

POLICY CONTRIBUTION · COM(2026) 321

# ENSURING THE 28TH REGIME DELIVERS

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*The case for a complementary EU Inc. Zone*

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v1.0

# Executive Summary

## IN BRIEF

The EU Inc. regulation delivers genuine improvements to European company law. This paper examines the risk that 27 nationally administered versions of the same regulation may produce fragmented outcomes — as the *Societas Europaea* did before it — and proposes a complementary EU Inc. Zone as an insurance policy. Specific amendment proposals are included for legislative consideration.

The European Commission's *EU Inc.* proposal (COM(2026) 321) represents a significant step toward addressing the regulatory fragmentation that impedes startup formation, cross-border scaling, and investment in the European Single Market. The proposal delivers meaningful improvements: digital-first incorporation within 48 hours, no minimum share capital, harmonised employee stock option provisions, and simplified liquidation procedures.

The question is whether these improvements will translate into a unified experience in practice. The EU Inc. harmonises the *corporate form* but not the *operating environment*. An EU Inc. company registered in France would remain subject to French courts, French labour law, and French administrative procedures; one registered in Estonia would operate under an entirely different regime. The *Societas Europaea* (SE) — the EU's previous attempt at a unified company form — is instructive. The EU Inc. corrects the SE's most obvious design failures: prohibitive capital requirements, merger-only formation, absence of digital infrastructure. But the structural mechanism that produced 27 national SE variants — national law gap-filling via what is now Article 4 — persists. This paper asks whether that residual risk is tolerable, and proposes a complementary architecture in case it is not.

The core difference between the regulation alone and the regulation plus Zone is narrow but decisive: **who interprets the law, and who runs the registry**. Under the regulation, 27 national courts interpret one text and 27 national registries administer it — the Commission's 'EU central interface' collects data and forwards it to national business registers without permanently storing it at EU level. Over time, this produces 27 divergent bodies of case law and 27 different administrative experiences. Under the Zone, one specialised body interprets the law and one registry administers it — a genuinely unified system, not an interoperability layer. Tax and labour remain national in both scenarios — neither the regulation nor the Zone can change that without Treaty-level agreement. The Zone's value

proposition is institutional, not regulatory: same rules, unified administration. There is a further structural difference: a regulation, once adopted through ordinary legislative procedure, is effectively frozen for years — amendment requires a new legislative cycle. A zone can update its procedures, expand its scope, and respond to market feedback continuously.

The risk is not a failure of drafting but a **structural property of the EU Treaties**. The Treaties were designed to harmonise rules across sovereign states, not to create unified jurisdictions. Article 114(2) TFEU excludes taxation from the EU Inc.'s legal basis. Article 153(5) TFEU places hard limits on labour law competence. Creating a single corporate court within the EU framework raises deep constitutional questions — the Unified Patent Court, the closest precedent, required an intergovernmental treaty (the CJEU ruled in Opinion 1/09 that it could not be established through Union law alone). Even where regulations mandate specialised national courts, as with EU Trade Mark Courts, divergent interpretation across Member States is well documented.

The paper proposes a complementary architecture: the **EU Inc. Zone**, drawing on the institutional design of the Dubai International Financial Centre (DIFC), the Abu Dhabi Global Market (ADGM), and the Astana International Financial Centre (AIFC). These jurisdictions were created under different governance conditions, but the institutional design principles — procedural certainty, judicial specialisation, administrative unity — are transferable. The Zone would offer unified dispute resolution through a transparent arbitration body building public jurisprudence, a dedicated insolvency framework, a single company registry, and standardised administrative procedures — without requiring tax harmonisation across 27 Member States.

The Zone is not meant to be permanent. It could be designed with a **mandatory review at fifteen years** and independent evaluation at ten — continuing unless affirmatively terminated by legislative act, so that companies registered in the Zone face no existential uncertainty about their legal framework. If the EU Inc. delivers a unified experience on its own, the Zone becomes unnecessary. If fragmentation materialises, the Zone provides tested institutional infrastructure that can be absorbed into EU-wide regulation. An insurance policy, not an alternative.

