



CCBE RESPONSE TO THE GREEN PAPER ON THE INTERCONNECTION OF BUSINESS REGISTERS (SEC (2009) 1492)

Identification number in the register of interest representatives: 4760969620-65

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The Council of Bars and Law Societies of Europe (CCBE) is the representative organization of around 1 million European lawyers through its member bars and law societies from 31 full member countries, and 11 further associate and observer countries.

The CCBE encourages stakeholder consultation for each new register interconnection project, given the differences between registers and their various legal frameworks. The responses in this document relate only to the project of interconnection of business registers.

1. Interest of the interconnection for companies and European lawyers

Lawyers are, in all Member States, legal advisers for businesses. As such, they constantly use the information provided by business registers to determine the legal status and economic situation of businesses involved in the cases they deal with. Moreover, they provide on behalf of their clients legal regularity of their operations and draft corporate documents required by company law.

Companies that are clients of lawyers are increasingly involved in intra-Community economic and commercial activities, and from a legal profession point of view there is a clear need to have a single tool or interconnected system of information on the economic status and situation of companies in Europe.

Once established, a consultation tool for legal data concerning all European companies will facilitate the work of lawyers to the benefit of their clients, and support the provision of their services throughout the community area, including legal support for cross-border transactions.

It is important for lawyers and their clients that:

- they have reliable and updated information on companies registered within business registers and their executives (terms of office held in other companies or groups, for example);
- this information is relatively homogeneous among the different Member States;
- the perimeter of information available is broad enough to cover the financial information of such pledges and liens, protests, etc. ... and some information such as "ban to manage". The extent of information available from the UK's *Companies House* might be a good reference in this regard;
- such access could be available in one or more official languages of the European Union;
- access is possible in a unique and homogeneous way, without necessarily going through the intermediate levels of national registers;
- accessibility is provided 7 days a week and 24/24, both in terms of visualisation of key documents and in terms of ordering copies and extracts;
- this access be provided at a low and more competitive cost than the current cost of consulting the various national registers.

Therefore, the CCBE hereinafter answers questions inspired by the Green Paper on the interconnection of business registers.

2. The principle of interconnection

Stakeholders are asked to indicate **whether, from their point of view, an enhanced network of business registers of Member States is necessary.**

The CCBE's view is that the interconnection of Member States business registers is necessary to ensure greater legal certainty for economic and commercial transactions within the EU and EEA, and to provide lawyers with an effective tool to inform and advise their clients.

The Green Paper also raises the question of **whether the modalities of such co-operation should be adopted as part of a "governance agreement" between representatives of Member States and business registers.**

The CCBE does not have sufficient expertise to accurately determine the legal and administrative arrangements that would be most appropriate to establish the interconnection of registers within the EU and the EEA.

The CCBE suggests that:

1) the interconnection must have an indisputable legal basis which guarantees companies and lawyers reading company information through it that the information is structured in a strictly identical way and has the same legal value as that recorded in national registers;

and

2) that the firm establishment of effective interconnection probably justifies that the different entities managing the national business registers are closely associated with this project and supervised in its implementation.

It is then asked **if there may be added value in connecting, on the long run, the network of business registers to the electronic network created under the Transparency Directive, where regulated information on listed companies is stored.**

The CCBE notes that Directive 2004/109/EC organises the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading in a regulated market and that such required information contributes to the objective knowledge of the market and economic situation of these companies.

The CCBE also notes that this directive requires the issuers concerned to "file information with the competent authority of the home Member State under paragraphs 1 or 3, respectively, in order to ... enable filing by electronic means in the home Member State" (Article 19.4).

Therefore, it seems useful to provide, as soon as possible, that such information relating to companies issuing securities can be accessed through the same electronic channel as all information relating to business registers, and can easily be associated with legal information relating to each company concerned.

3. Modalities of implementation for the interconnection

The Green Paper asks stakeholders to indicate **from what experience or existing projects they would consider it efficient to develop the future interconnection of national business registers.**

It referred to two options in particular: the first would be based on the results of the **BRITE project** and to designate or establish an entity responsible for providing the necessary services, extended to all Member States. The second would consist in **using the Internal Market Information System (IMI)**, which is already functional and which, in capacity terms, could well be extended to other areas of EU legislation in the years to come.

The CCBE does not have sufficient technical expertise nor thorough knowledge of both systems presented to make a precise and definitive choice on the issue.

However, it seems essential to combine three imperatives:

1) the system should be established from the outset as an open system, specifically designed to meet the information needs of companies and their boards, and directly accessible by them without prior recourse to national register services, which would delay such access to information and probably increase the cost;

2) that from the beginning or very soon after its establishment, the system should give access to all national registries of Member States of the EU and the EEA;

and

3) the successful solution should be specific to the peculiar structure of business registers in terms of information collected and authentication of its content and origin.

Accordingly, the CCBE believes that - although already deployed in all countries of the Union - the Internal Market Information System (IMI) does not appear to have an open structure dedicated to information for companies (due to its intra-administrative nature) or to be easily adaptable to the specificities of business registers.

Conversely, it seems logical to rely on the one hand on the experience gained with 18 Member States within the framework of the European Business Register (EBR), and to seek, on the other hand, to design the new interconnection system based on the results of the BRITE trial project recently completed by certain Member States of the EBR.

Furthermore, the CCBE is in favour of the European Business Register (EBR) being built in the e-Justice portal. It also supports that this new interconnection system shall eventually be accessible through the e-Justice portal.