

EUROPEAN PARLIAMENT

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Committee on Economic and Monetary Affairs

2006/2051(INI)

20.6.2006

OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on Legal Affairs

on Recent developments in and prospects for company law
(2006/2051(INI))

Draftsman (*): Klaus-Heiner Lehne

(*) Enhanced cooperation between committees – Rule 47 of the Rules of Procedure

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SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Looks forward to the results of the external study commissioned by the Commission on proportionality between ownership and control in EU listed companies, provided that it delivers an objective analysis of the empirical and theoretical evidence regarding the effects of the different ownership models in the Member States on economic efficiency, owner-control of companies and the possibilities for cross-border transactions, but also a sound corporate law analysis as far as the wider economic and legal context in Member States and different models of corporate governance are concerned; stresses that due account of the need for transparency in the structure of control rights should be taken;
2. Expects that the Commission, if appropriate make a legislative proposal concerning the principle "one share one vote" only after the outcome of the revision of Directive 2004/25/EC of 21 April 2004, as provided for in Article 20 of the directive, and an evaluation of the directive,;
3. Stresses that, in order to promote corporate governance which is effective and sustainable in the long term, it is important to win the loyalty of the shareholders;
4. Regrets that the Commission has not developed a clear vision of the governance of European businesses but seems to be taking measures on disparate aspects on an ad hoc basis; reiterates the conclusions of its resolution of 21 April 2004¹ and calls on the Commission to act on them;
5. Calls on the Commission to involve Parliament better in discussions on international and European accounting standards and to reinforce the definition of a European approach based on the best practices and traditions in the Member States instead of blindly following the traditions of US auditing; stresses again the need for more representatives with a European background in the international standard setting bodies in order to legitimate a true international approach; emphasises that regulations on accounting standards have an impact on tax law and business structures;
6. Deplores the fact that the International Accounting Standard Board (IASB) lacks democratic control and thus comes to decisions that do not adequately reflect the reality of European companies and fail, for example, to respond to the needs of small and medium sized companies; cites by way of example the requirement, laid down in IAS 32, to distinguish on balancesheets between equity and liability, which, in the case of partnerships, has led to significant material problems, such as a distorted portrayal of their creditworthiness; calls on the Commission, therefore, to ensure that decisions of the Parliament are better regarded in the IASB;
7. Clarifies that the Commission has no authority to endorse International Financial Reporting Standards for SMEs;

¹ *Texts Adopted* of that date, P5_TA(2004)0346.

8. Asks the Commission to propose measures for more transparency regarding institutional investors; recalls that transparency is needed with regard to investment policy, voting policy, and share ownership and that such transparency shall not be confined to the relationship between funds and single investors; recalls that there should also be certain disclosure obligations of institutional investors towards the companies in which they are engaged, e.g., with regard to their intentions and the proposed duration of their engagement; notes that market pressures are leading institutional investors to make disclosures; and asks the Commission to monitor and take into account the development of market practice;
9. Calls on the Commission to propose measures to enhance the cross-border availability of information regarding the disqualification of directors;
10. Calls on the Commission to submit a proposal for the differentiation of obligations to disclose share-holding levels; would welcome a differentiation which provided for the following percentage steps: 3, 5, 10, 15, and 20%, plus a notification obligation for every percentage point above 20%; notes that the differentiation of disclosure obligations would necessarily improve transparency concerning shareholding;
11. Calls on the Commission to set clear rules governing transitional periods, i.e. the “decent interval” after which active members of the management board who wish, on leaving the board, to transfer to the supervisory board (in the dualistic system) or the non-executive board (in the monistic system), may do so; notes that these transitional periods must be at least two years stresses the importance of such transitional periods in preserving the independence of supervisory boards;
12. Calls on the Commission to resolve legislative issues, such as the independence of directors, by legislative means (directives) rather than by recommendations, so that the public and the legislature are involved and the resulting rules reflect actual practice;
13. Urges the Commission to be alert to conflicts of interests and the disproportional accumulation of information and influence with some large players in the chain of intermediaries and advisors involved in exerting shareholders' voting rights in companies and stresses the need for transparency and fair opportunities for issuers to defend themselves against the undue concentration and coordinated action of shareholder parties;
14. Stresses that corporate governance is not only about the relationship between shareholders and management, but that other stakeholders within the company are also important for a balanced decision-making process and should be able to contribute to decisions on the strategy of companies; in particular, there should be room for information for and consultation of employees;
15. Asks for a clear regulatory regime for the disclosure and comparability of information on the individual remuneration and remuneration policy for directors, including elements such as pension schemes and stock-option plans;
16. Stresses the need for involvement of the financial market regulators and supervisors in the development of clear corporate governance rules and recommendations, and for a close coordination of the policies in the field of financial market regulation on the one hand and company law on the other;

17. Asks the Commission to have more regard to the needs of SMEs in future legislative proposals or future revisions of existing legislation; recalls that SMEs are creators of jobs and a motor of economic growth;
18. Calls on the Commission to pay greater attention to the issue of delisting and to submit a legislative proposal for future harmonisation at EU level; notes that, while delisting is possible in the Member States, it involves enormous bureaucratic and legal cost for the businesses concerned; calls, therefore, for “going private” to be made possible in future with the minimum of bureaucratic effort, giving particular consideration to safeguarding the financial interests of the shareholders;
19. Calls on the Commission to consider the special situation of SMEs in Europe when assessing the impact of future legislation.

PROCEDURE

Title	Recent developments in and prospects for company law	
Procedure number	2006/2051(INI)	
Committee responsible	JURI	
Opinion by Date announced in plenary	ECON 16.3.2006	
Enhanced cooperation – date announced in plenary	16.3.2006	
Drafts(wo)man Date appointed	Klaus-Heiner Lehne 3.4.2006	
Previous drafts(wo)man		
Discussed in committee	15.5.2006	30.5.2006
Date adopted	20.6.2006	
Result of final vote	+: 30	–: 1
	0: 0	
Members present for the final vote	Pervenche Berès, Sharon Bowles, Ieke van den Burg, David Casa, Jan Christian Ehler, Elisa Ferreira, Jean-Paul Gauzès, Donata Gottardi, Benoît Hamon, Joseph Muscat, Karsten Friedrich Hoppenstedt, Othmar Karas, Christoph Konrad, Cristobal Montoro Romero, John Purvis, Alexander Radwan, Bernhard Rapkay, Dariusz Rosati, Manuel António dos Santos, Margarita Starkevičiūtė, Lars Wohlin.	
Substitute(s) present for the final vote	Werner Langen, Klaus-Heiner Lehne, Alain Lipietz, Vladimír Maňka, Thomas Mann, Giovanni Pittella, Gilles Savary, Corien Wortmann-Kool.	
Substitute(s) under Rule 178(2) present for the final vote	Elspeth Attwooll, Willem Schuth.	
Comments (available in one language only)	...	