

Question for written answer E-003831/2026
to the Commission
Rule 144
Barbara Bonte (PFE)

Subject: 28th company law regime: harmonisation or new regime

On 18 March 2026 the Commission presented its proposal for EU Inc., an optional 28th company law regime that will stand alongside the existing national legal forms. The Commission is basing its proposal on Article 114 TFEU and is therefore treating it as a measure that contributes to the harmonisation of the internal market.

In its judgment in Case C-436/03, *Parliament v Council*, the Court of Justice ruled, however, that introducing a new European legal form alongside the existing national legal forms could not be regarded as a harmonisation measure under what was then Article 95 of the EC Treaty, now Article 114 TFEU. In that case the Court accepted what was then Article 308 EC, now Article 352 TFEU, as a legal basis.

The Commission is therefore, at the very least, creating the impression of trying to circumvent the principle of unanimity in the Council.

How does the Commission justify the choice of Article 114 TFEU as the legal basis for EU Inc., in the light of judgment C-436/03, and why does it believe that Article 352 TFEU — which requires unanimity in the Council — does not apply in this case?

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