

European Commission proposes the creation of a European Private Company (SPE)

What is the issue?

Small and medium-sized enterprises (SMEs) represent 99.8% of all companies in the European Union and account for 70% of employment. However, unlike large companies, **small businesses remain mostly within national borders.**

Problems related to setting up and doing business abroad, in particular

- language barriers and cultural differences
- differences in company law, tax and labour systems

create difficulties and generate costs to the extent that they discourage entrepreneurs from expanding their business to other Member States.

What benefits the SPE can bring to SMEs?

The SPE is a company form **designed for SMEs**. Entrepreneurs will be able to set up their business in the form of an SPE following **the same company law rules throughout the EU**. Thus they can set up an SPE instead of a 'GmbH' in Germany, an 'sp. z o o' in Poland and an 'SAS' or 'SARL' in France.

The advantages of the SPE are the following:

- it exists in all Member States
- it is a **light and flexible** yet **transparent** company form
- it allows entrepreneurs to set up all their companies and/or their subsidiaries with **the same management structure**, regardless where they are located
- it offers a **European label** that is easily recognisable throughout the EU

These features allow entrepreneurs to **save time and reduce costs**, especially legal costs related to setting up different company forms in different Member States.

However, the SPE Statute will not solve all the problems businesses face when they want to set up a company abroad. It does not address questions related to tax and employment.

Why is action needed at EU level?

The SPE will only make a difference compared to national company forms if it exists in the same form and shape in every Member State. The only way to ensure this is that the SPE is adopted as a company form at EU level.

What does the proposed SPE look like?

- the European Private Company is referred to as 'SPE' after its Latin name *Societas Privata Europaea* that allows the use the abbreviation SPE without needing to translate it to national languages

- its **shareholders liability is limited** to the contribution they provide for the SPE
- its **shares may not be publicly traded** on any market
- it may be **set up by any individual or legal entity, from scratch, or by the transformation, merger or division** of existing companies
- it may have its registered office in one Member State and conduct its activities in another; it may also **transfer its registered office** to another Member State
- **application** to set up an SPE may be made **by electronic means**, in the language of the Member State of registration
- to ensure that the SPE is accessible to all entrepreneurs, the proposed SPE **may be set up with a capital of only €1**
- shareholders enjoy a **broad freedom** to determine the manner in which shareholders take their decisions (meeting, telephone or video conference)
- shareholders are also **free to determine the rights attached to shares** such as voting rights and rules on share transfers
- the SPE Statute provides for rules to **protect the interests of creditors and pre-existing rights of employees.**

When will the SPE become a reality?

The proposed SPE Regulation will have to be adopted by a unanimous decision of the Member States in the Council of Ministers of the European Union. It will also require the approval of the European Parliament. The **European Commission proposes that the SPE Regulation enter into force on 1 July 2010**, but this will depend on the progress of the negotiations.