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on the interconnection of business registers
(2010/2055(INI))

Committee on Legal Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the interconnection of business registers (2010/2055(INI))

The European Parliament,

- having regard to the Commission Green Paper of 4 November 2009 on the interconnection of business registers (COM(2009)0614) and the progress report accompanying it,
- having regard to First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community¹, as amended by Directive 2003/58/EC of the European Parliament and of the Council of 15 July 2003²,
- having regard to Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State³,
- having regard to Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC⁴,
- having regard to Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies⁵,
- having regard to Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE)⁶,
- having regard to Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)⁷,
- having regard to its resolution of 18 December 2008 with recommendations to the Commission on e-Justice⁸,
- having regard to its resolution of 22 April 2009 on the effective enforcement of

¹ OJ L 65, 14.3.1968, p. 8.

² OJ L 221, 4.9.2003, p. 13.

³ OJ L 395, 30.12.1989, p. 36.

⁴ OJ L 390, 31.12.2004, p. 38.

⁵ OJ L 310, 25.11.2005, p. 1.

⁶ OJ L 294, 10.11.2001, p. 1.

⁷ OJ L 207, 18.8.2003, p. 1

⁸ Texts adopted, P6_TA(2008)0637.

- judgments in the European Union: the transparency of debtors' assets¹,
- having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs and the Committee on the Internal Market and Consumer Protection (A7-0000/2010),
- A. whereas business registers examine, register and store company information about such matters as a company's legal form, seat and capital, the appointment, termination of office, powers and particulars of its legal representatives, the accounting documents for each financial year, and, where appropriate, the company's winding-up, and make that information available to the public,
- B. whereas business registers in the EU operate on a national or regional basis and store only information about companies which are registered in the area for which they are responsible,
- C. whereas there is an increasing demand for access to information about companies in a cross-border context, either for commercial purposes or to facilitate access to justice; whereas it is essential for creditors and enforcement authorities to have reliable and up-to-date information about debtors and their assets,
- D. whereas since 1 January 2007 the information contained in business registries has been stored electronically and is accessible on-line in all Member States; whereas, although the relevant business information is available on-line, register standards differ and stakeholders have to deal with different languages, search conditions and structures,
- E. whereas the registers' content, meaningfulness and legal significance are different,
- F. whereas a single access point to business information relating to all European companies would save time and costs,
- G. whereas in its flagship initiative 'An industrial policy for the globalisation era' contained in its communication entitled 'Europe 2020: a European strategy for smart, sustainable and inclusive growth', the Commission undertakes to 'improve the business environment, especially for SMEs, including through reducing the transaction costs of doing business in Europe',
- H. whereas cooperation between business registers is essential in the case of cross-border mergers, seat transfers or cross-border insolvency proceedings; whereas cooperation is explicitly required by several company-law instruments, such as Directive 2005/56/EC, Regulation (EC) No 2157/2001 and Regulation (EC) No 1435/2003,
- I. whereas the disclosure requirements for foreign branches prescribed by Eleventh Company Law Directive 89/666/EEC mean that in practice cooperation between business registries is essential; whereas that cooperation should not be confined to the

¹ Texts adopted, P6_TA(2009)0238.

time when a branch is opened, but should also extend to ensuring that the relevant information is correct and updated in order to avoid discrepancies between the contents of the register containing the branch's details and those of that containing the parent company's details,

- J. whereas once the Statute for a European Private Company¹ is adopted the number of cases that require cross-border cooperation may increase significantly,
- K. whereas several mechanisms for cooperation between business registers are already in place, such as the European Business Register (EBR), the Business Register Interoperability Throughout Europe (BRITE) project and the Internal Market Information System (IMI); whereas the EBR and BRITE are voluntary, and therefore not all Member States participate in them; furthermore, BRITE is only a research project,
- L. whereas in its resolution of 18 December 2008 Parliament welcomed the idea of creating an e-Justice portal; whereas the European e-Justice action plan for 2009-2013 provides for the integration of the EBR into the European e-Justice portal,
1. Believes that the project's usefulness for the further integration of the European economic area can be brought to bear only if all Member States take part;
 2. Takes the view that first the EBR initiatives and the BRITE project should be pursued and considers making participation compulsory;
 3. Points out that register data are not comparable with data of a purely economic nature;
 4. Points out that data from business registers have a different significance and that they can in turn be related to legal consequences that may vary between Member States;
 5. Emphasises, therefore, the importance of informing users accessing the data that the legal significance and obligations may vary in individual Member States;
 6. Points out that a better automated interconnection would be relevant to the exchange of entries in the relationship between main offices and branches;
 7. Is aware that the content of entries is not always adequately coherent;
 8. Believes that it is essential for the proper functioning of the internal market to make official and reliable information about companies trading in the EU available to creditors, suppliers and business partners; welcomes in this context the Commission Green Paper on the interconnection of business registers;
 9. Acknowledges the efforts made within the different cooperation mechanisms and initiatives;
 10. Stresses, however, that further steps need to be taken and that market transparency requires, on the one hand, that the data contained in the business registries of the 27

¹ COM(2008)0396.

