A closer look at...

Draft Report of the JURI Committee Rapporteur for the 28th Regime

Emmanuelle Inacio shares the explanatory statement of the Draft Report

EMMANUELLE INACIO
INSOL Europe
Chief Technical Officer

On 30 June 2026, European Parliament Committee for Legal Affairs (JURI) rapporteur for the 28th regime and, René Repasi (S&D), published his draft report on the proposal for a regulation of 18 March 2026 on the 28th regime corporate legal framework - "EU Inc."

Choice of the legal base

The legal base for the proposal chosen by the European Commission (EC) tests the limits of European Union's (EU) competences. It is questionable whether the creation of a corporate form is the right occasion to do so as the choice of the legal base raises important questions of legal certainty for companies choosing to opt-in to the legal form.

While the ambition of the proposal is to be welcomed, its legal design warrants careful scrutiny. In this regard, it should be noted that the Parliaments INL had previously proposed a fully harmonising directive based on Article 114 TFEU in conjunction with Article 50 TFEU, allowing for qualified majority voting and reflecting established practice in the harmonisation of European company law. Article 50 TFEU, as a *lex specialis*, provides for the use of directives. The EC, by contrast, chose Article 114 TFEU as the sole legal basis, in order to avoid both unanimity under Article 352 TFEU and to enable the adoption of a regulation. This represents a significant departure from previous approaches to European company law harmonisation. The EC fails to explain how it bases a company law proposal exclusively on Article 114(1) TFEU although this legal base is explicitly subordinate to any more specific legal base in the Treaties such as Article 50 TFEU. In light of the time constraints set by the EU institutions, the rapporteur has not proposed changes to the legal basis at this stage but wishes to raise his concerns.

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Scope

The rapporteur's draft report builds on the conviction that European competitiveness and the European social dimension are mutually reinforcing. The objective of this draft report is therefore to create a corporate framework that combines digital and fast company formation, simplicity investment with trust, responsible corporate governance, strong and effective social safeguards.

A new article on scope has been created, replacing the previous Article 4 of the proposal. This article not only clarifies the relationship between the regulation, the company's articles of association and mandatory national law, but also points to the law applicable to individual employment contracts and clarifies that the regulation may not reduce workers' rights or protections, including the rights to strike, to collective bargaining and to collective action in accordance with national law or practice. In line with the purpose of the regulation to create a legal framework for innovative companies without furthering to legally ambiguous notions such as "innovative" the new article provides that an EU Inc. company may not be established where its object is an economic activity listed in a new Annex II of the Regulation. This annex lists activities considered unlikely to develop a new or improved product, service or process that significantly differs from previous iterations, made available to potential users.

Strengthening preventive control

The report keeps the ambition supporting fully digital incorporation through a central European interface and harmonised application forms, registration within two working days and a maximum registration fee of EUR 100. In order to increase the public's trust in the corporate form the report places particular emphasis on strengthening preventive legality control. Competent authorities should verify the identity and legal capacity of applicants, the authenticity and reliability of the information submitted and, where appropriate, compliance with anti-money laundering requirements before registration. By combining digitalisation with robust preventive safeguards, the EU Inc. will become an example for a fast and unbureaucratic creation of a company, but also a trusted European corporate label providing for legal certainty for founders, investors, employees and public authorities.

Country-of-Origin principle and safeguards

The EC proposal introduces a far-reaching country-of-origin principle, according to which all matters not governed by this Regulation or the EU Inc.'s articles of association are subject to the national law of the place of registration. This proposal goes beyond the case law of the CJEU on the freedom of establishment, which allows for limitations of the country-of-origin principle, if it is necessary and proportionate to achieve mandatory requirements of general interest. An unlimited country-of-origin principle invites forum shopping and thereby creates the risk for the EU Inc. company to attract the circumvention of national protection standards. If the EU Inc. becomes known in its first months of existence as a vehicle for circumvention rather than high-quality innovation, it will fail to deliver on its promise to become an EU seal of quality.

In order to limit the negative effects of the country-of-origin principle without undermining its effectiveness for innovative startups and scaleups, the draft report suggests limiting the principle to company law matters and to introduce a clearly defined selective opening towards a different connecting factor for matters relating to employee participation rights. The rules applicable for board-level employee participation rights should follow the place of employment of the employees.

Where an EU Inc. company employs workers in several Member States, the highest level of protection should apply. Where it is not possible to determine which national employee participation regime applies, the report provides for a modified negotiation procedure, modelled on the framework applicable to the European Company (SE), to establish appropriate participation arrangements.

Employee financial participation and voluntary steward ownership

Building on this approach, the report also strengthens the framework for employee ownership as an important driver of innovation, entrepreneurship and long-term value creation. The proposed Employee Stock Options (ESOs) are complemented by Employee Stock Ownership Plans (ESOPs). These instruments have become key tools for startups and scaleups to attract, retain and motivate talent, while allowing employees to share in the value they help create. The report makes clear that these plans complement and do not (even partly) replace fair wages, pensions or social security contributions.

In order to give founders a variety of options how to organise their company, the draft report introduces a voluntary steward-owned EU Inc. - "EU Inc. SO". Steward ownership is an innovative governance model reflecting a broader understanding of competitiveness, based on resilience, long-term investment and sustainable value creation. It enables founders to preserve the purpose and independence of their companies while protecting them from short-term pressures and hostile takeovers. By expanding the range of governance options under the new corporate framework, the report equips innovative companies with additional tools for sustainable growth and strengthens Europe's ability to retain talent, technology and innovative firms within the EU.

A simplified insolvency regime for startups

The rapporteur acknowledges the added value of simplified and fast insolvency procedures for startups in order to complete the capital market union and therefore improve the EU Inc.'s access to venture capital. The scope must then not be legally ambiguous. The draft report therefore deletes the reference of "innovative",

whilst it keeps the limitation to startups and adds the criterion of a maximum number of creditors. Access to those procedures may not be made dependent upon the company's ability to cover the costs of such proceedings. Appropriate creditor protection remains essential throughout the process, which is to be ensured by the mandatory appointment of an insolvency practitioner, as a general rule.

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Dispute resolution

Fast and high-quality conflict resolution is key for the success of the new corporate framework, as can be observed with the Delaware Inc. model. In order to enable a similar effect for EU Inc. companies the report introduces an out-of-court dispute resolution mechanism for business-to-business conflicts involving an EU Inc. company. Moreover, the report encourages Member States to designate specialised judicial chambers or courts possessing expertise in matters relating to EU Inc. companies. These measures are complemented by the creation of a publicly accessible database of EU Inc. related judgments and a European information platform providing practical guidance on the operation of EU Inc. companies.

To be followed…

Source:
www.europarl.europa.eu/doceo/document/JURI-PR-790143_EN.pdf