



2023/0089(COD)

19.7.2023

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directives 2009/102/EC and (EU) 2017/1132 as regards further expanding and upgrading the use of digital tools and processes in company law (COM(2023)0177 – C9-0121/2023 – 2023/0089(COD))

Committee on Legal Affairs

Rapporteur: Emil Radev

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directives 2009/102/EC and (EU) 2017/1132 as regards further expanding and upgrading the use of digital tools and processes in company law (COM(2023)0177 – C9-0121/2023 – 2023/0089(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0177),
 - having regard to Article 294(2), Article 50(1) and (2)(g) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0121/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 9

Text proposed by the Commission

(9) A preventive administrative *or* judicial control, respecting Member States traditions *including the possible involvement of notaries*, should be ensured in all Member States in order to ensure reliability of cross-border company data. A

Amendment

(9) A preventive administrative, judicial *or notarial* control, respecting Member States traditions, should be ensured in all Member States in order to ensure reliability of cross-border company data. *Member States should therefore*

legality check of the company's instrument of constitution, the company statutes if contained in a separate instrument, and of any amendment of such instruments and statutes, should be carried out, given that these are the most important documents concerning the company.

provide for public preventive control through courts, administrative authorities or notaries. A legality check of the company's instrument of constitution, the company statutes if contained in a separate instrument, and of any amendment of such instruments and statutes, should be carried out, given that these are the most important documents concerning the company.

Or. en

Amendment 2

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The legality of company law transactions, the protection of reliable public registers and the prevention of illegal activities require the correct and secure identification of the participants in such transactions as well as the verification of their legal capacity. This applies, inter alia, to company founders and directors. In particular, the reliable identification of the customer in line with the 'know-your-customer' principle under anti-money laundering and combating the financing of terrorism (AML/CFT) rules is a prerequisite for any AML/CFT customer due diligence obligations and thus any money laundering and terrorist financing (ML/TF) prevention. Therefore, for the procedures within the scope of this Directive, Member States should be allowed to provide for complementary public electronic controls of identity, legal capacity and legality. Those complementary public electronic controls could include public remote audio-visual identity controls, including electronic checks of identity photos.

Or. en

Amendment 3

Proposal for a directive Recital 11

Text proposed by the Commission

(11) Applying the ‘once-only’ principle entails that companies are not asked to submit the same information to public authorities more than once. For example, companies should not have to resubmit the company documents or information already submitted to the register where the company is registered when creating a subsidiary in another Member State. Instead, information about the company should be exchanged electronically, between the register where the company is registered and the register where a subsidiary is to be registered, using the system of interconnection of registers. Such information should be made available by the business register to any authority, body or person mandated under national law to deal with any aspect of the formation of a company.

Amendment

(11) Applying the ‘once-only’ principle entails that companies are not asked to submit the same information to public authorities more than once. For example, companies should not have to resubmit the company documents or information already submitted to the register where the company is registered when creating a subsidiary in another Member State. Instead, information about the company should be exchanged electronically, between the register where the company is registered and the register where a subsidiary is to be registered, using the system of interconnection of registers. Such information should be made available by the business register to any authority, body or person mandated under national law to deal with any aspect of the formation of a company. ***Documents or information transmitted as part of electronic communication through the system of interconnection of registers should not be denied legal effect or be considered inadmissible solely on the ground that they are in electronic form. They should have the same legal effect as that provided by the register of the Member State where the company in question is registered.***

Or. en

Amendment 4

Proposal for a directive Recital 15

Text proposed by the Commission

(15) In order to protect the interests of third parties and enhance trust in business transactions with different types of companies in the single market, it is important to enhance transparency and provide easier access on a cross-border basis to information about so-called ‘commercial partnerships’. These play an important role in the economy of Member States and are registered in all national business registers, yet there are differences between the types of partnerships and types of information made available about them across the Union, which results in difficulties in the cross-border access to this information. To address this, the same basic information about ‘commercial partnerships’ should be disclosed in all Member States. The disclosure requirements for partnerships should mirror the existing disclosure requirements for limited liability companies but be adapted to the specific characteristics of partnerships. For instance, the disclosure requirements should also cover information about partners, including those that are authorised to represent the partnership. As in the case of limited liability companies, Member States should be allowed to require that partnerships disclose documents or information beyond what is required by this Directive. Where such additional documents or information contain personal data, Member States should process such personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁵⁴.

