

Enterprise Policy

EUROPEAN PRIVATE COMPANY STATUTE

Proposal for a Council Regulation on the Statute for a European private company, COM(2008) 396 final of 25.6.2008

Objective

To create a new European company form which would be adapted to the specific needs of SMEs. The aim will be to reduce compliance costs for the creation/operation of businesses arising from disparities between national rules and to encourage SMEs being active across borders.

Relevance for the hospitality industry

The option of a EU private company statute could constitute a possible legal structure for a chain of hotels or restaurants willing to be active in various Member States. The proposal was specifically designed for SMEs.

State of progress

The proposal was issued by the Commission on 25 June 2008. The European Parliament adopted its opinion on the proposal on 10 March 2009.

The proposal is being discussed within the Council, where it will need a unanimous approval. Discussions in the Council are primarily focusing on the need of a cross-border element in the formation of a SPE, on the minimum capital requirement and on the relation with existing rules on employee participation and representation.

Content

The European company statute is a new legal instrument that gives companies the option of forming a European Private Company – known formally by its Latin name of ‘Societas Privata Europaea’ (SPE).

According to the Commission proposal, a SPE is a limited liability company and it can be created ex nihilo, by transformation of an existing company, by merger of two existing companies, or by division of an existing company. However, the European Parliament proposed that there should be at least a cross-border element in order to qualify as a SPE.

The minimum capital requirement in the Commission proposal is of EURO 1. However, the European Parliament proposes that the minimum capital requirement should be of either EURO 8000 (instead of EURO 1) unless a certificate of solvency is issued.

The registered office and the central administration of the SPE can be located in any Member State. Moreover, it is not mandatory for the SPE to have the central administration and the place of business in the Member State where the office is registered. The proposal also contains an exhaustive list of documents that can be required by Member States for the creation of a SPE.

Finally, the proposed Regulation will not regulate tax/labour law and accounting aspects. Therefore choosing a SPE instead of another form of Limited Liability Company should be neutral from a tax point of view.

For a detailed overview of the state of progress and related documents you can visit [PreLex](#) (European Commission) or [OEIL](#) (European Parliament).

HOTREC position

As SMEs represent over 99% of the hospitality industry, HOTREC welcomed the initial Commission proposal which can be of great help for the hospitality industry. However, following the adoption of the EP opinion, HOTREC fears that the Council will be further encouraged to water-down the initial Commission proposal, making the SPE less attractive for the vast majority of SMEs.

Official references

European Parliament legislative resolution of 10 March 2009 on the proposal for a Council regulation on the Statute for a European private company, [P6_TA\(2009\)0094](#)

Proposal for a Council Regulation on the Statute for a European private company, [COM\(2008\) 396 final](#) of 25.6.2008

Commission staff working document accompanying the proposal for a Council regulation on the Statute for a European Private Company (SPE) - Impact assessment, [SEC\(2008\) 2098](#) of 25.6.2008

See also:

[Synthesis of the comments](#) on the consultation document of the internal market and services Directorate-general on a possible statute for a European Private Company, December 2007.

European Parliament resolution of 1 February 2007 with recommendations to the Commission on the European private company statute, [P6_TA\(2007\)0023](#)

Website of the DG Internal Market of the Commission, specific section on the [European Private Company Statute](#)