The Zone does not claim to unify the entire operating environment. Neither does Delaware. A company incorporated in Delaware and operating in California still deals with California's tax authority, California's employment law, and California's payroll system. Delaware's value is legal clarity on corporate matters — formation, governance, dispute resolution — not the elimination of all state-level friction. The Zone makes the same bet: solve what *can* be solved at this level. That is a meaningful but bounded improvement — and it is the improvement that the regulation, administered through 27 national systems, structurally cannot deliver.

**WHAT THE ZONE DOES NOT DO.**

It does not harmonise tax systems. It does not override Rome I for remote workers. It does not replace all national administrations. It does not create a sovereign enclave. It does not eliminate every source of cross-border friction. It does not bypass the CJEU. It provides unified corporate law administration — one court, one registry, one set of procedures — within a bounded institutional space. That is a meaningful but bounded improvement, and this paper does not claim otherwise.

This paper makes an ambitious diagnostic claim — that harmonised rules administered through 27 national systems will produce fragmentation in practice — and a modest legislative ask. The Zone described here is an architectural concept, not a finished blueprint. [Section 8](#) proposes four amendments to COM(2026) 321 — a 12-month feasibility study on complementary infrastructure, strengthened dispute resolution through specialised chambers, a five-year fragmentation review with explicit SE comparator metrics, and an enhanced cooperation trigger enabling nine or more Member States to proceed. The amendments do not require the Zone to be built. They require the EU to investigate whether something like it is needed — and to build safeguards against fragmentation regardless. Special Economic Zones already operate across the EU (Shannon, Madeira, the Canary Islands), and a Zone established through enhanced cooperation would require only willing Member States to participate.

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# 1. Origins of the 28th Regime

## IN BRIEF

The 28th regime concept gained momentum through the Draghi and Letta Reports in 2024, then was championed by the grassroots EU Inc. movement with over 24,000 signatures. The European Parliament endorsed the vision in January 2026.

### 1.1 The Draghi Report

The concept of a 28th regime for European companies gained decisive political momentum with the publication of Mario Draghi's report on EU competitiveness in September 2024. Draghi proposed that innovative startups be given access to a new EU-wide legal statute — the 'Innovative European Company' — through 'a voluntary 28th company rulebook harmonising legislation concerning corporate law and insolvency, as well as a few key aspects of labour law and taxation, to be made progressively more ambitious.' The scope was deliberately broad: Draghi envisioned not merely a harmonised company form but a *normatively self-contained legal universe* spanning four domains — corporate law, insolvency, labour, and tax — in which cross-references to national law would be minimised.<sup>[1]</sup>

The Letta Report on the future of the Single Market, published earlier in 2024, arrived at similar conclusions, calling for a 'Simplified European Company' to remove structural barriers to cross-border scaling.<sup>[2]</sup> Both reports identified the same fundamental problem: 27 different sets of corporate rules fragment the Single Market, deter investment, and push European founders toward jurisdictions — notably Delaware — that offer superior legal certainty and procedural efficiency.

### 1.2 The Grassroots EU Inc. Movement

The political energy generated by the Draghi and Letta Reports was channelled into a grassroots campaign launched in October 2024 by Andreas Klinger (Prototype Capital) and Susanne Knoll, under the banner 'EU Inc. — One Europe. One Standard.' The petition gathered over 24,000 signatures from Europe's most prominent founders, investors, and technology executives, supported by over 600 venture capital firms, 9,000 startups, and 20 industry associations.<sup>[3]</sup>

The movement produced a detailed [EU Inc. Policy Proposal](#) — an industry blueprint that laid out the practical architecture: a standardised corporate structure, a centralised digital registry, a new investment instrument (EU-FAST), and an EU-wide employee share option scheme (EU-ESOP). The demands were clear: a single pan-European company form modelled on the Delaware C-Corporation, with no minimum capital, no notary requirement, fully digital English-language incorporation within hours, unified employee stock option plans, and simplified cross-border operations. The implicit promise was a *true alternative to Delaware* — a single jurisdiction with one set of rules, one standard, and one legal experience.

