a Joint Research Centre for European and comparative business law to establish open-access and comparable information on the business regulation in the Member States in all official languages of the Union.

8. Specialised dispute resolution

In order to accelerate dispute resolution concerning ESSUs, an alternative specialised dispute resolution mechanism should be established. Participation in that mechanism should be subject to the consent of the parties involved. Disputes relating to individual and collective labour law should be excluded from that mechanism. Jurisdiction in those cases should be determined in accordance with Articles 20 to 23 of Regulation (EU) No 1215/2012.

Member States should furthermore introduce a special panel within its national courts – either one panel within one specific court at the national level or one panel within one specific court in each federal entity, depending on the national judicial system in question. Such panels should be dedicated to resolving civil law disputes between companies relating to the ESSU corporate form, disputes arising from or in connection with the acquisition of ESSUs or shares in ESSUs and disputes between an ESSU and members of its management or supervisory board. Member States should ensure that proceedings before such panels can be conducted in English, provided that the parties involved consent.

EXPLANATORY STATEMENT

The European Commission with the new mandate has announced its intention for the creation of a new legal status for companies - a '28th ~~R~~egime'. The '28th regime' describes a legislative technique, by which legally binding rules adopted at EU level co-exist within the territories of the Member States with national rules. Their application depends on the voluntary choice by private parties to be bound by these EU rules. From the perspective of these private parties, EU rules must be more advantageous for them than the otherwise applicable national law in order to be chosen. The EU has previously made use of this legislative technique when adopting the Pan-European Pension Product (PEPP), the undertakings for collective investment in transferable securities (UCITS), the Societas Europaea (SE). The Commission proposed the Societas Privata Europaea (SPE), Societas Unius Personae (SUP) and the Common European Sales Law (CESL) as '28th regime' but never concluded the legislative process.

Making use of the '28th regime' legislative technique in order to support innovative companies had resurfaced, in Enrico Letta's report *Much More Than a Market*, where he called for the establishment of a "Simplified European Company". Similar references can also be found in different recent Communications by the European Commission and the Draghi Report on *The Future of European Competitiveness*. The European Parliament's legislative initiative report intends to outline a pathway on the design and framework of such a corporate form, with a specific view on how such a status could benefit SMEs, start-ups and scale-ups and their founders wanting to operate and expand across the Internal Market, without being limited to them.

There have been previous attempts by the European Commission at setting up a regime for a private European company, none of which proved fully successful. The reasons for their failure stem from the loopholes in their design and missing safeguards for consultation and participation rights of workers, as a result of which, the necessary consensus could not be reached. The creation of additional legal, administrative, and financial burdens associated with these attempts also contributed to limiting the uptake by young companies.

Establishing the necessary safeguards to effectively prevent abusive use of a '28th ~~R~~egime' in particular in regards to codetermination rules are of the utmost importance and a necessary precondition for the success and societal acceptance of this project.

Many years later, while important steps have been taken regarding the harmonisation of company law in Europe, many challenges in particular for smaller and emerging companies remain unresolved while new economic challenges have emerged.

The rapporteur therefore recommends, that the corporate form proposed by the Commission be named the 'European Start- and Scale-Up' (ESSU) company. Instead of establishing an autonomous pan-European corporate form, through a regulation – which would necessitate Article 352(1) TFEU as a legal basis and risk repeating past mistakes – the rapporteur recommends the setting up of a national corporate form automatically recognised in all Member States. This can be implemented by upgrading existing national limited liability corporate forms or by creating new tailor-made national corporate forms. Such a way of supranationalising essential elements of an otherwise national corporate form can be achieved by means of a ~~maximum harmonising directive regulation~~ on the basis of Articles ~~352(1) 50 and 114~~ TFEU.

The ‘European Start- and Scale-Up’ (ESSU) corporate form would address burdens by creating a simplified, digitalised, understandable, and user-friendly regulatory environment tailored to the needs for SMEs, start-ups, and scale-ups, while not being limited to a new category ‘innovative’ companies or other limiting criteria, to create and strengthen innovation in Europe. Making access to the legal form conditional on the parties providing the necessary evidence to qualify as eligible—for example to showcase their ‘innovative’ character—would increase the administrative burden that particularly small and medium-sized companies struggle to manage. In order to serve best the needs of SMEs, start-ups, and scale-ups, the ESSU has to be a limited liability company that is not listed on the stock market.