⁵⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of

Amendment

(15) In order to protect the interests of third parties and enhance trust in business transactions with different types of companies in the single market, it is important to enhance **reliability**, transparency and provide easier access on a cross-border basis to information about so-called ‘commercial partnerships’. These play an important role in the economy of Member States and are registered in all national business registers, yet there are differences between the types of partnerships and types of information made available about them across the Union, which results in difficulties in the cross-border access to this information. To address this, the same basic information about ‘commercial partnerships’ should be disclosed in all Member States **which should apply common minimum standards of preventive control to that information**. The disclosure requirements **as well as the legality checks** for partnerships should mirror the existing disclosure requirements for limited liability companies but be adapted to the specific characteristics of partnerships. For instance, the disclosure requirements should also cover information about partners, including those that are authorised to represent the partnership. As in the case of limited liability companies, Member States should be allowed to require that partnerships disclose documents or information beyond what is required by this Directive. Where such additional documents or information contain personal data, Member States should process such personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁵⁴.

⁵⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of

27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

Amendment 5

Proposal for a directive Recital 20

Text proposed by the Commission

(20) In order to avoid unnecessary burden, the obligation to update the group information, ***at least once per year***, should be on the ultimate parent or, where applicable, on the intermediate parent or on the subsidiary company governed by the law of a Member State. ***If no change has occurred within a year, such parent company or subsidiary company should confirm this to its register, which should record and make this information publicly available.*** In addition, each subsidiary company should be responsible for keeping the information related to its affiliation to the group in its register up to date. In this regard, the ultimate parent or, where applicable, the intermediate parent or the subsidiary company governed by the law of a Member State should provide any changes in the group information to the (other) subsidiaries without delay in order for the subsidiaries to fulfil in time the obligation to keep the group-related information in their register up to date.

Amendment

(20) In order to avoid unnecessary burden, the obligation to update the group information, should be on the ultimate parent or, where applicable, on the intermediate parent or on the subsidiary company governed by the law of a Member State. In addition, each subsidiary company should be responsible for keeping the information related to its affiliation to the group in its register up to date. In this regard, the ultimate parent or, where applicable, the intermediate parent or the subsidiary company governed by the law of a Member State should provide any changes in the group information to the (other) subsidiaries without delay in order for the subsidiaries to fulfil in time the obligation to keep the group-related information in their register up to date.

Or. en

Amendment 6

Proposal for a directive Recital 22

Text proposed by the Commission

(22) In addition to common standards for checking company information before it is entered into the register, it is necessary to ensure that the information in the register is kept up to date. The Financial Action Task Force recommendation 24 ‘Transparency and beneficial ownership of legal persons’, as revised in March 2022, includes requirements that company information in business registers be kept accurate and up to date. It is also in companies’ interest to make sure that their information is updated in the register because this information, including the EU Company Certificate, can be relied on by third parties. Therefore, companies should be required to disclose changes to company information without unnecessary delay and the registers should record and make available such changes in a timely manner. While the deadline for the publication of accounting documents is regulated by Directive 2013/34/EU of the European Parliament and of the Council⁵⁵, the registers should also make them publicly available without unnecessary delay. ***In addition, in order to further enhance the reliability of company data, companies should confirm once per calendar year that their information in the business register is up to date, including when no change occurred. Companies may do this together with the filing of other changes or when filing accounting documents.***

⁵⁵ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive

Amendment

(22) In addition to common standards for checking company information before it is entered into the register, it is necessary to ensure that the information in the register is kept up to date. The Financial Action Task Force recommendation 24 ‘Transparency and beneficial ownership of legal persons’, as revised in March 2022, includes requirements that company information in business registers be kept accurate and up to date. It is also in companies’ interest to make sure that their information is updated in the register because this information, including the EU Company Certificate, can be relied on by third parties. Therefore, companies should be required to disclose changes to company information without unnecessary delay and the registers should record and make available such changes in a timely manner. While the deadline for the publication of accounting documents is regulated by Directive 2013/34/EU of the European Parliament and of the Council⁵⁵, the registers should also make them publicly available without unnecessary delay.