The European Parliament amplified these demands. In its resolution of 20 January 2026, it called for a 'Societas Europaea Unificata' (S.EU) and notably recommended the establishment of *'specialised courts or judges responsible for cases concerning the 28th regime to ensure uniform application of the law and efficient hearings conducted in English.'*<sup>[4]</sup>

## 2. The Commission's Proposal

### IN BRIEF

The Commission delivered meaningful improvements — digital incorporation, no minimum capital, harmonised ESOPs — while leaving labour law, taxation, and dispute resolution within national regimes, and insolvency subject to 27 national courts — creating a tension with Parliament's insistence on uniformity that this paper examines.

### 2.1 Key Achievements

The Commission's proposal, published on 18 March 2026, takes the form of a directly applicable Regulation — a sound choice that avoids the transposition delays and gold-plating risks of a directive. The proposal delivers several meaningful improvements: an EU central interface for fully online incorporation within 48 hours at a maximum cost of EUR 100; no minimum share capital; the possibility to create multiple classes of shares with differentiated voting rights; a harmonised EU Employee Stock Ownership (EU-ESO) scheme with a common tax timing framework; a 'once-only' principle for submission of company information to public authorities; and simplified digital procedures for liquidation and insolvency.<sup>[5]</sup>

### 2.2 The Structural Gap

These achievements are substantial. The proposal does, however, take a narrower approach than the 28th regime envisioned by Draghi or the EU Inc. movement, and stops short of the terms set by the European Parliament itself. On 20 January 2026, two months before the Commission's proposal, Parliament adopted its resolution (492–144–28) based on the Repasi report, explicitly insisting that 'the rules relating to the 28th regime be the same throughout the EU' and that 'Member States not be allowed to maintain or introduce into their national law any provisions that diverge.' The Commission's proposal takes a different approach, deferring to national law on matters Parliament sought to unify. Article 4 of the Regulation states that matters not covered 'shall be governed by national law... which apply to relevant national legal forms in the Member State in which the EU Inc. has its registered office.'<sup>[6]</sup> This provision ensures that every EU Inc. company inherits the full legal ecosystem of its Member State of registration: its courts, its labour law, its administrative procedures, and its enforcement culture.

The Oxford Law Blog's assessment is instructive: *'For every harmonised rule, there is room for member state discretion or a gap-filling reference to national law that quietly reintroduces the very fragmentation the regime purports to eliminate.'*<sup>[7]</sup>

The distance from Draghi's original vision reflects the Treaty constraints examined in Section 3. Where Draghi called for harmonised rules across corporate law, insolvency, labour, and taxation — 'to be made progressively more ambitious' — the Commission delivers substantial corporate law reform but defers the remaining dimensions to future instruments or national regimes. On dispute resolution, the Commission 'calls on Member States to consider setting up specialised judicial chambers or courts' — language that is legally non-binding and may prove insufficient to ensure consistent implementation. On labour law, the proposal defers entirely to national regimes. On taxation, only the narrow timing of EU-ESO taxation is harmonised. Commissioner McGrath himself acknowledged the risk: 'What we need to avoid is 27 versions of the new 28th regime.'<sup>[8]</sup>

### 3. Risks of Fragmentation

#### IN BRIEF

Four structural risks threaten fragmented implementation: taxation requires unanimity, labour law is constitutionally constrained, courts may diverge across 27 jurisdictions, and administration remains decentralised. The *Societas Europaea* precedent suggests these risks are real.

The Commission's proposal is a genuine achievement within the constraints of the EU Treaties. The remaining distance between the regulation's ambition and a fully unified experience is not a failure of political will or legislative drafting — it is a structural property of **a system designed for coordination between sovereign states, not for creating unified jurisdictions**. The EU's regulatory architecture is a multi-layered stack built over seventy years: treaty provisions sit on national constitutions, which sit on administrative traditions, which sit on judicial cultures. Each layer constrains what the layers above can do. The system has become so complex that every attempt to simplify it in one area creates new complications in another. This is why complementary institutional infrastructure — purpose-built for the needs the regulation addresses — may be necessary to close the gap between harmonised rules and harmonised outcomes.

