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EU Inc

EU Inc. and the 28th Regime:
Europe's Scale-Up Test

EU INSTITUTIONS & POLICIES

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Summary

- The structural fragmentation of the European corporate ecosystem, manifested in 27 domestic legal frameworks and over 60 national limited liability company forms, imposes severe regulatory and transactional barriers on cross-border scaling.
- 'EU Inc.' is the proposed company-law component of the wider '28th regime' intended to reduce legal and administrative costs across the Single Market.
- The Commission's March 2026 proposal combines an optional limited-liability form with digital incorporation, an EU central interface, flexible financing instruments and employee stock options.
- The legal design is hybrid. Article 114 TFEU is the proposed legal basis; Articles 3 and 4 of the proposed Regulation embed EU Inc. in national legal orders and provide for national-law gap-filling, generally linked to the Member State of the registered office.
- In late October 2026, the Council adopted its negotiating mandate, retaining fast digital incorporation while narrowing provisions on insolvency, registers and employee stock-option taxation. The European Parliament had yet to establish its negotiating position.
- The final compromise should preserve a workable core of common EU rules, make national-law dependencies more transparent and ensure that the EU central interface functions as an effective single-entry point for companies.
- Its success should be measured by barriers removed in practice and the degree to which it maintains effective protection for workers, creditors and the public interest.

Introduction: from legal access to operational scale

Market access exists in EU law. The harder question is whether firms can use that access in practice, with enough speed, predictability and legal certainty to grow across the Union.

The Internal Market is one of the central achievements of European integration. Treaty freedoms, secondary legislation, mutual recognition and enforcement mechanisms have altered the conditions under which goods, services, persons and capital move across Europe (Barnard, 2025). The legal architecture is extensive. It has also proved durable. Yet the recent debate on European competitiveness in a challenging geoeconomic context points to a narrower and more demanding question. Market access exists in EU law. The harder question is whether firms can use that access in practice, with enough speed, predictability and legal certainty to grow across the Union. This reflects a wider shift in the Single Market debate from formal legal access to operational market integration (Samaras, 2026a).

This distinction matters because the problem is increasingly one of scale. Europe creates companies, research, technical talent and public support instruments. It has been less successful at providing the legal, financial and administrative conditions that allow high-growth firms to scale inside the EU before they seek capital, listings, headquarters or more familiar corporate structures elsewhere. The Draghi report placed this problem within a broader competitiveness diagnosis (Draghi, 2024). The Letta report linked it to the unfinished character of the Single Market (Letta, 2024). These reports gave political weight to a concern that stakeholders and businesses have described for years: formal rights do not automatically produce a frictionless market.

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The 28th regime has returned to the policy debate as one answer to that difficulty. In broad terms, it denotes an optional EU-level framework that sits alongside national systems, allowing firms or contracting parties to use a common set of rules without requiring the full replacement of national law. The idea has several precedents, although none offers a perfect model for EU Inc. The European Company's ('Societas Europaea', SE) operation still depends in important respects on national company law (Council Regulation (EC) No 2157/2001; Council Directive 2001/86/EC). The proposed European Private Company and the Common European Sales Law followed a similar opt-in logic, yet both were withdrawn before adoption. Optional EU instruments can reduce fragmentation where they are sufficiently complete, intelligible and useful for market actors. They are less likely to succeed where their promised uniformity is weakened by national gap-filling, complex cross-references or limited user confidence (Eidenmüller et al., 2012; Hesselink, 2012; Thomadakis et al., 2025).

EU Inc. is the most visible corporate component of the renewed 28th regime agenda.

EU Inc. is the most visible corporate component of the renewed 28th regime agenda. It is not the whole 28th regime. The Commission's 2026 Communication also points to adjacent questions, including administration, tax, labour-related issues, insolvency and access to finance (European Commission, 2026b). Still, the corporate proposal is the best test case because it translates the political promise into legal design. Its success or failure will show whether the EU can move from a general commitment to simplification to a usable instrument that firms trust.

This policy paper examines EU Inc. as a test of Single Market delivery. It proceeds in five steps. First, it sets out the policy rationale behind the concept of the 28th regime. Second, it explains the core elements of the Commission proposal. Third, it analyses the legal architecture, with emphasis on Article 114 of the Treaty on the Functioning of the European Union (TFEU) and Articles 3 and 4 of the proposed Regulation. Fourth, it reviews the main negotiation dynamics as of October 2026. Fifth, it identifies policy choices that will determine whether the final instrument is usable.

