

Position Paper

Contribution to the discussions on the Draft Report with recommendations to the Commission on the 28th Regime

The CNUE supports EU initiatives to strengthen the competitiveness of the internal market and is ready to contribute its expertise to support start-ups, scale-ups and other businesses throughout their lifecycle as they grow and expand.

In consideration of the draft report with recommendations to the Commission on the 28th Regime by the European Parliament dated 30 June 2025, the Notaries of Europe provide the following observations on the significance of public preventive control, the application of EU company acquis to the 28th Regime, the upgrading of the interconnection of business registers, and the use of templates in company law.

1. Gatekeepers for legal certainty

By providing mandatory public preventive control through courts, administrative bodies and/or notaries (cf. Art. 10 and Recs. 9, 10 Directive (EU) 2025/25), the EU ensures legal certainty in company law. Such control ensures that company information entered in business registers is complete, correct and easily accessible. Businesses, authorities and the wider public can therefore use transparent and reliable company information. This significantly reduces administrative burden as well as transaction and litigation costs. As a result, business partners and other third parties across the world are able to use information disclosed in EU company registers on a day-to-day basis to make important decisions in transactions with high financial or otherwise far-reaching commitments. Thus, company information costs are not shifted to the third parties with whom companies interact (customers or suppliers and public administrations) with the consequence of those third



parties – many of them small and medium-sized enterprises – having to repeatedly carry out costly and time consuming due diligence procedures to verify the legal status and other company information when they intend to enter into any type of contract or relationship. This is crucial for the functioning of the internal market, making cross-border transactions faster, cheaper and more secure. Therefore, public preventive control is a key feature of EU company law. The principle contrasts with US corporate law, which relies on ex post litigation, and is fundamental to the EU's competitiveness.

2. Gatekeepers for legality

Another important dimension of public preventive control, however, is that of ensuring legality in form of compliance with Union and Member State laws that protect public interests, such as the prevention of money laundering and terrorist financing, as well as the protection of weaker parties. Due to its structural complexity and a strong increase in cross-border transactions over the last years, companies may be used for illegal purposes. Not surprisingly, criminals tend to operate in legal systems with lower transparency requirements in company law than those imposed by EU law. In fact, the link between company law and public interest concerns, such as the fight against money laundering, was explicitly recognised by the European legislator in Recs. 9 and 10 of Directive (EU) 2025/25. For this reason, EU company law now foresees that the legality of transactions and procedures should be checked in the public interest by gatekeepers. The public preventive control and the related formal requirements for the most important company documents ensure not only the reliability of cross-border company data, but also prevents the misuse of company law for illegal activities. Furthermore, the high-quality information checked and provided by notaries is essential for the functioning of effective anti-money laundering systems, while the absence of mandatory preventive controls encourages money laundering through corporate structures.

3. Application of the acquis to the 28th Regime

Aligning with existing EU company law is crucial for the 28th regime. Since its inception, EU company law has aimed to address the practical challenges faced by companies, offering solutions to fundamental questions such as the existence of a company, powers of representation and reliability of register information. The existing company law acquis



provides much needed answers to these and many other practical issues. It is therefore essential that the *acquis* is applied to the 28th Regime, in order to avoid any misalignment with current EU legislation on limited liability companies. A 28th Regime without public preventive control and therefore without reliable registers would jeopardise core values of the EU and threaten the EU's global competitiveness.

4. Upgrading the Business Register Interconnection System (BRIS)

The draft report on the 28th Regime mentions creating a uniform Union-level digital company register. However, the purpose of this register remains unclear. The draft report states that the uniform register “should not replace the existing national incorporation rules but, rather, serve as a common portal.” For the 28th Regime, relying on a common portal is preferable to creating a fully-fledged EU business register, as the latter would be extremely challenging to achieve in the short term. It should be noted that existing business registers employ thousands of officials and operate under detailed and complex regulations. The creation of a completely new register infrastructure would thus jeopardise legal certainty throughout Europe.

Simplification could be achieved by introducing a new access point to national one-stop shops on the European e-Justice Portal. This would strengthen the existing BRIS framework and facilitate company registration, document filing, and information updates.

5. Ensuring legal protection and certainty through constitutive documents

In line with the draft report's principle that ESSUs should rest on national company forms and be governed by the law of the Member State of incorporation, Union-wide model articles of association and shareholders' agreements are unsuitable to achieve ESSUs shareholders' goals and diminish transparency. Reconciling all Member States' legal systems and traditions would be difficult and, at best, cause a significant delay to the successful introduction of the 28th Regime. These documents constitute the foundation of companies' governance. Hence, drafting them demands specialist expertise to provide adequate solutions. Therefore, if model documents are nevertheless deemed useful, they should be



elaborated at national level with the active involvement of public gatekeepers such as notaries and other competent authorities (e.g. commercial courts). In any case, templates should only serve as starting points, with bespoke drafting remaining essential to establish fit-for-purpose documents and safeguard legal certainty.

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