

PM+: Commission's limited liability proposal is 'open invitation' to help companies avoid tax and labour rules

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Opinion Plus

New EU draft directive an 'attack on workers' rights', argues Claudia Menne.



We all know the story of the Trojan horse, and of the wolf in sheep's clothing. But have you heard the one about an attack on workers' rights disguised as a directive to help small business?

It sounds unlikely, but that is the depressing reality of the European commission's draft directive on a 'single member limited liability company' published on earlier this week.

The commission claims it is to help small businesses trade across Europe. Who could be against that? Everyone wants the economy to grow, and for small businesses to be able to take advantage of the single market. They are the backbone and the innovators of Europe's economy.

Unfortunately the detail of the directive is somewhat different, and is an open invitation to companies of all sizes to avoid taxation and labour rules, including national rules on worker participation.

Strangely, the commission has tried this once before and failed. So it is a mystery as to why they are trying again. In 2008 the commission proposed a European private company which was blocked in council because governments could not agree on it and was finally withdrawn under the commission's deregulation programme (Refit). Instead of learning the lessons from the last failure, it is pressing ahead with something that will generate even more concerns than the last time.

This time it is trying to sidestep objections by changing the legal base. The previously proposed regulation for a European private company required unanimous agreement in council, whereas the newly proposed directive requires qualified majority voting.

Setting aside how the commission plans to get a previously rejected proposal through this time, the real problem is this: the directive proposes to allow a company to register its business in a country different from the one in which it actually operates. And it does not limit this to small businesses; on the contrary it clearly states it will also be used by larger companies.

The result is that a company operating in country A could register itself in country B for tax avoidance purposes.

It would also enable companies to register in a country with lighter requirements on information, consultation and board-level representation regardless of where that business is actually carried out.

The 2008 proposal was inadequate on workers' rights to information, consultation and board-level participation, but the new draft directive contains absolutely nothing on these vital issues.

"We all know the problems of 'letter box' companies. This is the letter box company directive"

Worker representation on company boards is a legal requirement in many member states, in Sweden for companies with over 25 employees; Denmark for over 35 employees; the Czech Republic, Slovenia and Slovakia over 50 employees; Netherlands 100; Finland 150; Hungary 200; Austria 300; Germany 500.

We all know the problems of 'letter box' companies. This is the letter box company directive.

It facilitates what is known as social dumping, and is clearly against the whole spirit of 'social Europe' - the idea that the European economy is an inclusive affair benefiting the many, not the few.

Workers' participation is vital for sustainable corporate governance and sustainable companies. Surely the crisis has shown us that we need better corporate governance and not the blind pursuit of short-term shareholder interest? What we need instead of this dishonest directive is a sustainable European company legal structure - not a statute to enable companies to escape tax and labour rules.

What would make discussion on European company legislation much easier would be a legal framework on workers' information, consultation and board-level representation that applied to all such proposals.

About the author

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