Why is the 28th regime politically attractive?

The renewed interest in the 28th regime reflects a wider shift in the EU's economic debate. The Union is no longer discussing the Single Market mainly as a completed legal achievement; it is discussing it as a source of scale that remains underused. The 'Competitiveness Compass', the 'Single Market Strategy' and the 'Startup and Scaleup Strategy' all present regulatory simplification, market integration and growth finance as connected issues (European Commission, 2025a, 2025b, 2025c).

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The economic evidence helps explain the shift. The IMF has estimated that internal barriers in Europe are equivalent to an ad valorem tariff of about 44% on trade in goods (three times higher than trade barriers between US states) and as much as 110% on trade in services between EU countries (International Monetary Fund, 2024; Kammer, 2024). These figures indicate how much friction can remain in a market that is formally integrated.

The European Central Bank (ECB) has linked Europe's venture-capital gap to smaller fund sizes, weaker later-stage financing and a more limited role for institutional investors in risk capital. Venture-capital funds located in the US are substantially larger than those located in the EU, with a total fund size of approximately EUR 930 billion compared with roughly EUR 150 billion in the EU (Baumann et al., 2026; Banu et al., 2026). Similarly, the IMF's 2026 departmental paper on a 28th European enterprise regime treats company formation, operation, insolvency and access to finance as parts of the same scale-up problem (Dizioli et al., 2026). Europe's productivity weakness is linked not only to aggregate investment gaps, but also to smaller markets, limited market-based financing, skill shortages and insufficient risk capital for young high-growth firms (Adilbish et al., 2025). These findings point to a financing problem that corporate-law reform alone cannot resolve. A common company form could nevertheless reduce some of the legal and transaction costs associated with cross-border investment.

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The Commission's impact assessment presents the corporate landscape as fragmented. It refers to 27 national legal systems (with distinct rules and procedures) and more than 60 national legal forms available for limited liability companies (European Commission, 2026c). These differences affect incorporation, governance, share transfers, employee equity, disclosure, directors' duties, dispute resolution, dissolution and the interface with tax and labour law. Some national variation reflects reasonable legal diversity; the question is whether the current level of variation imposes avoidable costs on firms that wish to use the Single Market as their initial scale-up market.

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This is why the 28th regime has become politically attractive: it promises a middle route between full harmonisation and continued fragmentation. Full harmonisation is difficult because company law, insolvency, taxation and labour law rest on different Treaty bases and carry discrete political sensitivities. Mutual recognition facilitates cross-border establishment, but it does not harmonise the company-law rules governing firms incorporated in different Member States—differences in governance, financing instruments and administrative procedures may therefore persist. An optional EU company form seeks to reduce some of these differences through common rules without replacing national legal systems. Of course, EU Inc. can matter for European competitiveness only if it is connected to a wider ecosystem of start-up policy, innovation support, capital-market reform and institutional resources (Ferrer, 2026).

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The political window is also relevant. The 'One Europe, One Market' roadmap, signed in April 2026 by the European Parliament, the Council and the Commission, sets an end-of-2027 deadline for agreement on all listed initiatives (for EU Inc., the goal is the end of 2026) and provides for regular monitoring (Council of the European Union, 2026a). At their second review of the roadmap in October 2026, the three EU institutions reaffirmed their commitment to timely delivery, with an emphasis on removing Single Market barriers and achieving tangible results for businesses and citizens (Council of the European Union, 2026d). This interinstitutional roadmap gives the 28th regime a timetable; however, the timetable does not remove the obstacles. Political support is easier at the level of general objectives than at the level of legal basis, insolvency, taxation, employee participation, national registers or administrative control (Samaras, 2026b).

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The main policy rationale can be stated simply: rather than yet another symbolic corporate label, the EU needs a legal instrument that reduces identifiable barriers for firms operating across borders. This requires a shift in measurement. The relevant question is not how much EU legislation has been adopted; it is whether founders, investors, employees and public authorities experience lower friction when a company is formed, financed, governed, expanded or closed.

What the Commission proposed

On 18 March 2026, the Commission presented a proposal for a Regulation on the 28th regime corporate legal framework, known as EU Inc. (European Commission, 2026a). The proposal was accompanied by a Communication on the broader 28th regime for EU companies and by an impact assessment (European Commission, 2026b, 2026c). The choice of a Regulation reflects the Commission's aim to secure a high degree of uniformity in the areas covered by the text. The proposal is based on Article 114 TFEU, the general internal-market legal basis.