⁵⁵ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive

2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

Or. en

Amendment 7

Proposal for a directive Recital 24

Text proposed by the Commission

(24) In the single market, companies should be able to prove that their company is legally incorporated in a Member State through simple and reliable means, which are recognised cross-border by other Member States. Therefore, a harmonised EU Company Certificate should be established. Companies could apply for such an EU Company Certificate to use it for different purposes, including for administrative procedures before national authorities and court proceedings in other Member States or before EU institutions and bodies. Such EU Company Certificate should be issued and certified by the national business registers, should include essential company information used by companies in cross-border situations, including the company name, its registered office and legal representatives, and should be available in all official languages of the Union. The electronic EU Company Certificate should be authenticated by using trust services as referred to in Regulation (EU) No 910/2014⁵⁶. This EU Company Certificate **would** also be accessible to third parties, including authorities, which need reliable essential information about companies. **While Member States should be allowed to charge a fee for obtaining an EU Company Certificate**, registers should be required to provide, upon request, each

Amendment

(24) In the single market, companies should be able to prove that their company is legally incorporated in a Member State through simple and reliable means, which are recognised cross-border by other Member States. Therefore, a harmonised EU Company Certificate should be established **and disclosed in the register of the company**. Companies could apply for such an EU Company Certificate to use it for different purposes, including for administrative procedures before national authorities and court proceedings in other Member States or before EU institutions and bodies. Such EU Company Certificate should be issued and certified by the national business registers, should include essential company information used by companies in cross-border situations, including the company name, its registered office and legal representatives, and should be available in all official languages of the Union. The electronic EU Company Certificate should be authenticated by using trust services as referred to in Regulation (EU) No 910/2014⁵⁶. This EU Company Certificate **should** also be accessible **free of charge** to third parties, including authorities, which need reliable essential information about companies. Registers should be required to provide, upon request, each company registered in that register with its own EU Company

company registered in that register with its own EU Company Certificate free of charge **at least once a year**. Registers and authorities in other Member States should accept an EU Company Certificate in accordance with this Directive.

⁵⁶ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Certificate free of charge. Registers and authorities in other Member States should accept an EU Company Certificate in accordance with this Directive.

⁵⁶ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Or. en

Amendment 8

Proposal for a directive Recital 25

Text proposed by the Commission

(25) In order to further facilitate cross-border procedures for companies and simplify and reduce formalities, such as apostille or translation, a digital EU power of attorney should be established. The digital EU power of attorney will be a multilingual standard model based on a common European template which companies may choose to use in cross-border situations. It should have a minimum mandatory content, while it would be drawn up in accordance with national legal and formal requirements. The standard digital EU power of attorney would only exist in digital form and it should be authenticated by using trust services as referred to in Regulation (EU) No 910/2014. In addition, in order to contribute to higher security of transactions, the digital EU power of attorney should be filed in the register of the company where third parties that can

Amendment

(25) In order to further facilitate cross-border procedures for companies and simplify and reduce formalities, such as apostille or translation, a digital EU power of attorney should be established. The digital EU power of attorney will be a multilingual standard model based on a common European template which companies may choose to use in cross-border situations. It should have a minimum mandatory content, while it would be drawn up in accordance with national legal and formal requirements. The standard digital EU power of attorney would only exist in digital form and it should be authenticated ***in accordance with the assurance level ‘high’*** by using trust services as referred to in Regulation (EU) No 910/2014. In addition, in order to contribute to higher security of transactions ***and reliable public registers, the digital EU power of attorney should be signed***

demonstrate legitimate interest can consult it. In particular, third parties, such as lawyers, notaries, credit and financial institutions or competent authorities **to whom the digital EU power of attorney is presented**, could thus verify the existence of these powers in the register of the company. **Member States may also require that the digital EU power of attorney is filed, in addition, in another register in accordance with national law.** In order to overcome language barriers and facilitate their use, the template for an EU Company Certificate and a standard model of the digital EU power of attorney should be available on the E-justice portal in all Union languages.

using qualified electronic signatures. In cases where the digital EU power of attorney is certified or authenticated, the certifying or authenticating authority should use qualified electronic signatures or seals, including its specific attributes in accordance with Regulation (EU) No 910/2014. The digital EU power of attorney should be filed in the register of the company where third parties that can demonstrate legitimate interest can consult it. In particular, third parties, such as lawyers, notaries, credit and financial institutions or competent authorities could thus verify the existence of these powers **of attorney** in the register of the company. **Once filed, the digital EU power of attorney should be deemed to be valid in its published form until an amendment or revocation has been published in the register.** In order to overcome language barriers and facilitate their use, the template for an EU Company Certificate and a standard model of the digital EU power of attorney should be available on the E-justice portal in all Union languages.

