

**Question for written answer E-001457/2016
to the Commission**
Rule 130
Helga Stevens (ECR)

Subject: Directive 2001/86/EC on the statute for European public limited-liability companies (SEs) and the right to start negotiations in formerly employee-free SEs

Directive 2001/86/EC lays down a procedure for negotiating employee involvement before a European public limited-liability company (SE) is registered. Unfortunately the directive seems rather vague on what happens when an already existing SE without employees is acquired/bought by another company. This leads to the following practice (especially in Germany): SEs are registered which do not have any employees at the moment of founding, and later on these 'letterbox companies' are sold to a new owner which then 'activates' the company by transferring employees into the SE. In such an SE, by definition (owing to the absence of any employees at the moment of establishment or registration) no negotiations on employee involvement took place prior to its registration; this leads to a negotiating imbalance which impairs the intention of the directive. The consequence in practice is that negotiations can only take place after the SE has already been set up and registered, which has a considerable impact on the negotiating positions of the employees involved.

1. How will the Commission address this loophole in the directive, or does it consider this to be a misuse of the directive as envisaged in Article 11 thereof?
2. In the latter case, will the Commission consider starting procedures under Article 260 of the Treaty on the Functioning of the European Union against the Member States in which such misuses are allowed?