

Experience with the SE in Germany

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Abstract

A rather significant proportion of the *Societas Europaeas* (the European Company, or SE) formed to date have had German roots. German corporate law has been enriched by an interesting alternative which meanwhile seems to have gained momentum. This contribution focuses on SEs incorporated by German entrepreneurs and provides an interesting account concerning the use of SEs in Germany in practice, such as *Allianz*, *Fresenius*, *BASF* and *Porsche*. Has the SE been used to circumvent rigid company law provisions or is it a more flexible and effective tool, perhaps, for company mobility? The practical motives behind setting up this company form are also reflected upon. These include: the facilitation of cross-border mergers; transfer of the registered office; the 'European' image; a more flexible form of co-determination in large companies (reduction of the number of supervisory board members); avoidance and freezing of co-determination for medium-sized enterprises; the appeal of the one-tier system and its endangerment by German co-determination; and flat and uniform structures for company groups. The author also briefly discusses some of the problems arising from the formation of SEs in Germany. He ultimately concludes that practice has shown that it is possible to work with the legal regime of the SE in Germany, which adds a new company form to those available in that Member State.

Keywords

Societas Europaea; European Company; board structure; co-determination; EU company law

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