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The new harmonised legal form would be available as a limited-liability company. It could be formed from the start as an EU Inc. or, subject to the conditions in the proposal, created through a cross-border conversion, division or merger (European Commission, 2026a). The proposal is aimed in particular at innovative start-ups and scale-ups, but the Commission design is not confined to that category for all purposes. This distinction should be kept clear. The political rationale is start-up and scale-up growth; the legal design is broader in several respects.

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Digital formation is the most visible part of the proposal. The Commission proposed an EU central interface based on the Business Registers Interconnection System (BRIS). The aim is to allow founders to complete relevant procedures without navigating separate national interfaces. The fast-track route would allow company formation within 48 hours, excluding public holidays and weekends, and at a maximum cost of EUR 100 if harmonised templates are used (European Commission, 2026a, 2026d). This is an important qualification: the 48-hour and EUR 100 target should not be presented as a universal guarantee for every possible formation scenario.

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The proposal also seeks to standardise parts of governance. It contains provisions on directors' duties, conflicts of interest, shareholder decision-making and share transfers. It introduces flexible financing tools, including share classes, convertible instruments and warrants. It also addresses employee stock options through an EU employee stock option scheme (European Commission, 2026a). These elements respond to a practical

feature of venture-backed companies: corporate law can affect whether founders and investors can agree on predictable governance, control and economic rights without excessive bespoke legal work.

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Several commentators have treated this financing architecture as one of the proposal's stronger parts. Strampelli (2026) describes the proposal as flexible but incomplete from the perspective of European start-up finance. Enriques, Nigro and Tröger (2026) argue that EU Inc. will be useful for start-ups and scale-ups only if its templates and enabling rules can accommodate the financing structures used in venture-backed companies. This points to a broader issue: an optional company form will be used only if it fits the transactions for which it is designed.

The proposal also includes closure rules. The original Commission text contained provisions on the closure of solvent EU Inc. companies and simplified winding-up proceedings for insolvent EU Inc. companies that qualify as innovative start-ups (European Commission, 2026a). These provisions became one of the most contested elements in Council discussions. As discussed below, the September 2026 Council compromise text indicated a move to remove the simplified insolvency chapter, leaving insolvency outside the proposal and subject to applicable national and Union law (Council of the European Union, 2026c; Parry & Bennink, 2026). The Council's negotiating mandate of late October 2026 subsequently confirmed the removal of the proposed simplified insolvency chapter. This remains the Council's position for negotiations with the European Parliament, rather than a final legislative outcome (Council of the European Union, 2026e, 2026f).

…the proposal is better understood as a life-cycle instrument rather than a simple incorporation tool.

The Commission also presented EU Inc. as part of a broader competitiveness and Single Market strategy. The Commission's public materials refer to faster registration, reduced costs, digital procedures, support for modern financing instruments, and a European corporate label (European Commission, 2026d). The label may matter: a recognisable EU form could reduce information costs for investors and counterparties. Yet the value of the label depends on legal substance. If market users still need to map the form through national gap-filling rules in each Member State, the label may not provide enough certainty to change behaviour.

This explains why the proposal is better understood as a life-cycle instrument rather than a simple incorporation tool. Formation speed is useful, but formation is only the first step. Scale requires financeable shares, predictable governance, workable employee equity, usable registers, low-cost cross-border operations, reliable dispute resolution and orderly closure. The proposal addresses some of these matters directly, while most tax and employment-law issues, as well as the organisation of national courts, remain governed by other applicable Union and national rules.

The Commission's preparatory work also involved extensive stakeholder consultation. The 2025 public consultation received approximately 1,470 responses and 113 position papers, while targeted exchanges involved business associations, trade unions, legal professionals, public authorities and representatives of the EU-INC campaign (European Commission, 2026c, Annex 2). These consultations reflected differing priorities concerning administrative simplification, access to finance, employee participation and safeguards against abuse.

Legal architecture

The legal architecture of EU Inc. is central to the policy debate. The Commission chose Article 114 TFEU as the legal basis. Article 114 allows the Union to adopt measures for the approximation of national provisions that have as their object the establishment and functioning of the internal market. The Court of Justice of the European Union (CJEU) has read Article 114 broadly, while still requiring a genuine internal-market rationale.

