

Editors' note: Announcing the 16th ECFR Symposium, September 30, 2022, Leuven

Autumn is approaching, so ECFR is looking forward to meeting many of its habitual guests and new guests in person again at the next edition of the annual ECFR Symposium. The symposium will take place in the beautiful city of Leuven, Belgium, on September 30, 2022.

Following a fine tradition, the morning program delves into some remarkable developments of company and financial law in the host jurisdiction, with ample attention for their relevance for other EU member states and beyond. Belgian company law has been drastically reformed by the new Code of Companies and Associations (CCA) of 2019, in which the legislator did not shy away from complete innovations in order to reach its goals of flexibilization and modernization.

A major part of the reform was the complete elimination of (even the concept of) legal capital in the private limited liability company and its replacement with creditor protection mechanisms thought to be more effective. After more than three years of companies existing without capital, time has come to assess if the abolition of capital really makes a difference and, if so, for the better or the worse, compared to the reduction of capital to a symbolic amount, an approach followed in many other jurisdictions.

The CCA also introduced quasi-unlimited freedom in creating classes of shares in non-listed companies, allowing almost all possible variations in the allocation of control rights or patrimonial rights. Lessons can be learned about the appropriate balance with shareholder protection in midstream changes, as the protective mechanisms in practice frequently stand in the way of the introduction of new classes of shares.

In the CCA, listed companies can (only) create double voting rights based on two years stable ownership. These loyalty shares, introduced after French and Italian example, technically do not form classes of shares. This raises interesting fundamental and practical concerns, both for academia and for the investor community.

Finally, in the final stretch towards the adoption of the CCA, the legislator introduced a possibility for companies to adopt other purposes besides profit distribution. The combination of this potentially broad but almost unregulated possibility of “dual purpose” for regular companies with a limited specific framework for social enterprises raises questions as to the possibilities and boundaries of social entrepreneurship in different organizational forms.

In the afternoon, the ECFR Symposium zooms in on several recent European developments.

Firstly, as part of its Capital Market Union Action Plan, the European Commission strives to make public capital markets more attractive for EU companies and to facilitate access to the stock market for SME's. The public consultation on its proposed EU Listing Act was closed end of February 2022¹, providing food for thought and the right timing for a critical analysis.

The European Commission not only aims for a Capital Market Union, but also for a Union of Equality. In its Communication of 2020² the European Commission proposed to address the gender pay and pension gap, and to impose a mandatory 40% gender quota for non-executive directors in corporate boards and to facilitate the exchange of good practices addressing gender balance in executive boards and managerial positions. Both the existing and proposed legal framework and their effectiveness will be discussed.

Thirdly and finally, the long-awaited proposal of the European commission on corporate sustainability due diligence was published in February 2022³. The ECFR has closely followed up on this matter in last year's symposium, but now that the proposal is on the table, a debate among specialists on the specific choices made comes right in time.

As the hosts of this conference, we look forward to welcoming many of you in Leuven (although it will be possible to attend online as well) and to exchanging thoughts on these fascinating developments of company and financial law.

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- 1 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13238-Listing-Act-making-public-capital-markets-more-attractive-for-EU-companies-and-facilitating-access-to-capital-for-SMEs_en.
- 2 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Union of Equality: Gender Equality Strategy 2020-2025 (COM/2020/152 final) (https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en).
- 3 https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1145