Member States should be easy to access and, on the other hand, that they should be reliable, kept up to date and provided in a standard format and in more than one EU official language;

11. Points out however that the steps taken should not impose additional administrative burdens on companies, particularly SMEs;
12. Looks forward to the launch of the e-Justice portal, which must be accessible to individuals, businesses, legal practitioners and the judiciary and must be user-friendly; supports the idea of integrating the EBR into that portal;
13. Supports the establishment, in the meantime, of compulsory mechanisms for cooperation between registries, in particular in connection with updating the data required to be disclosed in respect of foreign branches;
14. Considers that linking the network of business registers to the electronic network created under the Transparency Directive will provide easy access to legal and financial information about listed companies, as well as added value for investors;
15. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

Interconnecting business registers is an appropriate way of fostering further integration of the economic area within the EU and of improving legal certainty for businesses and consumers.

Several pieces of legislation, particularly First Council Directive 68/151/EEC, provide for the disclosure in a register of information concerning a company's seat, legal form, representation and capital. In addition, among other legislation, Directive 2005/56/EC on mergers of limited liability companies and the Directive on disclosure requirements in respect of branches provide for entries and disclosure in public registers.

Business registers are administered at national and regional level. The increase in cross-border economic activities makes a better interconnection of business registers necessary for reasons of legal certainty and transparency; it would also save money and time.

Currently, various mechanisms interconnecting business registers already exist:

(1) The European Business Register (EBR) initiative: a network of business registers whose objective is to offer reliable information on companies all over Europe. It is intended to allow citizens, businesses and public authorities to consult all business registers in their own language. However, it is a voluntary project undertaken with the support of the European Commission. Only 18 Member States take part in the EBR.

(2) The Business Register Interoperability Throughout Europe (BRITE) project: a research initiative, funded largely by the European Commission, to promote interconnection between registers. The project, completed in March 2009, had as its objectives to develop an innovative interoperability model, an ICT service platform and a management instrument for business registers, focusing in particular on cases of cross-border seat transfers and mergers and on better control of branches of companies registered in other Member States. The BRITE project was, however, only a research project; its findings have been implemented only in a few countries to test their functionality.

(3) The Internal Market Information System (IMI): an instrument to improve administrative cooperation between the Member States. This system was introduced to serve the interests of the internal market. It assists with information on and control of provisions and supports the implementation of the Professional Qualifications Directive and the Services Directive. The IMI is a secure web-based application run by the Commission. It is a closed network that provides the relevant authorities in Member States with a simple tool for finding their counterparts in other Member States and to communicate with them in a fast and efficient way.

(4) The e-Justice initiative: with the launch of a European e-Justice portal, this is intended to assist the work of judicial authorities or practitioners and facilitate citizens' access to judicial and legal information.

The Green Paper investigates two aspects of the interconnection of business registers. First,

there is the question of access to business registers. Second, there is the matter of cooperation between business registers. Here, a further distinction must be made between the issue of cross-border mergers and transfers of company seats on the one hand and improving the exchange of information between principal places of business and secondary establishments on the other. The latter appears to be in need of improvement.

The rapporteur sees, in every respect, a need to improve the interconnection of Member States' business registers and welcomes the Commission's initiative.

The information provided by a business register cannot be compared with other information available in the economy. Furthermore, their meaningfulness and legal significance vary between Member States, and users must categorically be made aware of this when accessing the data.

Given this special state of affairs, the interconnection of registers and access to data should take place in a specific context, which does not exclude the possibility of references being provided in the form of 'links'.

It would appear necessary to pursue this objective under BRITE, i.e. option 1. This research project should be energetically continued.

It would be desirable for more countries to become involved as soon as possible. However, making the project a genuine success, including in terms of its usefulness for the internal market, requires the participation of all Member States, which should therefore be made compulsory as soon as the technical standards have been fully developed.