

New company code: the highlights of the proposal

We are at the eve of a radical modernization of the Belgian company law. The highlights of these changes aim at a thorough simplification and a reduction of the numbers different forms of companies. This reform would enter into force very quickly with a long transition period.

Belgian Companies Code becomes Companies and Associations Code

The last fundamental change in company law dates from the introduction of the Company Code (law of 7 May 1999) and the Royal Decree of 30 January 2001. The Code has been changed more than 50 times since, whether or not profoundly, of which 25% were changes following European regulations. Now is the time for an in-depth modernization in order to offer Belgian entrepreneurs a good company legislation which support their enterprise and to encourage foreign entrepreneurs to a broader use of the Belgian company forms.

The proposal of minister of Justice Koen Geens is approved by the Ministry Counsel on 27 July 2017. It is the intention that the new code enters into force in 2019. For companies, associations and foundations a transition period of ten years will be foreseen in order to adapt to the new rules.

Towards 4 forms of companies

It is the intention to reduce the existing structures to four forms of companies: partnership, private limited liability company (bvba in dutch), cooperative company with limited liability (cvba in dutch) and public limited liability company (nv in dutch). The nv would be the natural form for listed and big companies, while SME's should opt for the bvba.

All other company forms can be legally reduced to these four forms. The company with a social purpose (vso in dutch) can obtain its goal (reinvestment of all profit) through a cooperative company with limited liability (cvba). The agricultural company can be transferred into a partnership.

The cooperative company remains but will have to focus more on its initial goal: realization of plan by persons who are at the same time partner and client or supplier.

Next to these four forms of companies the non-profit association (vzw in dutch) remains for associations and foundations without members. They can be considered as a company and can continue working as long as they do not pay out any profit to their members or directors. The associations legislation is structurally integrated in one company and associations code.

The European forms (IESV, SE and SCE) remain.

Flexibility of the bvba

One of the most remarkable changes is abolishing the capital and capital protection rules for the bvba. A sufficient capital becomes the main rule. One can decide how much capital is invested. Through stricter rules concerning the liability of directors, financial plans, etc. the solvency and liquidity of the company is monitored.

Because of the abolishment of capital a number of limited, more technical changes will be necessary on the accounting and tax legislation.

A bv (and cv) needs in principle 1 director, but the board can also consist out of several directors (whether or not as a college).

Finally. The reform is used to simplify and modernize the notification system for company documentation. This would become possible through a unique government website and clearer and easier language rules.

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