Or. en

Amendment 9

Proposal for a directive Recital 27

Text proposed by the Commission

(27) At the same time, in order to prevent fraud or forgery, it should be possible for the authorities of the Member State in which the company document or information **is presented**, where they have a reasonable doubt as to its authenticity, to verify the document or information via the issuing register or the register in its own Member State, which could exchange information about the authenticity of the document through the system of

Amendment

(27) At the same time, in order to prevent fraud or forgery, it should be possible for the authorities of the Member State in which the company document or **the information it contains**, where they have a reasonable doubt as to its authenticity **and accuracy**, to verify the document or information via the issuing register or the register in its own Member State, which could exchange information about the authenticity of the document

interconnection of registers. Such exchange of information should contribute to the mutual trust and cooperation between Member States within the single market.

through the system of interconnection of registers. Such exchange of information should contribute to the mutual trust and cooperation between Member States within the single market.

Or. en

Amendment 10

Proposal for a directive Recital 30

Text proposed by the Commission

(30) In order to help companies, and in particular SMEs, to expand their business activities cross-border more easily, the ‘once-only’ principle should be further developed in cases where companies register branches in another Member State. The information about the company registering the cross-border branch should be retrieved electronically from the register of the company by the register of the branch through the system of interconnection of registers. This exchange of information, as any other exchange of information between registers through the system of interconnection of registers, will be carried out via secure transmission between national registers, which ensures that the information can be trusted and should not be required to be certified or subject to any legalisation or similar formality.

Amendment

(30) In order to help companies, and in particular SMEs, to expand their business activities cross-border more easily, the ‘once-only’ principle should be further developed in cases where companies register branches in another Member State. The information about the company registering the cross-border branch should be retrieved electronically from the register of the company by the register of the branch through the system of interconnection of registers. This exchange of information, as any other exchange of information between registers through the system of interconnection of registers, will be carried out via secure transmission between national registers, which ensures that the information can be trusted and should not be required to be certified or subject to any legalisation or similar formality. ***Documents or information transmitted as part of electronic communication through the system of interconnection of registers should not be denied legal effect or be considered inadmissible solely on the ground that they are in electronic form. They should have the same legal effect as that provided by the register of the Member State where the company in question is registered.***

Amendment 11

Proposal for a directive

Article 2 – paragraph 1 – point 5

Directive (EU) 2017/1132

Article 10 – paragraph 1

Text proposed by the Commission

1. Member States shall provide for preventive administrative *or* judicial control, at the time of the formation of a company, of the instrument of constitution, the company statutes and any amendments to those documents. Member States *may provide* that those documents shall be drawn up and certified in due legal form.

Amendment

1. Member States shall provide for preventive administrative, judicial *or notarial* control, at the time of the formation of a company, of the instrument of constitution, the company statutes and any amendments to those documents. *This is without prejudice to national laws that, in accordance with Member States' legal systems, require* that those documents *are to* be drawn up and certified in due legal form.

Or. en

Amendment 12

Proposal for a directive

Article 2 – paragraph 1 – point 5

Directive (EU) 2017/1132

Article 10 – paragraph 2 – subparagraph 2 – point c

Text proposed by the Commission

(c) *there are no evident substantive* legal *irregularities*; and

Amendment

(c) *the substantive* legal *requirements are met*; and

Or. en

Amendment 13

Proposal for a directive

Article 2 – paragraph 1 – point 5

Directive (EU) 2017/1132
Article 10 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Where, for the formation of companies listed in Annex IIB, national law does not require the drawing up of instruments of constitution and statutes, the procedure for the legality check shall include the formal and substantive control of the documents required under national law for the formation of such companies.

deleted

Or. en

Amendment 14

Proposal for a directive
Article 2 – paragraph 1 – point 5
Directive (EU) 2017/1132
Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Amendment

The rules laid down in **Article 13(4), points (b) and (c), Article 13(5) and (7), and Article 13g(3), points (a), (d), (e), (f)**, shall apply mutatis mutandis to other forms of formation of the companies listed in Annexes II and IIB that are not fully online.