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In line with the settled case law of the CJEU, the choice of legal basis must rest on objective factors amenable to judicial review, in particular the aim and content of the measure. Article 114 TFEU may support measures that remove existing obstacles to fundamental freedoms, prevent likely future obstacles resulting from divergent national laws, or adapt an existing harmonisation framework to changed circumstances. At the same time, the measure must genuinely seek to improve the conditions for the establishment and functioning of the internal market. Mere disparities between national rules, or an abstract risk of obstacles, are insufficient in themselves.[1] For EU Inc., this case law supports the use of Article 114 insofar as the proposal targets corporate-law fragmentation affecting establishment, cross-border operation and investment. It also explains why taxation, insolvency and labour-sensitive issues require careful scope control, separate modules or appropriate Treaty bases where the link with internal-market approximation becomes less direct.

The use of Article 114 TFEU is understandable, since the proposal is framed as an internal-market measure. It seeks to reduce the costs created by divergent national company-law systems and to facilitate cross-border establishment, investment and operation (European Commission, 2026a, 2026c). Article 114 also operates under the ordinary legislative procedure, which permits qualified majority voting in the Council. That makes it politically more feasible than Article 352 TFEU, known as the 'flexibility clause'.

The legal difficulty is that the 28th regime is not a standard approximation exercise. Its policy logic centres on creating an optional framework that operates alongside national systems. Article 114 TFEU is not normally suitable for creating a co-existing EU legal regime that merely supplements national law without harmonising or replacing it (Kellerbauer, 2019). The rationale for using Article 114 for EU Inc. is strongest where the proposal can be characterised as approximating national company-law rules that create obstacles to establishment, cross-border operation and investment, rather than simply adding an optional European label. The competence question goes beyond whether an internal-market objective exists. Each component must be attached to an appropriate Treaty basis and legislative procedure. Corporate-law elements can be connected to freedom of establishment and internal-market approximation, while tax, insolvency and labour-related elements raise distinct legal-basis and procedural constraints. This favours a disciplined, modular approach, rather than one that treats the 28th regime as a single legal container for all scale-up barriers (Ziller, 2025; Thomadakis et al., 2025).

Article 352 TFEU could arguably support a more autonomous EU-level framework where the Treaties have not provided a more specific power. That route is harder because

[1] See Judgment of 11 June 1991, Commission v Council (Titanium dioxide), C-300/89, EU:C:1991:244, para. 10; Judgment of 5 October 2000, Germany v European Parliament and Council, C-376/98, EU:C:2000:544, paras 83-88; Judgment of 14 December 2004, Swedish Match, C-210/03, EU:C:2004:802, paras 29-33 and 39-42; Judgment of 26 January 2006, Commission v Council, C-533/03, EU:C:2006:64, paras 47 and 59-64; Judgment of 10 February 2009, Ireland v European Parliament and Council, C-301/06, EU:C:2009:68, paras 63, 71-72 and 83-85; Judgment of 3 December 2019, Czech Republic v European Parliament and Council, C-482/17, EU:C:2019:1035, paras 52-60.

unanimity is required. It is also sensitive because Member States tend to guard taxation, labour law, insolvency and the organisation of courts closely. The Commission's choice of Article 114 TFEU can be read as a compromise: more ambitious than a minimum-harmonisation directive, less autonomous than a separate European corporate jurisdiction.

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Article 3 of the proposed Regulation confirms the hybrid design. It provides that EU Inc. would be a legal form provided for in the legal order of each Member State and would have legal personality under the law of the Member State of registration (European Commission, 2026a). This means that EU Inc. is European in its regulatory framework but embedded in national legal orders. The September Council compromise text retained this basic architecture (Council of the European Union, 2026c). Schmidt and Teichmann (2026) capture this feature by describing the proposed form as "half European", a phrase that is useful because it points to the coexistence of EU-level rules and national-law embedding.

Article 4 of the proposed Regulation determines the relationship between itself, the articles of association and national law. The Commission proposal provides that matters not covered by the Regulation or by the company's articles of association are governed by the national law applicable in the Member State of the registered office (European Commission, 2026a). The Council's October negotiating mandate retains national-law gap-filling while reformulating Article 4. Matters not governed by the Regulation or, where expressly permitted or required, by the articles of association would be governed by national law. Member States would designate one or more national limited-liability company forms and/or specify or lay down the relevant national provisions. For residual corporate matters, the law of the registered office would generally apply, subject to applicable conflict-of-law rules and specific provisions (Council of the European Union, 2026e). The practical question is how clearly companies and investors will be able to identify the national rules governing matters left outside the harmonised framework.

