



19.12.2013

NOTICE TO MEMBERS

Subject: **Petition 0068/2013 by Holger Bauermeister (German), on Directive 78/660/EEC on the annual accounts of certain types of companies**

1. Summary of petition

The petitioner argues that Directive 78/660/EEC should be revoked. He contends that, while initially well-intentioned, the Directive is now abused to make money. In addition, third parties can gain access to undertakings' data. Mr Bauermeister contends that the Directive contravenes the principle of equality because non-companies, including large undertakings, fall outside the scope of what is laid down in the Directive and are able to exploit this situation.

2. Admissibility

Declared admissible on 4 November 2013. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 19 December 2013

The Fourth Accounting Directive provides that the presentation and the publication of annual accounts and annual reports of certain undertakings with limited liability is of special importance for the protection of members and third parties, as these companies' activities frequently extend beyond the frontiers of their national territories and they offer no safeguards to third parties beyond the amounts of their net assets.

Moreover the Fourth Accounting Directives establishes in the Community minimum equivalent legal requirements as regards the extent of the financial information that should be made available to the public by companies that are in competition with one another.

It should be noted that the Fourth Accounting Directive has been repealed by the new Accounting Directive 2013/34/EU adopted on 26 June 2013.

The new Accounting Directive adopts essentially the same regime as the Fourth Accounting Directive regarding publication and introduces an obligation to publish the management report within a reasonable period of time.

The points raised by the petitioner were taken into account by the Council and the European Parliament when adopting the directive and considering the information to disclose (and the choice of the information to disclose).

As a matter of fact, Article 31 foresees an *ad hoc* regime for small undertakings as Member States may exempt these from the obligation to publish their profit and loss accounts and management reports. The new Accounting Directive also reduces the content of the notes to the financial statements.

Thus, the new Accounting Directive simplifies the rules for small undertaking by reducing the amount of information that has to be filed and published, creating a lighter accounting regime for small undertakings.

Conclusion

On the basis of the information provided in the petition, the Commission services do not consider that an infringement of EU law has occurred.