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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Regulation on the 28th Regime Corporate Legal Framework - EU Inc. - Guidance for further work

I. INTRODUCTION

1. The Commission submitted to the Council the *Proposal for a Regulation of the European Parliament and of the Council on the 28th regime corporate legal framework - EU Inc.* on 18 March 2026[1]. The proposed act is based on Article 114 of the Treaty on the Functioning of the European Union (TFEU).

2. The European Council, in its Conclusions[2] of March 2026, set a very ambitious timeline for a political agreement to be reached on this proposal, by the end of 2026.

[1] 7498/26
[2] EUCO 1/26

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3. This timeline was also included in the *One Europe, One Market Roadmap*[3], aiming at preventing and removing barriers to the four freedoms of the single market. Together with the other legislative proposals in the Roadmap, this Regulation is intended to support the objectives of strengthening the EU's competitiveness, fostering innovation and enhancing the attractiveness of the single market for high-growth companies.

4. The European Parliament's Committee on Legal Affairs (JURI) appointed Mr René Repasi (S&D, DE) as a rapporteur on the proposal. The JURI Committee is expected to vote on its amendments to the Commission proposal and adopt the mandate for negotiations by mid-October 2026, with the negotiating mandate expected to be voted at the second Plenary session in October 2026.

II. STATE OF PLAY

5. The examination of this file in the Council started in April 2026 under the Cyprus Presidency and the pace has steadily increased over the past months under the Irish Presidency. The file was on the agenda of the Committee of Permanent Representatives in March, May, June and July 2026. Political guidance was requested from Ministers during a Policy Debate at the Competitiveness Council on 28 May 2026. Ministers were also informed on the state of play of the file at the Competitiveness Council meeting on 24 September 2026.

6. Based on the political guidance received on the occasions mentioned above, the Irish Presidency pursued the comprehensive examination of the file in the Company Law Working Party. The Presidency has sought to reconcile the differing positions of Member States while maintaining the level of ambition of the EU Inc. proposal, in line with the calls of the European Council and the *One Europe, One Market Roadmap*.

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[3] 8473/26

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7. The Presidency published the first compromise text on 17 July 2026 and the second compromise text on 7 September 2026[4]. These compromise texts have advanced significantly on the majority of technical issues, as well as increasing the clarity and the coherence of the proposal. Notable changes include the following:

- Following the previous political guidance from the Committee of Permanent Representatives, Chapter X on Insolvency has been removed from the text;

- The scope of the proposal and its interaction with national and sectoral law have also been reworked, providing clarity and legal certainty. This has also been achieved through an expansion of the Annex, which now lists all matters that the Regulation expressly requires or allows the Articles of Association to address;

- The chapter on the organisation of EU Inc. companies has been significantly developed and strengthened; and

- Member States have been given more time to implement the Regulation (27 months instead of 12).

III. ISSUES FOR POLITICAL GUIDANCE

8. While good progress has been made on technical and political issues, some politically sensitive aspects require further political guidance. More specifically, the Presidency considers that further work is needed on the issues of **preventive controls and checks**, **employee stock-options** and **employee participation**, and guidance from the Committee of Permanent Representatives will help guide the way forward.

[4] Respectively ST 11829/26 and ST 12824/26.

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(1) Preventive controls and checks

Preventive controls and checks have been further strengthened and clarified both at the point of formation and throughout the EU Inc.'s lifecycle, including with an obligation for EU Inc. companies to declare their principal place of business and centre of administration annually and for competent authorities to enforce this and other requirements.

Furthermore, comprehensive discussions on the **anti-abuse measures** led to the introduction of new safeguards in the text, including a new Article 103a on abuse (wholly artificial arrangements).

Another recurrent issue from many delegations is the introduction of specific **anti-money laundering** provisions at the formation stage of EU Inc. companies. The current compromise text specifies, in a new recital 20c, that the Regulation does not affect the Union legislation on anti-money laundering and that the recourse to obliged entities and to legal professionals is possible at the stage of formation and when business is conducted.