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The risk is not abstract: venture-capital transactions depend on predictable arrangements concerning liquidation preferences, conversion rights, anti-dilution rules, pre-emption, information rights, board composition, employee equity and exits. If the Regulation harmonises some elements but leaves important matters to national law, investors may still require domestic legal opinions in each relevant jurisdiction. For instance, it seems that EU Inc. leaves important reporting and disclosure issues to national law, although confidentiality can be a factor in start-up competitiveness (Gatti & Nigro, 2026).

…venture-capital transactions depend on predictable arrangements.

The boundary between EU law and national law also matters for workers, particularly given the threat of loopholes for regime-shopping. The Commission has maintained that the proposal is not intended to change labour law, social security rules or most tax rules, apart from targeted provisions such as employee stock-option taxation (European Commission, 2026b). The European Trade Union Confederation (ETUC) and workers' representatives have argued that the text needs binding safeguards to ensure that companies do not use the registered-office choice to weaken employee participation, collective bargaining, information and consultation rights or national labour-law protections (European Trade Union Confederation, 2026a, 2026b).

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Enforcement creates another source of possible divergence: while a Regulation is directly applicable, business registers, preventive controls, courts, notaries where relevant, tax authorities and labour authorities remain national. The Commission has encouraged specialised judicial chambers or courts for EU Inc. disputes, but the proposal

does not create a single EU court for these matters (European Commission, 2026a, 2026d). This could pose a practical risk to coherent application (Hallak, 2026). Uniform text does not guarantee uniform interpretation.

…the final text should be disciplined about scope and more precise about gap-filling.

Article 114 TFEU can support targeted measures that improve the functioning of the internal market. It becomes less secure if a single EU legislative act tries to settle areas that have distinct Treaty bases and strong national constitutional sensitivities. Therefore, the final text should be disciplined about scope and more precise about gap-filling.

Negotiation dynamics as of October 2026

By late October 2026, the EU Inc. file had reached a new procedural stage. On 23 October, the Council agreed its negotiating mandate, enabling the Irish Presidency to begin negotiations once the European Parliament adopts its position. Parliament's procedure file still recorded the proposal as awaiting committee decision. The political objective remained agreement by the end of 2026, as reaffirmed in the European Council conclusions of 15 and 16 October. That timetable must now be assessed against the outstanding parliamentary mandate and the issues still subject to negotiation (European Council, 2026; Council of the European Union, 2026f; European Parliament, 2026b).

On 23 October, the Council agreed its negotiating mandate, enabling the Irish Presidency to begin negotiations once the European Parliament adopts its position. […] The political objective remained agreement by the end of 2026, as reaffirmed in the European Council conclusions of 15 and 16 October.

The European Parliament track reflects two pressures. The first is the demand for uniformity. In its January 2026 resolution, the European Parliament stressed that "a 28th regime must be ambitious in substance and in form", calling for a regime whose rules would apply uniformly across the Union and asking the Commission to use legal bases that avoid the delays associated with unanimity (European Parliament, 2026a). **The second is the demand for safeguards** (European Parliament, 2026b). The rapporteur's draft report sought to preserve digital formation while adding provisions on anti-money laundering, labour protection, employee participation and governance (Repasi, 2026). The ECON opinion took a more finance-oriented approach, supporting access to regulated capital markets subject to listing requirements and proposing an optional tax module (European Parliament Committee on Economic and Monetary Affairs, 2026). The EMPL opinion proposed tighter eligibility conditions for the EU Inc. form and stronger safeguards with regard to workers' rights and employee participation (European Parliament Committee on Employment and Social Affairs, 2026).

Political disagreements have also delayed the European Parliament's negotiating position. Two planned votes in the Committee on Legal Affairs were cancelled in October amid differences over employee participation, centring on the risk that companies could avoid more demanding national rules on board-level representation by incorporating in another Member State. The debate concerns the safeguards needed to prevent circumvention while preserving the practical advantages of an optional European company form. As of late October, the committee had still to adopt its position (Kiorri & Yilmaz, 2026; European Parliament, 2026b).

The Council track appears more cautious. The examination of the EU Inc. file started in the Company Law Working Party in March 2026 under the Cyprus Presidency. The Competitiveness Council of 28 May recorded broad political interest in the file while noting issues requiring technical examination (Council of the European Union, 2026b). Although enhancing European competitiveness is a key priority for the Irish EU Presidency (EU Perspectives, 2026; Irish Presidency of the Council of the European

Union, 2026), later Council work, reflected in Presidency compromise texts, pointed to a narrower approach in sensitive areas. The September 2026 compromise text kept the hybrid structure of the proposal but made the role of national law even more visible (Council of the European Union, 2026c).

