

The Societas Unius Personae (SUP): A “Passport” for Job Creation and Growth

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Professor of Company Law at the University of Luxembourg. The author was a member of the Reflection Group on the future of

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The Societas Unius Personae (SUP): A “Passport” for Job Creation and Growth

by

PIERRE-HENRI CONAC²

The proposal by the European Commission of a directive on single-member private limited liability companies of 9 April 2014 is designed to facilitate cross-border activities of enterprises, especially small and medium-sized enterprises (SMEs) by requesting Member States to provide a company form called the Societas Unius Personae (SUP) that would be set up online and would follow harmonised rules on key issues. Therefore, the SUP is a “passport” to facilitate the establishment of companies in other Member States. By facilitating exports and activities in other Member States, the SUP would contribute to job creation and growth in Europe. It would also be an internal “passport” as it would facilitate the creation of companies within Member States since it liberalises the rules on capital and forces online creation. The SUP would also significantly facilitate the cross-border functioning of groups, exactly like the Societas Privata Europea (SPE) – which the SUP replaces – was designed to achieve. However, the approach adopted by the Commission is innovative as it does not seek to create a supranational company like the SPE. Criticism of the SUP focuses on its innovative legal basis and content. However, these criticisms, even while addressing valid concerns, are exaggerated or simply unfounded. For example, critics of the option to separate the statutory seat from the real seat is understandable, at least from a political perspective, and has been addressed. The November amended version in the Council has introduced the right for the Member States to impose the real seat. This should help alleviate concerns that the SUP would be used to circumvent co-determination.

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