The rules laid down in Article 13g(3), points (a), (d), (e), (f), **Article 13g(4), points (b) and (c), and Article 13g(5) and (7)**, shall apply mutatis mutandis to other forms of formation of the companies listed in Annexes II and IIB that are not fully online.

Or. en

Amendment 15

Proposal for a directive
Article 2 – paragraph 1 – point 12 – point a
Directive (EU) 2017/1132
Article 13g – paragraph 2a – subparagraph 3a

Text proposed by the Commission

Amendment

Documents or information transmitted as

part of electronic communication through the system of interconnection of registers shall not be denied legal effect or be considered inadmissible solely on the ground that they are in electronic form. They shall have the same legal effect as that provided by the register of the Member State where the company in question is registered.

Or. en

Amendment 16

Proposal for a directive

Article 2 – paragraph 1 – point 16

Directive (EU) 2017/1132

Article 14a – paragraph 1– point f

Text proposed by the Commission

(f) *the total amount of the contributions of the partners;*

Amendment

(f) *information about the partners with unlimited liability, indicating their liability status as unlimited, as well as information about the partners with limited liability, indicating the maximum possible extent of their liability;*

Or. en

Amendment 17

Proposal for a directive

Article 2 – paragraph 1 – point 16

Directive (EU) 2017/1132

Article 14a – paragraph 1 – point g

Text proposed by the Commission

(g) the instrument of constitution, and the statutes if they are contained in a separate instrument, *if these documents are required by national law;*

Amendment

(g) the instrument of constitution, and the statutes if they are contained in a separate instrument

Or. en

Amendment 18

Proposal for a directive

Article 2 – paragraph 1 – point 16

Directive (EU) 2017/1132

Article 14b – paragraph 6

Text proposed by the Commission

6. The ultimate parent company or, where applicable, the intermediate parent company or the subsidiary company referred to in paragraph 2 shall ***at least once per year, and in any case no later than the date of the disclosure of the accounting documents and, if no such disclosure is required, by the end of the financial year***, update the information required in paragraphs 1 to 3, ***where applicable, or confirm that no changes to the group structure have occurred.***

Amendment

6. The ultimate parent company or, where applicable, the intermediate parent company or the subsidiary company referred to in paragraph 2 shall update the information required in paragraphs 1 to 3.

Or. en

Amendment 19

Proposal for a directive

Article 2 – paragraph 1 – point 16

Directive (EU) 2017/1132

Article 14b – paragraph 8

Text proposed by the Commission

8. In the case of changes to the information referred to in paragraph 5, each subsidiary company of the group governed by the law of a Member State, including any intermediate parent company, shall disclose such changes in the register where it is registered within a deadline of two weeks as from the date the changes were made.

Amendment

8. In the case of changes to the information referred to in paragraph 5, each subsidiary company of the group governed by the law of a Member State, including any intermediate parent company, shall disclose such changes in the register where it is registered within a deadline of two weeks as from the date the changes were made, ***or from the date it was made aware of the changes.***

Or. en

Amendment 20

Proposal for a directive

Article 2 – paragraph 1 – point 17

Directive (EU) 2017/1132

Article 15 – paragraph 2 – point a

Text proposed by the Commission

(a) that ***companies listed in Annex II and IIB file*** any changes to the documents and information ***to the register***, within a time period not exceeding 15 working days as from the date the changes were made. This time period shall not apply to changes to the information to be disclosed under Article 14b and accounting documents referred to in Article 14, point (f), and Article, 14a point (l);

Amendment

(a) that any changes to the documents and information ***on companies listed in Annex II and IIB shall be filed with the register*** within a time period not exceeding 15 working days as from the date the changes were made. This time period shall not apply to changes to the information to be disclosed under Article 14b and accounting documents referred to in Article 14, point (f), and Article, 14a point (l);

Or. en

Amendment 21

Proposal for a directive

Article 2 – paragraph 1 – point 17

Directive (EU) 2017/1132

Article 15 – paragraph 2 – point c

Text proposed by the Commission

(c) ***that companies listed in Annexes II and IIB confirm once every calendar year that the information about the company in the register is up to date and that the registers make publicly available the date when the company provided that confirmation or updated the information;***

Amendment

deleted

Or. en

Amendment 22

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16b – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that the registers referred to in Article 16 issue the EU Company Certificate about companies listed in Annexes II and IIB. The EU Company Certificate shall be accepted in all Member States as **conclusive** evidence of the incorporation of the company and of the information listed in paragraphs 2 and 3 of this Article, respectively, which is held by the register where the company is registered at the time of the issuance.

