Societas Europaea Sum

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Throughout the Roman Empire a citizen could state: "*Civis romanus sum*" ("I am a Roman citizen"), and thereby claim the respect and the rights appropriate to his status. From 8 October 2004 a European company will be able to say, through its company organs: "*Societas europaea sum*" ("I am a European company"), and the company will be able to claim the respect and rights which apply under the Statute for a European Company (SE).

This new legal status is not the work of ivory tower intellectuals. It is a substantive and practical creation which is offered to the European business community, enabling it to use a form of incorporation which is intended to be the same, regardless of where in Europe the company is based. This means that it will be much easier than previously for the business community to foresee the legal consequences (and soon also the tax consequences) of being a cross-border undertaking. An undertaking will not need to learn the company laws of 25 + 3 countries, but merely one set of supranational rules on the SE, combined with the specific law of the country where the SE is established.

In the Nordic countries, one of the largest banks, Nordea (with a parent company in Sweden, and subsidiary companies in Denmark, Finland and Norway), has already declared its intention of merging all the Nordea banks into one SE banking company, domiciled in Sweden and with branches in the other countries. This will simplify questions of financial supervision, data protection, employee representation and so on. *E pluribus unum.*

It was necessary to make a number of compromises in order to achieve the unanimity necessary for the adoption of the SE Regulation and the SE Directive on the involvement of employees:

One compromise was the inclusion of the requirement that an SE must have its head office in the same Member State as its registered office. This requirement, which clearly limits the freedom of movement of an SE, is legally untenable even before the SE Regulation has entered into force, *cf.* the decisions of the European Court of Justice in the *Centros*, *Überseering* and *Inspire Art* cases. This is discussed in Erik Werlauff's article.

Another compromise was the requirement that employees' rights to representation on the board of directors etc. should not be diminished through a merger resulting in an SE. It is the most advantageous arrangement for the employees which is to prevail – *survival of the best.* This compromise seems logical and will probably endure for some time. *See* Lone Hansen's article.

A third compromise is that states with a two-tier management structure must allow a single-tier structure and vice versa, so that it is the SE itself which chooses its own management structure. This compromise too seems sound and viable. *See* Michel Menjucq's article.

However, I would encourage you to read all the articles in this issue of ECL, and judge for yourself. My fellow editors and I are sure these articles will persuade you that with the creation of the SE, European company law has reached a milestone in its history. It will be possible to say, wherever in Europe one wants to set up a company: "*Societas europaea sum*".