



European Business Test Panel (EBTP)

European survey on European Private Company

The consultation on the EPC ran from 3 October 2007 till 5 November 2007. 517 EBTP members participated in the consultation. Of them, 462 filled out the questionnaire completely.¹

Of all participants, 162 (35%) indicated to have an establishment in at least one other European Member State. Most of these companies have a subsidiary in another Member State (94), followed by a parent company (72) and a branch (39). Since the total number of responses amounts to 205, several companies must have a combination of establishments in the European Union.

The majority of the participating companies, 297 in total (64%), in the EBTP consultation provided services or sold goods in another Member State. The majority of them provided services (129). Goods were sold by 97 companies while 71 provided both services and sold goods.

Out of the total of 462 participants that filled out the questionnaire, 319 were presented questions about their experiences concerning their legal status and doing business in another Member State. These 319 companies had an establishment in another Member State, provided services or sold goods, or had a combination of them.

Of these 319 companies, 26 (8%) faced barriers related to their legal status, 108 (34%) faced barriers related to other issues, 164 (51%) faced no barriers and 21 (7%) did not know.

¹ The companies that did not complete the questionnaire probably did not feel affected directly by the policy field.

Companies facing barriers related to their legal status while conducting business in another Member State

Of those 26, the majority indicated that the most burdensome barriers are different national rules for the operation of a company which make day-to-day management more expensive (69%) and difficulties in dealing with different company law systems (65%). Lack of trust in foreign legal forms in relation with business partners from other Member States was identified as burdensome by a little less than half of the respondents (42%). 27% of those companies stated that all three different possibilities were equally burdensome.

Half of the companies facing barriers due to their legal status spend 'between 50 and 99 hours' per year on dealing with those barriers (50%). The number of companies that spend 'less than 50 hours' or 'between 100 and 250 hours' per year equalled each other (both 15%). A considerable minority indicated that they spend 'more than 250 hours' per year on dealing with problems related to their legal status.

Companies using legal counsel related to their legal form while conducting business in another Member State

Of the 319 companies identified as being active across borders, 97 (30%) indicated that they regularly use legal counsel related to their legal forms.

Of these companies, about one third spends 'more than 10.000 euros' a year on this legal counsel. Slightly less spend 'between 5.001 and 10.000 euros' a year (27%) or 'between 1.001 and 5.000 euros' a year. About one tenth spends 'up to 1.000 euros' per year on legal counsel (14%).

Planning to conduct business in another Member State

The companies that were not yet active in another Member State (143) were asked if they ever considered or even planned to conduct business in another Member State; 59 of them answered affirmative. For these companies, starting cross border activities without an establishment was the most preferred option (42%), followed by setting up a subsidiary (34%) and setting up a branch (19%).

Uniform rules for companies in all Member States regarded useful

All companies participating in the consultation (462) were asked if uniform rules for companies in the European Union would be useful for them: 259 (56%) answered positive, 96 (21%) thought that would not be the case while 107 (23%) did not know.

The group responding positively was asked to indicate what advantages the EPC would offer them: creating subsidiaries was expected to be easier and simpler (67%) and organisation of groups of companies could be simpler (65%); about half of the companies saw an advantage in having a European label (51%) and a considerable minority saw advantages in the easier establishment of joint ventures.

The group responding positively was also asked to comment on the type of problems that, in their view, would be addressed by the EPC. The majority indicated that the EPC would tackle obstacles related to difficulties in dealing with different company law systems (81%) and different national rules for the operation of a company making day-to-day business more expensive (78%). About half of the companies indicated that the EPC would address the problem of lack of trust in foreign legal forms in business relations.

The group responding positively was also asked if they expected cost savings if creating a subsidiary in the form of an EPC. The majority, 158 (61%), expected such savings for either their company (101) or their group (86).

101 respondents expected savings for their companies

Savings expected	Related to one-off costs	Related to annually repeating costs
Up to 1.000 euros	8%	15%
Between 1.001 and 5.000 euros	25%	25%
Between 5.001 and 10.000 euros	24%	17%
More than 10.000 euros	15%	15%
Don't know	29%	29%

86 respondents expected savings for their groups

Savings expected	Related to one-off costs	Related to annually repeating costs
Up to 1.000 euros	6%	4%
Between 1.001 and 5.000 euros	16%	23%
Between 5.001 and 10.000 euros	21%	17%
More than 10.000 euros	28%	28%
Don't know	29%	28%

For existing subsidiaries or for planned subsidiaries, the respondents (again from the group of 259 companies expecting the EPC to be useful) indicated to be most in favour of choosing a legal form of an EPC having a single shareholder (29%), of an EPC having multiple shareholders (25%). These options were followed by a subsidiary in the legal form of the own country, if it were allowed and recognized by the other Member State (22%) and the option to use the legal form of the Member State where the subsidiary would be placed (7%).

Characteristics of the EPC

The group of 259 companies regarding the EPC as useful were asked several questions about the possible set up of an EPC.

The majority of them was in favour of the option that the EPC should be allowed to have its registered office and its headquarters in different Member States (76% Yes; 14% No; 10 % Don't know).

The majority indicated that the EPC should be open to natural and legal person (84%), in relation to minorities that were in favour of restricting the accessibility of the EPC to either legal persons (7%) or natural persons (4%).

The majority was in favour of allowing an EPC to be established by a single shareholder (84% Yes; 11% No; 5% Don't know).

If the EPC would be restricted to a single shareholder, 53% would be still in favour of it, while 31% would not support that option.

Issues related to the EPC

The majority would deem the EPC as useful even though it would not deal with tax issues (74% Yes; 14 No; 12% Don't know).

Concerning employee participation rights (co-determination), 53% indicated that the EPC should take these into account and 37% indicated that these rights should be governed by the applicable national law.