Or. en

Amendment 23

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16b – paragraph 1 – subparagraph 2 (new)

Text proposed by the Commission

Amendment

Member States shall ensure that the registers referred to in Article 16 issue the EU Company Certificate about companies listed in Annexes II and IIB. The EU Company Certificate shall be accepted in all Member States as evidence of the incorporation of the company and of the information listed in paragraphs 2 and 3 of this Article, respectively, which is held by the register where the company is registered at the time of the issuance.

A Member State may decide to only recognise register data from Member States as evidence where the register data of those Member States are subject to a functionally equivalent level of preventive scrutiny before they are entered into the register of the Member State concerned, taking into account objective criteria such as the reliability of identity and legality checks. Member States shall notify the Commission of any registers whose data shall not be recognised as evidence. The Commission shall publish the list of registers on the portal in all official languages of the Union.

Or. en

Amendment 24

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16b – paragraph 2 – point f

Text proposed by the Commission

(f) the postal or contact address of the company;

Amendment

(f) the postal or contact address of the company, ***where such details are recorded in the national register;***

Or. en

Amendment 25

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16b – paragraph 2 – point g

Text proposed by the Commission

(g) the electronic address of the company;

Amendment

(g) ***details of the company website and*** the electronic address of the company, ***where such details are recorded in the national register;***

Or. en

Amendment 26

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16b - paragraph 2 - point j

Text proposed by the Commission

(j) the status of the company;

Amendment

(j) the status of the company, ***such as when it is closed, struck off the register, wound up, dissolved, economically active or inactive as defined in national law and***

where such details are recorded in the national register;

Or. en

Amendment 27

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16b – paragraph 5 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that each company listed in Annexes II and IIB may obtain its EU Company Certificate in electronic format free of charge **at least once per calendar year**.

Amendment

Member States shall ensure that each company listed in Annexes II and IIB **as well as third parties, including authorities, which need reliable essential information about companies**, may obtain its EU Company Certificate in electronic format free of charge.

Or. en

Amendment 28

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16c – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that, in order to carry out procedures in another Member State **in the context** of this Directive, companies listed in Annexes II and IIB may use a standard model of the digital EU power of attorney in accordance with this Article to authorise a person to represent the company.

Amendment

Member States shall ensure that, in order to carry out procedures in another Member State **within the scope** of this Directive, companies listed in Annexes II and IIB may use a standard model of the digital EU power of attorney in accordance with this Article to authorise a person to represent the company.

Or. en

Amendment 29

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16c – paragraph 1 – subparagraph 2

Text proposed by the Commission

The digital EU power of attorney shall be drawn up and revoked in accordance with national legal and formal requirements. The national requirements for drawing up the digital EU power of attorney shall at least include the verification of the identity, legal capacity and authority to represent the company of the person granting the power of attorney.

Amendment

The digital EU power of attorney shall be drawn up and revoked in accordance with national legal and formal requirements. The national requirements for drawing up the digital EU power of attorney shall at least include the verification of the identity, legal capacity and authority to represent the company of the person granting the power of attorney. ***In addition, the digital EU power of attorney shall be signed by the person granting the EU power of attorney using qualified electronic signatures. In cases where the digital EU power of attorney is certified or authenticated, the certifying or authenticating authority shall use a qualified electronic signature or seal, including its specific attributes in accordance with Regulation (EU) No 910/2014.***

Or. en

Amendment 30

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16c – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure that any amendment and any revocation of the digital EU power of attorney is disclosed in the file referred to in Article 16(1) and in accordance with Article 16(2) and (3).

Amendment 31

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16c – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the companies referred to in paragraph 1 file the digital EU power of attorney, any amendment to it, and any revocation, with the register where the company is registered.

Amendment

3. Member States shall ensure that the companies referred to in paragraph 1 file the digital EU power of attorney, any amendment to it, and any revocation, with the register where the company is registered, ***within a maximum of five working days. That register shall thoroughly and comprehensively check the authenticity of the digital EU power of attorney by technical means in accordance with Regulation (EU) No 910/2014.***

Or. en

Amendment 32

Proposal for a directive

Article 2 – paragraph 1 – point 21

Directive (EU) 2017/1132

Article 16c – paragraph 5

Text proposed by the Commission

5. The Commission shall publish the standard model of the digital EU power of attorney on the portal in all official languages of the Union.

