

To the Members of the Council Working Party
on Company Law

22 October 2008

As strong supporters of the European Private Company Statute (Societas Privata Europaea, SPE), BUSINESSEUROPE and EUROCHAMBRES would like to express their concerns about the direction taken during the latest discussions at Council level.

BUSINESSEUROPE and EUROCHAMBRES have supported this proposal because its main objective is to allow companies, and in particular SMEs that do not have any cross-border activities, to adopt a simple and flexible statute that will facilitate their expansion within the internal market if they so wish.

One of the key pillars of the Commission's proposal is the absence of a cross-border requirement to set up a European Private Company. This is key for the companies we represent. Requesting a cross-border element would deprive about 90% of European SMEs that do not have cross-border activities from adopting the statute and would run counter to its objective.

This is why we urge you not to amend the Commission's proposal on this aspect.

In addition, if the statute wants to remain attractive and affordable for SMEs, the minimum capital of € 1 as proposed by the Commission should not be changed. Everybody agrees today that the level of capital is not the best guarantee for creditors. The Commission's proposal has foreseen a number of other guarantees (solvency test, balance sheet requirement, etc.) that offer the necessary assurances to creditors. We urge you to keep this minimum capital as low as possible to make it attractive for SMEs and fully accessible to start-ups.

Regarding employees' participation, BUSINESSEUROPE and EUROCHAMBRES share the Commission's view that the rules concerning the information and consultation of employees and where applicable their involvement in the company's corporate bodies should be determined by the laws governing the SPE's registered office. Discussion on this matter must not lead to any change that will impose extra burden or hinder the adoption of the statute.

If the Commission's proposal is not amended in relation to these three aspects, we believe that SMEs will have at their disposal a flexible, optional statute that should allow them to take fuller advantage of the benefits of the internal market. It will allow entrepreneurs to use a common set of company law rules across the 27 EU Member States, reducing the administrative and financial costs currently faced by between € 10,000 and 30,000, potentially more.

BUSINESSEUROPE and EUROCHAMBRES urge you to take into account their requests, ensuring that the statute remains accessible to the SMEs we represent and thus contributing to further integration of the internal market.

We remain at your disposal should you wish to discuss this subject any further.

Yours sincerely,



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BUSINESSEUROPE – The Confederation of European Business represents more than 20 million small, medium and large companies. Active in European affairs since 1958, BUSINESSEUROPE Members are 39 central industrial and employers' federations from 33 countries, working together to achieve growth and competitiveness in Europe.
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