In late October, the Council's negotiating mandate moved the file beyond the Presidency compromise texts. The mandate preserves a fast-track formation procedure, with a 48-hour decision period and a maximum cost of EUR 100, for applications meeting the conditions laid down in Article 16. Other applications would follow a standard procedure, with a five-working-day decision period and a cost ceiling based on cost recovery for the service provided. Exceptional cases may require further assessment within an additional period not exceeding ten working days (Council of the European Union, 2026e, Articles 14(2a) and 16-18). Alongside these procedural timelines, the mandate strengthened preventive controls, allowing Member States to refuse registration on grounds related to money laundering, terrorist financing or other criminal activity, in accordance with national law. Furthermore, it empowers competent national authorities to take measures on a case-by-case basis where there are serious indications that an EU Inc. operates as a wholly artificial arrangement for abusive or fraudulent purposes to evade or circumvent Union or national law, or for criminal purposes (Council of the European Union, 2026e, Article 103a). Ultimately, the Council combined procedural simplification with stronger safeguards against abuse. To accommodate these adjustments, its position provides for the Regulation to apply 21 months after entry into force, rather than the 12 months envisaged in the Commission proposal (Council of the European Union, 2026e, 2026f).

The Figure below summarises the main elements of the Council's negotiating mandate, highlighting the distinction between common EU rules and areas that would remain dependent on national law and institutions:

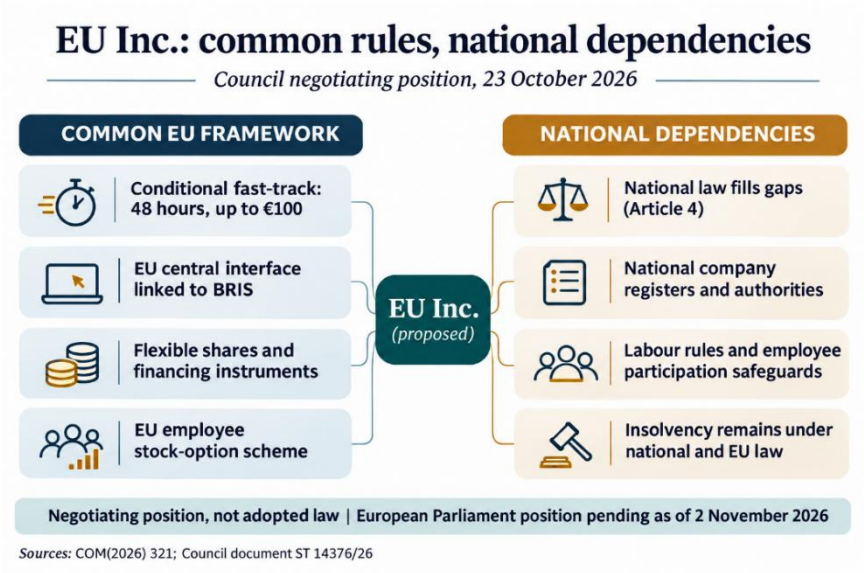

FIGURE: *EU Inc. under the Council's October 2026 negotiating mandate: common rules and continuing national dependencies.*
Source: Authors' illustration based on European Commission (2026a) and Council of the European Union (2026e), prepared with AI assistance.

The Council's negotiating mandate also emerged from disagreements among Member States. These concerned the legal form of the instrument and the extent of harmonisation. According to reporting on Council discussions in July, France, Italy, Spain,

Belgium, Finland, Czechia and Poland favoured a regulation based on Article 114 TFEU, while Sweden, Austria, the Netherlands and Luxembourg reportedly preferred a directive (Agence Europe, 2026a). Subsequently, disagreements remained evident over the tax treatment of employee stock options (Agence Europe, 2026b). The October mandate was agreed despite Malta and Slovakia voting against and Finland and Hungary abstaining (Agence Europe, 2026c). Even among the supporting governments, differences persisted: Austria endorsed the mandate but publicly continued to advocate a central EU company register and more accessible employee-equity arrangements (Austrian Federal Ministry of Economy, Energy and Tourism, 2026). Agreement on a negotiating mandate did not imply uniform national preferences regarding the final design.