#### *3.1 Taxation: The Hardest Wall*

Article 114 TFEU — the legal basis for the EU Inc. regulation — explicitly excludes fiscal provisions from its scope. Any meaningful tax harmonisation requires recourse to Article 115 TFEU, which demands **unanimity** in the Council.<sup>[9]</sup> In over sixty years of European integration, the EU has never achieved agreement on a unified corporate tax system. The 2022 Pillar Two Directive (2022/2523) established a 15% minimum effective rate, but this is a floor, not a harmonised regime — Member States retain full autonomy over rates, bases, and administration above that threshold. Ireland, Luxembourg, the Netherlands, and others have consistently blocked proposals that would go further. Even the Financial Transaction Tax, authorised under enhanced cooperation in 2013, remains unimplemented after thirteen years of negotiation.<sup>[10]</sup>

Moreover, even if tax rules were harmonised, the EU has no mechanism to create a single tax authority or override national tax administrations. Each Member State's tax authority answers to its own finance

ministry, applies its own administrative procedures, and exercises its own interpretive discretion. The gap between harmonised rules and harmonised enforcement is, under the current Treaties, irreducible.

### 3.2 Labour Law: Constitutional Exclusions

Article 153 TFEU limits EU competence in social policy to 'supporting and complementing' Member State activities. More fundamentally, Article 153(5) TFEU creates hard exclusions that no EU instrument can override: pay, the right of association, the right to strike, and the right to impose lockouts are explicitly reserved to Member States.<sup>[11]</sup>

Labour law in the major European economies is constitutionally embedded and intertwined with national collective bargaining traditions — France's *Code du travail*, Germany's *Mitbestimmung* (co-determination), the Nordic collective bargaining model. No EU regulation can create a unified, tech-oriented labour framework applicable across 27 Member States. This is why the Commission's proposal defers labour law entirely to national law, promising only a future 'Fair Labour Mobility Package.'

### 3.3 Courts: The Interpretation Problem

The EU Treaties offer two paths for specialised courts. Article 257 TFEU allows the creation of specialised courts attached to the General Court, but these serve narrow EU-level functions (the now-defunct Civil Service Tribunal is the sole precedent).<sup>[12]</sup> They are unsuited to the adjudication of private corporate law disputes — shareholder claims, director liability, minority protections — which are the substance of what makes Delaware's Court of Chancery valuable.

The Unified Patent Court (UPC), often cited as a precedent, is instructive for what it reveals about difficulty. The CJEU ruled in Opinion 1/09 that an international court outside the EU institutional framework, vested with exclusive jurisdiction to interpret and apply EU law, would deprive national courts of their role as 'ordinary courts' of the Union legal order.<sup>[13]</sup> The UPC therefore required an *intergovernmental treaty*, signed in 2013 and operational only from June 2023 — a decade-long process, with most delays caused by ratification challenges (German constitutional proceedings, Brexit) rather than institutional design. Spain and Poland never signed the Agreement.<sup>[14]</sup>

An EU regulation can require each Member State to designate specialised courts, as the EU Trade Mark Regulation does.<sup>[15]</sup> But designation does not produce uniformity. Twenty-seven courts, staffed by judges trained in 27 legal traditions, developing 27 independent bodies of case law, with no binding horizontal precedent between them, will inevitably produce divergent interpretations of the same

regulation. The CJEU's preliminary reference procedure (Article 267 TFEU) provides interpretive guidance, but at an average pace of 16.8 months per question (2023 judicial statistics) — a significant source of uncertainty for fast-moving companies and their investors.

An alternative path exists that avoids these constitutional constraints entirely: **arbitration**. Commercial arbitration is well-established in EU law, explicitly excluded from the Brussels I Regulation (recast), and enforceable in 172 countries under the 1958 New York Convention — broader enforcement coverage than any court judgment.<sup>[18]</sup> An EU-level arbitration body for corporate disputes would not require an intergovernmental treaty, would not raise Opinion 1/09 concerns about depriving national courts, and could be established by regulation. A critical design choice, however, concerns transparency. Standard commercial arbitration is confidential: awards are private between the parties and do not create binding precedent. But this is a default, not a necessity. ICSID publishes investment arbitration awards unless a party objects; the ICC has permitted publication of all awards since 2019; and the UNCITRAL Rules on Transparency (2014) introduced systematic disclosure for treaty-based arbitration. A purpose-built Zone arbitration body can mandate publication of anonymised awards from inception — a deliberate institutional design that transforms private dispute resolution into a source of publicly accessible jurisprudence (see Section 5.2).

