MORNING SESSION
Digitalisation of company law

Vera Jourová (Commissioner for Justice):
- Has set up and run company herself – knows the practical issues for entrepreneurs;
- Urge for the need to use digitalisation for companies and investors;
- Digitalisation can empower shareholders and facilitate cross border transfer;
- Adapt company law and CG for a more effective communication.

Maximilian Strotmann (Member of Cabinet of Vice-President Andrus Ansip):
- DG JUST is essential in the process of digitalisation of the single market. There is a key role of digitalisation for start-ups. In EU we don’t support enough the scaling up of start-ups;
- Companies say that it is easier to scale up in the US than in the EU, as they have access to a single digital market;
- Start-ups need skills and competencies, in particular access to talent (need to make it easier to legally hire people in other countries and to do this digitally);
- Access to finance: venture capital and business angel are confronted with company law, so there is a need to harmonize investment practices;
- Ensure interoperability of public services by default (also cross border), business information should be available (shared) across Europe and companies should have access to a one-stop shop in their own country;
- Conclusion: digitalisation of company law should be a trigger to make digital single market a reality.

Jesper Hansen (Professor, Member of the ICLEG):
- There are huge benefits of digitalisation (also on administration and civil service side), but there is a great disparity at the Union. Also significant differences within the MSs (among companies, age groups, etc.);
- Diversity of company law in the EU is beneficial, but all countries should adopt a permissive approach to digitalisation of company law;
- Need for a technology neutral approach;
- Strengthen the principle of mutual recognition;
- Build effective system of information transportation (that works cross border).

Merili Oja (Estonian Perm Rep, Estonian case presentation):
- The Estonian commercial company register started in 2007 and allows most business practices, for SMEs also accounting system;
- Digitalisation of register did not cause increase of problems;
Online company register ensures: secure date exchange layer, digital fingerprint, very safe electronic identification, always alert on any changes or risks related to the company account; cross border mobility;

Estonian approved EU residency card (allows many e-activities).

Pedro Oliveira (Business Europe):
- Digitalisation is specially key for start-ups;
- Countries outside EU are great examples (Jamaica and Tajikistan rank above the EU);
- need to adopt the single member company;
- need to step up on cyber security;
- More coordination between member states is needed.

Nils-Erik Jansson (Jansson&Norin, Start-up Community):
- Much easier to scale up in the US than in the EU;
- Problems with EU VAT thresholds;
- Electronic ID is important; problems with public authorities who do not accept but would create savings for governments and enable more structured and better use of data;
- Illusion complexity created by lawyers and auditors.

Evelyn Regner (Member of the European Parliament)
- Digitalisation of company law has to be beneficial to all society;
- Pay particular attention to workers needs and their rights;
- Digitalisation not the end itself, but it has to build trust;
- Security (cyber, social, enforcement);
- Danger SUP used by construction workers (to get around employment law).

Ivan Štefanec (Member of the European Parliament)
- Single market is not fully utilised, need to support SMEs;
- Comparison EU-US: the US performs much better in business registration timing (2 days US, 13 days EU average) and innovation (50% US v 17% EU);
- Cut administrative cost and simplify procedures.

SECOND PANEL

Digitalisation in corporate governance:

Susannah Haan (European Issuers)
- All companies need to communicate with their shareholders; this becomes more difficult for larger quoted companies with internationally diversified shareholders with long investment chains;
- 2014 voting statistics: overall fewer votes cast for largest EU companies e.g. AEX 68% v AMX 59%; CAC40 65% v next 80 French companies 74%; DAX 55% v MDAX 65%;
- Companies want to communicate with their shareholders;
- Get their resolutions passed at general meetings and get in the votes;
• Understand who is taking the voting decisions;
• Need that information up to date and correct;
• Effective shareholder identification is crucial (it takes up to 12 weeks in some countries and is not cost-effective);
• Need to apply incorporation by reference for information already available elsewhere e.g. Prospectus.

Andy Callow (Senior Manager, ComputerShare)
• Issuers and shareholder relation is very complex; need for better digital solution;
• 4 key elements:
  o shareholder identification (harmonized process needed);
  o shareholder communications (use of email addresses, keep info automatically and pass them to the chain);
  o electronic voting (foster its use and benefits);
  o proof of entitlement to attend the meeting (need for formalized standardization);
• This is part of CMU and can make a huge difference in fostering the single market.

Christiane Hölz (Secretary of Better Finance’s Legal Committee)
• Eurovote – online tool set up by better finance to improve info for investors;
• There is low level of cross border participation;
• Need for a standardized communication network;
• Need a uniform record date;
• Need to streamline the chain of intermediaries in the voting process,
• Standardize voting process for shareholders;
• Define at EU level who the final shareholder is;
• Ensure harmonised and not cost effective execution of voting.

