

## **PRESS RELEASE**

23 April 2010

### **Taking a closer look at the SE – Current study on behalf of the European Commission**

**Cologne, 23 April – Even though European businesses are familiar with the “Societas Europaea” (also referred to as “SE”) six years after its introduction, its use differs vastly among different regions and it far from meets existing expectations. These are the findings of a study commissioned by the European Commission at the beginning of 2009. Luther Rechtsanwaltsgesellschaft mbH and Ernst & Young Avocats (France) were responsible for preparing the study.**

Working together with an international team of lawyers and professors, amongst them Professor Dr. Klaus J. Hopt, Hamburg, Dr. Arnd Becker and Dr. Luc Julien-St. Amand – the partners at Luther and Ernst & Young Avocats who were responsible for the project – spent approx. 9 months on behalf of the European Commission compiling information about the legal framework and data regarding the use of the SE in the 25 Member States of the EU and the European Economic Area (EEA). The authors benefited from Luther’s excellent international network. In addition to the research carried out with the help of colleagues from the respective countries, the team conducted interviews with SEs both domestically and abroad and collated statistical data from local registers. In addition, European business and science experts were asked about their experience with SEs and their assessment of such.

The European Commission has now published the findings of the study on its homepage

([http://ec.europa.eu/internal\\_market/company/se/index\\_en.htm#news](http://ec.europa.eu/internal_market/company/se/index_en.htm#news)); these findings will be discussed in Brussels on 26 May.

A remarkable finding is the marked variation in the regional distribution of the SE. With approx. 130 SEs, the new company form is most popular in Germany and the Czech Republic. “We were astonished at the figure for the Czech Republic. However, this figure is due above all to the large number of inactive shelf companies. In Germany, the SE is deemed attractive compared to the German stock corporation (AG) because of the advantages it offers in particular with respect to it being managed by an administration board and regarding co-determination,” explained Dr. Arnd Becker. In Southern Europe, on the other hand, the use of the SE is almost non-existent. The authors assume that not many companies wish to invest a share capital of €120,000. The SE’s good reputation as a European company, which especially motivates SE founders from Eastern Europe, is said to be of little importance in the south. The possibility – which is typical of the SE – to transfer not only the administrative office abroad but also the registered office, as set out in the articles of association, has indeed been made use of; in six cases, the registered office had been transferred to Cyprus alone.

According to Becker, the findings of the study could have an impact on current legislative procedures at the EU level, for example, with regard to the “Societas Privata Europaea” (SPE). Furthermore, the different implementation of the SE Directive in the EU and EEA Members States might be modified based on the comparison with other countries that is now available as a result of the study. Starting points for changes could, in particular, be the time-consuming process for negotiations with regard to co-determination and also the question of whether the formation of a SE should in particular cases – for example, when planning to establish a group company – also be possible through the change of legal form from a German limited liability company (GmbH) or through the formation of a company by cash subscription. “The European Commission’s intention to make headway in European company law is in any case clearly perceptible,” said Becker.

The project was awarded as part of a European Commission tendering process, with a budget of €250,000.

The study can be obtained from Luther Rechtsanwaltsgesellschaft, Essen, Dr. Arnd Becker (email: arnd.becker@luther-lawfirm.com)

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Luther is one of the leading German commercial law firms providing comprehensive services in all the relevant fields of legal and tax consulting. The full-service law firm employs more than 320 lawyers and tax advisors and is represented at 12 German economic centres and at important investment locations and centres of finance in Europe and Asia with its international offices in Brussels, Budapest, Istanbul, Luxembourg, Shanghai and Singapore. Our clients include medium-sized enterprises and large corporations, as well as the public sector.

Luther has close relations to business law firms in all important jurisdictions worldwide. In Continental Europe, Luther forms part of a group of independent law firms which are leading in their respective countries and have for years cooperated within the scope of engagements regarding cross-border transactions.

Luther is the German member of Taxand, a worldwide network of independent tax firms.

Luther Rechtsanwaltsgesellschaft mbH is a law firm with an entrepreneurial approach: our innovative awareness aspires us to provide our clients with customised legal advice that addresses individual needs and delivers the greatest possible economic benefit. Our lawyers and

tax advisors have a solid understanding of interdisciplinary matters and a wealth of experience in collaborating on complex tasks.

Further information is available at: [www.luther-lawfirm.com](http://www.luther-lawfirm.com)

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