### *3.4 Administration and Enforcement*

The EU can create agencies that coordinate (ESMA, EBA, ECHA), but not agencies that replace national bodies. Each Member State retains its own company registrar, its own beneficial ownership register, its own social security administration. The 'once-only principle' in the EU Inc. proposal connects 27 national systems via the Business Registers Interconnection System (BRIS) — an interoperability layer that links separate national registers for cross-border searches and document exchange. BRIS does not, however, replace those registers with one — it links them. Each retains its own filing requirements, data formats, response times, and administrative culture. The founder's experience of incorporating and operating an EU Inc. will therefore vary by Member State.

### *3.5 The Societas Europaea Precedent*

The Societas Europaea (SE), created in 2001, was the EU's previous attempt at a unified European company form.<sup>[16]</sup> The SE Regulation contains over 60 express references to national law, producing *a different SE variant for each Member State* — effectively 27 different companies sharing a name. Approximately 3,000 SEs had been registered by 2018, of which only around one quarter were genuine operating companies; the remainder were predominantly Czech shelf companies. The SE analogy is instructive but imperfect: EU Inc. wisely corrects the SE's most obvious design flaws — prohibitive

capital requirements, merger-only formation, absence of digital infrastructure. The structural risk that persists, however, is the one that matters most: Article 4's catch-all referral to national law replicates the mechanism that produced 27 national variants of the SE. As economists Luis Garicano (LSE) and Ulrike Malmendier (UC Berkeley) have warned, deferring to national law will 'de facto result in 27 different 28th regimes.'<sup>[17]</sup>

### *3.6 The Case for Complementary Infrastructure*

The analogy with technology is instructive. In complex systems, there comes a point where adding layers of coordination may yield diminishing returns, and purpose-built complementary infrastructure — designed to work alongside the existing system — can deliver outcomes more efficiently. The question this paper asks is whether the EU's corporate regulatory environment would benefit from such an approach.

***"A regulation harmonises the rules. Complementary institutional infrastructure can help ensure that 27 different judges, tax inspectors, labour regulators, and company registrars apply those rules consistently."***

This structural dimension — consistent across tax, labour, courts, and administration — is what motivates the complementary architecture proposed in the following sections. The question is not whether the regulation is well drafted, but whether complementary institutional infrastructure is needed to ensure consistent application across 27 Member States.

## 4. The EU Inc. Zone

### IN BRIEF

The EU Inc. Zone: a Special Economic Zone for corporate innovation modelled on the DIFC, ADGM, and AIFC. Six pillars under one jurisdiction — without requiring tax harmonisation across 27 Member States.

### 4.1 The Concept

If the risks identified in the previous section materialise, the EU Inc. regulation will need complementary institutional infrastructure to deliver on its promise. This paper proposes the **EU Inc. Zone**: a Special Economic Zone for corporate innovation, administered at EU level, offering a complete corporate jurisdiction under a single legal framework. Rather than replacing the regulation, the Zone complements it — providing the unified dispute resolution, single registry, and coherent administration that the regulation alone cannot create across 27 Member States.

The distinction is worth stating plainly. The regulation gives every Member State the same corporate law text. The Zone gives companies **one court interpreting it and one registry administering it**. The Commission's proposal routes registration through a central interface, but this is a front-end portal — company data is forwarded to and stored in 27 national registers. The Zone offers a genuinely unified registry: one database, one process, one administrative culture. Tax remains national in both cases — neither instrument can change that. Labour law remains national in both cases — though the Zone could reduce friction through standardised contracts and, more ambitiously, through designated Zone premises in participating Member States where a dedicated employment framework applies. The Zone does not add new regulatory substance. It adds institutional unity — and that is the difference between one company form and 27 versions of it.

The EU Inc. Zone would not constitute a tax haven. Two fiscal architectures are possible depending on political will. With unanimity, the Zone could operate its own corporate tax regime with revenue redistributed to Member States based on founder residency. Without unanimity — the more realistic scenario — the Zone can rely on existing CFC (Controlled Foreign Corporation) rules under the Anti-Tax Avoidance Directive (ATAD), which ensure that corporate profits are taxed in the Member State where the controlling persons reside. Either way, no Member State loses fiscal revenue. The Zone's competitive advantage lies not in fiscal arbitrage but in *procedural certainty, judicial quality, and*

*administrative efficiency* — precisely the attributes that make Delaware attractive. The approach is the same one the DIFC, ADGM, and AIFC have proven at scale: build a modern, specialised jurisdiction and let it compete on quality, not on tax.