Carola van Lamoen (Head of Governance and Active Ownership, Robeco):
• Problems with current system:
  o Problems with voting: errors happen - typically when one deviates from proxy adviser recommendations since not all intermediaries have automated override processes;
  o Problems with relation of voting rights and number of shares.
• Recommendations:
  o Increase institutional investors awareness (investors’ due diligence);
  o standardization of identification of account needed (rules are different per market);
  o Clarify who is in omnibus accounts: difficult to trace;
  o Ensure that intermediaries disclose voting rates and errors also, not just companies and investors;
  o Standardization of identification of shareholders.
• Conclusion: need to improve the voting chain.
Natacha Dimitrijevic (Hermes Equity Ownership Services)
- Standards and guidelines need to be embedded in the law;
- We have been debating these same issues since the 2001 report but the directives are not sufficiently detailed and there is no follow-up on implementation;
- Conclusion: digitalisation is a core engine for sustainable investing in Europe.

Vanessa Knapp (Member of ICLEG)
- Un-listed companies can also benefit from digitalisation;
- Make better use of info available, link companies’ websites and business registers better;
- Need a forum where we can discuss: how do we tackle this problem in national laws?

Lai la Medin (Latvian Ministry of Justice):
- EU shareholder rights directive can help to bring companies and investors closer together;
- Very simple suggestions like inclusion of email addresses could bring EU into digital age;
- Like idea of single email via CSD rather than 30,000 separate ones;
- E-voting needs to be simple, cheap and efficient;
- Public authorities should support both legal measures and private standards;
- Need more education and sharing of best practice between Member States;
- Also need to look at implementation of existing laws;
- Finally, need to consider distinct needs of private and quoted companies.

THIRD PANEL:
Digital solutions to provide better information on companies and their structures

Moderator: Michał Romanowski, Professor, Partner - Romanowski&Wspólnicy

Martin Winner (Professor, Member of ICLEG)
- Not more but better information is needed (it’s all about the quality of information).
- What information do investors really need? Simplification is central;
- Who is the addressee of the information? (Need to tailor information accordingly);
- How should regulation be achieved in a very dynamic environment? Use comply or explain principle, for instance.

Tim Moss (Chief Executive & Registrar of Companies, Companies House, UK)
- Role of the registry: it should facilitate storage and access to information;
- Need to focus on the end users;
- Government and law structure represent a challenge, they need to adapt to the new digital world;
• Simpler and easier to access data, need to move away from static to dynamic information;
• Quality of central company registers is fundamental, but cannot be substituted by companies’ websites.

Lutgart Van den Berghe (Professor, Executive Director Guberna and Chair of ecoDa’s PC)
• Transparency is a fundamental cornerstone (also for monitoring the implementation of the rules) and it should be an incentive for companies;
• For listed companies, there are high compliance costs (and lots of duplication of information);
• But more information does not necessarily mean more transparency;
• Information is not only about the end user but for all stakeholders (more useful and relevant information are needed);
• Look at more cost effective ways: no duplication of information;
• Foster electronic storing and ensure cyber security;
• Boards should be responsible to society and stakeholders;
• Who can communicate what? Think of a chief information: digital officer maybe?

Sigurt Vitols (Associate researcher at the European Trade Union Institute)
• Need to distinguish between large/listed companies and SMEs;
• The current situation does not meet workers’ need;
• Current State on SEs: they lack in providing basic information;
• Trade unions in EU demand mandatory reporting on ESG issues (support Global Reporting Initiative);
• Ensure minimum standards for quality of information.

Olivier Boutellis-Taft (Chief Executive Officer, Federation of European Accountants)
• Things are moving fast, need to adapt very quickly. Emails and pdf are already past (there already 2 digital ages today – parents/children);
• Reflect on how future of corporate reporting should be shaped?
• Need to remove all borders due to national systems differences;
• Enhance European/international cooperation;
• Create space for (parallel) experimentation;
• Support a principle-based approach;
• Conclusion: change the way we think and we do things.

Michal Romanowski: (Professor, Partner - Romanowski&Wspólnicy)
• Digitalisation is a tool not and end in itself;
• It is a tool to enhance transparency of company law and eliminate agency conflicts;
• Digitalisation as the way to access information and form a company online;
• Digitalisation does not represent a problem or threat;
• Make basic information on group structures available and friendly for investors;
• 3 potential areas for legislation on transparency: formation, structure, and management of groups.
Hélène Massard (Ministry of Justice, Luxembourg Presidency):
- Stressed the importance of company law and digitalisation;
- Relations between business and on-line company registers should be improved;
- 15 December 2015: CG conference in LUX.