Amendment

5. The Commission shall publish the standard model of the digital EU power of attorney on the portal in all official languages of the Union. ***The digital EU power of attorney shall include provisions on:***

(a) the type of representation, whether it is individual or joint, and, if it is joint, with whom the representation is shared;

- (b) *any restrictions on self-dealing or multiple representation;*
- (c) *the scope of the digital EU power of attorney and information, including on the following:*
 - (i) *formation of companies;*
 - (ii) *changes to the articles of association of companies;*
 - (iii) *registration of branches;*
 - (iv) *cross-border conversions;*
 - (v) *cross-border mergers and divisions.*

Or. en

Amendment 33

Proposal for a directive
Article 2 – paragraph 1 – point 21
 Directive (EU) 2017/1132
 Article 16e – paragraph 4

Text proposed by the Commission

4. *If the authenticity of the copies and extracts of documents and information is not confirmed, the requesting authority may decide not to accept them.*

Amendment

4. *The requesting authority may decide not to accept the copies and extracts of documents and information only if their authenticity and accuracy is not confirmed by the register from which it requests information pursuant to paragraph 2.*

Or. en

Amendment 34

Proposal for a directive
Article 2 – paragraph 1 – point 32
 Directive (EU) 2017/1132
 Article 28a – paragraph 5a – subparagraph 1

Text proposed by the Commission

Member States shall ensure that where a

Amendment

Member States shall ensure that where a

company listed in Annexes II or IIB registers a branch in another Member State, the register where the branch is being registered shall retrieve through the system of interconnection of registers the documents and information about the company relevant for the procedure of registration available in the register of the Member State where that company is registered, and the company shall not be requested to provide those. The register may also retrieve the EU Company Certificate under Article 16b. Member States shall also apply this paragraph to any other forms of registration of branches than fully online.

company listed in Annexes II or IIB registers a branch in another Member State, the register where the branch is being registered shall retrieve through the system of interconnection of registers the documents and information about the company relevant for the procedure of registration available in the register of the Member State where that company is registered, and the company shall not be requested to provide those. The register may also retrieve the EU Company Certificate under Article 16b. Member States shall also apply this paragraph to any other forms of registration of branches than fully online. ***Documents or information transmitted as part of electronic communication through the system of interconnection of registers shall not be denied legal effect or be considered inadmissible solely on the ground that they are in electronic form. They shall have the same legal effect as that provided by the register of the Member State where the company in question is registered.***

Or. en

EXPLANATORY STATEMENT

Introduction

The Rapporteur welcomes the Commission's proposal for a Directive upgrading the use of digital tools and processes in company law. The Rapporteur recognises the importance of addressing the developments in digitalisation and technology of the recent years and believes that the changes to how businesses register, companies and authorities operate and communicate on company law-related issues need to be reflected in the EU legal framework.

In the view of the Rapporteur, the main aim of this proposal should be a reduction in administrative burden for companies in order for them to fully benefit from a harmonised, integrated and digitalised single market, without administrative barriers.

Complementary public electronic controls of identity, legal capacity and legality

The Rapporteur believes that the legality of company law transactions, the protection of reliable public registers and the prevention of illegal activities require the correct and secure identification of the participants to company law transactions as well as the verification of their legal capacity. The reliable identification of the customer in line with the know-your-customer principle under AML/CFT rules is the prerequisite for any AML/CFT customer due diligence obligations and thus any ML/TF prevention.

No additional administrative burdens on companies through yearly confirmations of group information

The Rapporteur does not agree with placing new obligations and unnecessary burdens on companies and therefore opposes the Commission proposal to place parent companies under the obligation to update or confirm the group information, at least once per year.

No fees for obtaining an EU Company Certificate

The Rapporteur believes that companies should be encouraged to apply for an EU Company Certificate and therefore opposes the idea that Member States require a fee from companies for obtaining an EU Company Certificate.

EU power of attorney

The Rapporteur believes that the EU power of attorney should be signed using qualified electronic signatures or in case the digital EU power of attorney is certified or authenticated, the certifying or authenticating authority should use qualified electronic signatures or seals. Once filed, the digital EU power of attorney should be deemed to be valid in its published in the register form. Any amendment or revocation of the EU power of attorney has to be published in the register.