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Insolvency is the clearest example of Council caution. The original Commission proposal included simplified winding-up proceedings for insolvent EU Inc. companies qualifying as innovative start-ups (European Commission, 2026a). The September compromise text moved in a more limited direction. It provided rules on nullity, digitalisation requirements for closure and a fast-track liquidation procedure for solvent EU Incs, while stating that rules governing insolvency and other liquidation matters outside the scope of the relevant articles remain subject to applicable national and Union law (Council of the European Union, 2026c). The Council's October negotiating mandate confirmed the removal of the proposed simplified insolvency chapter. The remaining provisions concern nullity, the digitalisation of liquidation procedures and fast-track liquidation, while insolvency and other closure matters outside the specified provisions remain subject to applicable national and Union law (Council of the European Union, 2026e). While this may be legally understandable—since insolvency affects creditors, employees, courts, public claims, restructuring policy and national procedural traditions—the removal of the simplified insolvency provisions weakens the life-cycle logic of EU Inc. IMF staff simulations suggest that a comprehensive 28th regime covering company formation, financing and insolvency could raise EU GDP by approximately 3.3% after ten years, compared with 1.5% in a scenario without insolvency reform (Dizioli et al., 2026). Commissioner Michael McGrath also expressed reservations about their removal, noting that the costs associated with business failure can discourage company formation (Tamma & Johnston, 2026). The Council's approach thus preserves important differences between national insolvency frameworks, leaving EU Inc. to address only part of the legal and administrative barriers that firms encounter throughout their life cycle.

Insolvency is the clearest example of Council caution.

The register architecture is another contested point (Henning, 2026). The Commission proposal relied on an EU central interface connected to BRIS, and also envisaged movement towards a central digital register. Founders and investors have argued for a single authoritative European register, rather than an interface layered over national systems (Vasques, 2026). The Council's October mandate retained the EU central interface linked to BRIS, but removed the proposed central EU digital register and the requirement for real-time tracking of registration status (Council of the European Union, 2026e, Articles 15 and 34). National business registers would continue to perform a central role in the registration and disclosure architecture. The practical question is whether a common interface can provide sufficient simplicity and legal certainty when the underlying registers and administrative procedures remain national (Council of the European Union, 2026e). The Council's mandate also removes the constitutive effect of registration on the digital share register under Article 53(1), while retaining its evidentiary function and binding effect vis-à-vis the company. Article 54(5a) refers the rectification of erroneous entries or failures to record valid share transfers to national

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law, although Article 56(1) continues to link the exercise of shareholder rights to registration (Council of the European Union, 2026e).

Employee participation and stock options also illustrate the Council's approach. The mandate retains the registered-office principle for employee participation, subject to the existing rules on cross-border corporate operations. It also allows Member States with employee participation rules to apply an optional mechanism whereby EU Inc. companies registered in another Member State have branches in their territory whose average workforce over a financial year exceeds the applicable national threshold (Council of the European Union, 2026e, Articles 12(2a)-(2b)). The EU employee stock-option scheme is preserved, but the specific tax treatment under Article 79 would apply only where the company has fewer than 750 employees and an annual turnover not exceeding EUR 150 million, assessed at the time of issuance using figures from the preceding financial year (Council of the European Union, 2026e).

Business groups, founders and investors tend to prioritise usability, speed, financing and legal certainty. Trade unions and workers' representatives focus on safeguards against regulatory arbitrage, letterbox companies and the weakening of employee participation or labour-law protections

Business groups, founders and investors tend to prioritise usability, speed, financing and legal certainty (Bonini, 2026; Parry, 2026; Vasques, 2026). Trade unions and workers' representatives focus on safeguards against regulatory arbitrage, letterbox companies and the weakening of employee participation or labour-law protections (European Trade Union Confederation, 2026a, 2026b). Advisory bodies and national parliaments have raised similar concerns in different forms, including legal certainty, proportionality, administrative burden, insolvency, taxation, anti-fraud controls and worker participation (European Economic and Social Committee, 2026; National Assembly of the Republic of Bulgaria, 2026; Senate of France, 2026; Senate of Romania, 2026; Camera dei Deputati, 2026).

EU Inc. is therefore a test of hybrid integration: too thin, and it risks becoming another optional label; too broad, and it risks Treaty constraints, delay and national opposition.

