

Consultation on the future of European Company Law

I. Background information

1. Please indicate your role for the purpose of this consultation: -single choice reply-(optional)	Business federation
2. Please indicate the country where you are located: -single choice reply-(optional)	Germany
3. Please provide your contact information (name, address and email-address) -open reply-(optional)	
Deutsches Aktieninstitut Uta-Bettina von Altenbockum Niedenau 13-19 D-60325 Frankfurt altenbockum@dai.de	
4. Is your organisation registered in the Interest Representative Register ? -single choice reply-(optional)	Yes.

II. Objectives of European company law

5. What should be the objective(s) of EU company law ? -multiple choices reply-(optional)	Improve the environment in which European companies operate, and their mobility in the EU. - Facilitate the creation of companies in Europe. - Setting the right framework for regulatory competition allowing for a high level of flexibility and choice.
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III. Scope of European company law

6. Would you support that the EU's priority should be to improve the existing harmonised legal framework or, rather, to explore new areas for harmonisation? -single choice reply-(optional)	Yes, both approaches could be combined and further work could target.
Please specify -multiple choices reply-(optional)	The Directives on the merger and divisions of public limited-liability companies. - The Directive on single-member private limited-liability companies. - Cross-border transfer of registered office. - Cross-border divisions. - Groups of companies. - Cross-border conversion.
7. Should the focus of EU company law move away from the distinction between public/private towards listed/unlisted in order to ensure adequate protection to shareholders? -single choice reply-(optional)	No.

IV. User-friendly regulatory framework for European company law

<p>8. Do you think that codifying existing EU company law Directives, thus reducing potential inconsistencies, overlaps or gaps, is an idea worth pursuing? -single choice reply- (optional)</p>	<p>No, this is not an idea worth pursuing.</p>
<p>Please specify -open reply-(optional)</p>	<p>All the Directives have been implemented into national law. Therefore we do not see any additional value in a single law book.</p>

V. EU company legal forms

<p>9. What, if any, is the added value that EU company legal forms bring for European business? -multiple choices reply-(optional)</p>	<p>The European image of those company law forms. - Their European label ("SE", "SCE"). - Savings in costs of cross-border transactions. - Ad hoc solution to cross-border related issues. - Workable alternatives to existing national company law forms. - The possibility not to be subject to compulsory national requirements (for example, the SE allow public limited-liability companies to choose between one-tier and two-tier management structure). - The possibility to carry out operations, like cross-border transfer of seat. - Labour law reasons.</p>
<p>10. What, if any, are the main shortcomings of EU legislation introducing EU company legal forms? -multiple choices reply-(optional)</p>	<p>The complexity linked to frequent cross-references to relevant national legislation. - The uncertainty linked to the application of different national legislations that are applied simultaneously. - The differences in the way EU company law forms are understood and used at national level.</p>
<p>11. Should existing EU company legal forms be reviewed -single choice reply-(optional)</p>	<p>Yes, in particular concerning...</p>
<p>Please specify -multiple choices reply-(optional)</p>	<p>Simplification and rationalisation of existing procedures. - Increased uniformity through reduction of cross-references to national legislation. - Deletion of cross-border element requirement. - Possibility to have the registered office and the headquarters in two Member States.</p>
<p>12. Could optional models such as the EMCA –or similar projects- be a suitable alternative to traditional harmonisation? -single choice reply- (optional)</p>	<p>No.</p>

Please explain -open reply-(optional)

VI. The particular case of the *societas privata europaea* (SPE) statute

13. Should the Commission explore alternative means to support European SMEs engaged in cross-border activities?

-single choice reply-(optional)

Yes.

for example: -multiple choices reply-(optional)

The 12th Company Law Directive could be reviewed in order to introduce a simplified company charter to facilitate the organisation of groups (i.e. single member private limited-liability companies would be exempted from certain harmonised rules, not indispensable for a single member company). - Other.

Please specify -open reply-(optional)

However, further efforts should be made to get an agreement on the current SPE Statute.

VII. Cross-border transfer of a company's registered office

14. Should the EU act to facilitate the cross-border transfer of a company's registered office?

-single choice reply-(optional)

Yes, through a harmonizing Directive.

15. What should be the conditions for a cross-border transfer of registered office?

-multiple choices reply-(optional)

A transfer should not be possible if proceedings for winding up, liquidation, insolvency, suspension of payments or similar proceedings have been brought against the company. - A transfer should be accepted by all Member States even when not accompanied by the transfer of the company's headquarters or principal place of business.

16. What should be the consequences of a cross-border transfer of registered office?

-multiple choices reply-(optional)

There should be no winding-up of the company in the home Member State. - The company should not lose its legal personality. - The transfer should be tax neutral following the approach of Directive 90/434 applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States. - A transfer should not result in the loss of the pre-existing rights of shareholders, members, creditors and employees of the company.

VIII Cross-border mergers

17. Do you support further harmonized rules in the Directive? -single choice reply-(optional)	No opinion.
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IX Cross-border divisions

18. Do you support introducing regulation regarding cross-border divisions at EU level? -single choice reply-(optional)	Yes.
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And these harmonised rules should aim at the following : -multiple choices reply-(optional)	Building rules on cross-border divisions around the framework established in the Directive on cross-border mergers. Please specify why. - Shared liability of the involved companies for claims existing at the time of the division.
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Please specify why: -multiple choices reply-(optional)	The framework is well known by the relevant stakeholders. - The framework has proven to be sustainable. - The framework presents the best structure to deal with this type of cross-border activities.
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Should this shared liability be based on the distribution of assets in the division? -single choice reply-(optional)	No opinion.
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X. Groups of companies

19. Do you see a need for EU intervention in this field -single choice reply-(optional)	Yes, there should be an EU intervention.
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Please specify -multiple choices reply-(optional)	The Commission should recommend the recognition of group interest.
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XI. Capital regime

20. In your opinion, should the Second Company Law Directive be reviewed? -single choice reply-(optional)	No opinion.
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XII. Additional Comments

21. Do you wish to upload a document with additional comments?

No.

If you have additional comments you have the possibility to upload these in a separate document here. We kindly ask you to use this option only for comments you haven't already expressed. -single choice reply-(optional)