Next to simplifying company formation and registration procedures, the rapporteur proposes that the legal framework should address various elements to strengthen the competitiveness of SMEs, start-ups, and scale-ups choosing to opt-into the new corporate form. The proposal therefore outlines different components that should be included to improve access to capital and talent for ESSUs, and ESSUs and encourage long-termism. In particular, start-ups that transform innovative ideas into marketable products face structural challenges in growing, scaling, and competing globally. The concept of so-called ‘killer acquisitions’ lacks a clear empirical basis in the startup ecosystem and risks distracting from more pressing issues such as access to capital, talent, and a unified market. are prone to so-called ‘killer acquisitions’. Moreover, ‘killer acquisitions’ which are already adequately addressed by ~~can hardly be controlled by~~ means of merger control laws. The rapporteur therefore wishes to explore elements of long-term, purpose-driven corporate forms, for which existing and emerging examples in different Member States already exist. In particular, with regard to ‘asset locks’ and possible challenges with regards to cross-border conversions. In order to remain attractive to investors, companies that opt for a legal regime that serves long-termism, any such proposal must be accompanied by EU-wide harmonised rules on equity-like debt instruments that allow for investors to invest into companies without acquiring control rights over a company (such as profit participation rights, silent partnerships, or profit-linked loans).

The success of other corporate forms in other countries (such as the Delaware Inc. in the United States) is linked to the efficiency, the speed and the degree of specialisation of the court system adjudicating on matters relating to this corporate form. An alternative dispute resolution mechanism for the ESSU can achieve this objective as could a system special panels specialised on matters relating to the ESSU at courts in the Member States. Both may only judge on civil law disputes between companies, disputes arising from or in connection with the acquisition of ESSU companies or shares in ESSU companies, and disputes between a ESSU company and members of its governance structure. Participation in these special forms of dispute resolution is subject to the consent of the parties involved. Disputes relating to individual and collective labour law are excluded from this mechanism.

In terms of safeguards for rules of codetermination, the rapporteur proposes a conflict-of-laws solution instead of substantive rules as they can be found in the SE. Rules on codetermination differ meaningfully between Member States. Their existence and their importance are closely linked to the social fabric of a Member State’s economy, it is strongly recommended to keep national arrangements on codetermination untouched by the ESSU. Respecting national specificities is, in the eyes of the rapporteur, better achieved by conflict-of-laws rules harmonising the determination of the applicable national law than harmonised EU rules, which will always mean a political compromise with higher standards of codetermination found in some Member States. It is therefore recommended, for the ESSU, to determine the law applicable to matters relating to codetermination according to the location of the real seat of the ESSU, which is the place of the central management.

Moreover, the ESSU is without prejudice the individual and collective labour law, the law applicable to individual employment contracts is determined by Article 8 of the Rome-I Regulation.

ANNEX: ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that he received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
ACT The App Association - Transparency Register: 72029513877-54
Association pour l'Unification du Droit des affaires en Europe - Transparency Register: 490631396665-19
Bundesministerium der Justiz (BMJ) - Federal Ministry of Justice
Bundesministerium für Arbeit und Soziales (BMAS) - Federal Ministry of Labour and Social Affairs)
Bundesnotarkammer - Transparency Register: 74591581960-65
Bundesverband der Deutschen Volksbanken und Raiffeisenbanken - Transparency Register: 22330076571-75
Bundesverband Öffentlicher Banken Deutschlands eV- Transparency Register: 0767788931-41
Confédération des Petites et Moyennes Entreprises (CPME) - Transparency Register: 74081206759-11
Conseil International du Notariat Belge /Internationale Raad van het Belgisch Notariaat- Transparency Register: 134690012359-91
Deutsche Bank AG - Transparency Register: 271912611231-56
Deutsche Börse AG - Transparency Register: 20884001341-42
Deutsche Industrie- und Handelskammer - Transparency Register: 22400601191-42
Deutscher Gewerkschaftsbund (DGB) - Transparency Register: 07595112423-87
Deutscher Sparkassen-und Giroverband - Transparency Register: 62379064909-15
Deutscher Steuerberaterverband e.V. - Transparency Register: 845551111047-04
EU Inc Petition - Transparency Register: 848536795849-82
European Commission
European Confederation of Directors' Associations (ecoDa) - Transparency Register: 37854527418-86
European Savings and Retail Banking Group - Transparency Register: 8765978796-80
European Startup Nations Alliance (ESNA)
European Trade Union Confederation - Transparency Register: 06698681039-26
France Digitale- Transparency Register: 479234015862-06
Gesamtverband der Deutschen Versicherungswirtschaft e.V. - Transparency Register: 6437280268-55
Global Legal Entity Identifier Foundation - Transparency Register: 660337819709-62
Hans-Böckler-Stiftung - Transparency Register: 957887652130-79
International Credit Insurance & Surety Association - Transparency Register: 924462331324-02
Leibniz Institute for Financial Research SAFE - Transparency Register: 843071031814-24
Nordic Financial Unions - Transparency Register: 4129929362-47
Oliver Coste
Österreichische Notariatskammer - Transparency Register: 6475183729-37
Permanent Representation of Austria to the European Union
Permanent Representation of Estonia to the European Union
Permanent Representation of France to the European Union
Permanent Representation of the Federal Republic of Germany to the European Union
Permanent Representation of the Kingdom of the Netherlands to the European Union

Startup Portugal
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Stripe, Inc.- Transparency Register: 389356530261-76
vbw - Vereinigung der Bayerischen Wirtschaft e. V. - Transparency Register: 49096067887-19

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