The Presidency considers that a careful balance has been struck on preventive controls and abuse. Nevertheless, it is considering taking a further step to address the concerns of delegations regarding certain criminality and money laundering checks, possibly in the form of an optional ground for refusing registration. Any solution would, however, need to strictly respect the existing time-limits for registration.

(2) Chapter VIII - EU Employee Stock Option Plan (EU-ESOs)

There have been extensive discussions on EU-ESOs at technical level, leading to a series of changes in the current compromise text. Amongst other things, the compromise text clarifies that EU-ESO schemes do not affect statutory minimum wage rules or pay levels established by collective agreements.

Moreover, the scope of the taxation provisions has been reduced: EU Inc. companies that either exceed the 450 million EUR threshold or exceed the 1 000 employee threshold become ineligible to benefit from the taxation rules in Article 79. The language of the corresponding recitals has also been strengthened, including on Member States' sovereignty and competences regarding tax issues.

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While the corresponding provisions have been refined in the current compromise text, further work is still needed on the EU-ESO schemes, with diverging views among delegations.

Several delegations emphasise the importance of the EU-ESO scheme, including its prevention of the taxation of unrealised gains. This also comes as a strong demand from the start-up and scale-up community, as emphasised in the Commission Impact Assessment. Several delegations have emphasised that EU-ESO schemes represent a crucial element to maintain the EU Inc. proposal's ambition.

Other delegations have notably questioned the principle of determining, or even incidentally affecting, any aspect of taxation in legislation not adopted under Articles 113 or 115 TFEU.

The Presidency has followed a two-track approach. On the one hand, it has sought further technical guidance on the provisions at a dedicated part of a Company Law Working Party meeting to which fiscal attachés were invited. On the other, it has left the principled issue of inclusion to the Committee of Permanent Representatives to provide guidance on the political opportunity of these provisions. In light of this, the Presidency considers that a possible path forward is to further reduce the scope of the provisions (for instance, to Small Mid-Caps, i.e. 750 employees and 200m EUR turnover); to remove the most problematic aspect of Article 79, namely its open-ended 'not less favourable' paragraph (4); to exclude tax residency and exit tax questions from the scope; and to ensure political clarity, including in the recitals, that this is an exceptional case which cannot be considered a precedent as regards ordinary legislative procedure files affecting taxation.

(3) Article 12 – Employee participation

On the issue of employee participation, the Presidency has organised comprehensive discussions at technical level. The Presidency has included the two main options for employee participation that have emerged at technical level in the current compromise text.

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Several Member States who have employee participation traditions have raised concerns that their employee participation rules could be circumvented by EU Inc. companies. This is, additionally, likely to be an important point for the European Parliament. Other Member States have expressed willingness to accommodate those concerns, but wish to avoid imposing one Member State's employee participation rules on others or unduly limiting the freedom of business.

Following the technical discussions, the Presidency considers it essential to identify a solution which would respond to this highly sensitive concern whilst ensuring appropriate flexibility for Member States and companies.

In light of this, a viable approach would be to establish a mechanism dealing with the specific circumstances of EU Inc. companies established in one Member State that exceed employee participation thresholds in another Member State. That mechanism would aim to allow the latter Member State to ensure respect for its employee participation provisions. The mechanism should be optional for each Member State, be predictable for EU Inc. companies and give them flexibility as to how to achieve compliance, and avoid any interference with the Mobility Directive (Article 160a et seq. of Directive 2017/1132).

IV. CONCLUSION

9. The Presidency calls upon the Committee of Permanent Representatives to provide political guidance on the proposed way forward articulated above regarding:

- preventive controls and checks;
- employee stock options; and
- employee participation.

Such guidance should provide timely and strategic input for the Presidency to prepare the third Presidency compromise text which will form the basis of the Council mandate and to start the negotiations with the European Parliament as soon as possible, in view of the timeline set by the European Council for the political agreement on this proposal.

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