The negotiation pattern appears to be somewhat clear, even if the final outcome is not: The European Parliament is testing how uniformity can be combined with safeguards. The Council is narrowing or re-anchoring sensitive elements in national law. Founders and investors are pressing for a usable and clear European form, while trade unions and several institutional actors are pressing for safeguards against circumvention. EU Inc. is therefore a test of hybrid integration: too thin, and it risks becoming another optional label; too broad, and it risks Treaty constraints, delay and national opposition.

Policy choices for a usable EU Inc.

The negotiations bring into focus several policy choices that will determine whether EU Inc. works as a practical instrument. The first is the **level of completeness**. An optional regime does not need to regulate every issue; it must, however, regulate enough to reduce the demand for parallel national legal planning. Formation, share structures, digital registers, basic governance, financing instruments and employee equity are areas where harmonisation directly determines usability.

The second choice concerns **national gap-filling**. Article 4 of the proposed EU Inc. Regulation should not become a broad channel through which uncertainty re-enters the system. Gap-filling is unavoidable in a hybrid regime. The point at issue is whether firms would be able to identify the relevant domestic rules quickly and with confidence. A final text that leaves several aspects to national law without mapping them may reduce political conflict during negotiations, but it would shift the cost back to companies and investors.

The third choice concerns **safeguards**. Labour law, employee participation, anti-money laundering, beneficial ownership, creditor protection and abusive arrangements should not be treated as issues outside the economic logic of EU Inc. A legal regime perceived as a vehicle for circumvention would lose political legitimacy and market trust. Recitals cannot carry the entire burden of legal certainty; safeguards should be placed in operative provisions where they are needed.

The fourth choice concerns **infrastructure**. The EU central interface should be a working single-entry point for founders, reducing contact with multiple national systems while allowing users to track procedures, submit data just once and connect reliably with national registers. If the interface becomes a portal that redirects users into divergent national workflows, the difference on the ground will be limited.

The fifth choice concerns **legal basis discipline**. Article 114 TFEU can support an internal-market company-law instrument where the link with cross-border establishment and market functioning is established. Regarding taxation, labour and insolvency matters, a modular approach could better accommodate the different Treaty bases and legal acts: the corporate form can proceed through the proposed Regulation, while tax, insolvency and labour-sensitive questions can be handled through targeted provisions, separate legal acts or optional modules where Treaty constraints require that approach.

The sixth choice concerns the **life-cycle perspective**. If the exclusion of simplified insolvency from the Council's negotiating mandate is maintained in the final Regulation, the Commission should return to the issue through a separate, carefully scoped instrument. Formation, financing and governance matter, but so do failure and closure. A credible start-up regime should reduce the cost of honest failure without weakening creditor, employee or public-interest protections.

Finally, the impact of **barrier removal should be measured with greater accuracy and frequency**. The review clause built into the proposed EU Inc. Regulation (Article 108) should require regular reporting on practical indicators: formation time and cost, use of the fast-track route, cross-border use, investor feedback, reliance on national gap-filling, register delays, litigation, abusive-use cases and user satisfaction.

Conclusion: visible delivery

The proposal's value lies in its attempt to move the Single Market debate from formal freedoms to operational scale. Its weakness lies in the risk that the final EU legal act will remain too dependent on national law, national registers and national enforcement.

EU Inc. sits at the intersection of company law, Single Market policy, venture finance and EU constitutional limits. That is why the file has become politically sensitive. For some actors, it is a chance to give European firms a usable company form; for others, it risks weakening labour protections, creditor safeguards or national regulatory autonomy. These positions reflect different assessments of what makes an optional regime trustworthy.

The proposal's value lies in its attempt to move the Single Market debate from formal freedoms to operational scale. Its weakness lies in the risk that the final EU legal act will remain too dependent on national law, national registers and national enforcement. Article 4, the register architecture and the treatment of insolvency will determine whether the regime is experienced as European in practice.

EU Inc. should not be dismissed because it is incomplete or praised because it carries a European label. It is better to assess whether it reduces concrete barriers to cross-border establishment, financing and growth. That requires legal precision,

The EU must measure success not by the number of legislative acts passed, but by the concrete barriers that disappear in practice.

administrative capacity, digital infrastructure, effective safeguards and transparent monitoring.

The strategic test ahead of 2027 lies not merely in delivery, but in visible delivery. The EU must measure success not by the number of legislative acts passed, but by the concrete barriers that disappear in practice. Can the EU transform the Single Market into an environment that fosters cross-border establishment, financing and growth on a European scale? EU Inc. will not answer that question alone, but it will show whether the Union can design legal instruments that make an affirmative answer credible.

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