A crucial strategic dimension: the Zone is designed as a **time-bound complement**, not a permanent exception to EU law. It runs alongside the regulation as an institutional insurance policy — testing unified dispute resolution, a single registry, and standardised contracts at scale and in real market conditions. The solutions that work can then inform broader EU-wide regulation, potentially through a future unanimity-based instrument. The Zone inverts the traditional EU approach: instead of harmonising 27 systems simultaneously and hoping the result works in practice, it builds one coherent system and then offers it as a template for broader harmonisation. This dramatically reduces the political risk of institutional innovation, because the evidence base exists before the legislative commitment is made.

There is a further structural reason why a zone architecture may be better suited to this problem than a regulation alone: **iterability**. An EU regulation, once adopted through ordinary legislative procedure, is effectively frozen — amending it requires a new Commission proposal, Council and Parliament negotiation, and typically two to four years of process. A zone can update its procedures, expand its scope, and respond to market feedback on a continuous basis. For an operating environment that must compete with Delaware, Singapore, and the UK — jurisdictions that regularly update their corporate frameworks — the ability to iterate is not a secondary consideration. It is a structural requirement. The zone is, in effect, a living product rather than a static legal text. This also lowers the political credibility threshold: a regulation asks 27 Member States to believe that a single harmonised text will work everywhere. A zone asks only that a bounded space can operate by different rules — a proposition with decades of precedent from Shannon to the DIFC.

#### *4.2 Six Pillars*

**Corporate law.** A single, modern company statute applied uniformly to all Zone-domiciled companies. No gap-filling references to national law. One set of rules governing formation, governance, capital structure, director duties, minority protection, and dissolution.

**Insolvency.** A dedicated insolvency framework for Zone-domiciled companies. If the Zone constitutes the debtor's centre of main interests (COMI) under the Recast Insolvency Regulation, the Zone's own rules apply uniformly — rather than the national regime of whichever Member State the company is registered in (see Section 5.4).

**Dispute resolution.** An EU-level arbitration body with mandatory transparency rules as an immediate step — publishing anonymised awards to build publicly accessible jurisprudence — with a dedicated corporate court as a longer-term evolution producing formal, binding case law. Together, these would build the coherent body of European corporate jurisprudence that 27 divergent national courts cannot produce (see Section 5.3).

**Administrative procedure.** A single EU-administered company registry for all Zone-domiciled entities. Fully digital, operating in all EU languages with English as the default working language. One registration process, one set of filing requirements, one administrative culture (see Section 5.7).

**Tech-oriented labour provisions.** Labour law is the dimension requiring the most design work (see Section 5.5). For Zone-based employees, the host jurisdiction can enact a dedicated framework, as the DIFC has done. For remote employees across the EU, the Zone can develop standardised employment contracts that pre-comply with national requirements. A full opt-in labour framework would require either unanimity or enhanced cooperation among participating Member States.

**Specialised legal ecosystem.** An EU-accredited bar of corporate lawyers and agents authorised to practise within the Zone, creating a concentrated pool of expertise analogous to the Delaware corporate bar (see Section 5.8).

### 4.3 Location

The Zone's physical domicile is a design choice that should be evaluated against political feasibility, legal infrastructure, and symbolic neutrality. Several options merit consideration:

**Brussels.** The institutional seat of the EU, conferring political legitimacy and neutrality — no Member State could claim competitive appropriation. Belgium's federal constitutional structure, which already accommodates overlapping regional and community jurisdictions, provides a receptive legal framework for jurisdictional carve-outs. The existing concentration of EU-facing legal professionals reduces the cost of building the supporting ecosystem.

**Luxembourg.** Already hosts the CJEU and the European Investment Bank. Has deep expertise in cross-border corporate structures and a multilingual legal culture. However, its existing reputation as a financial optimisation hub may invite political criticism that the Zone is a tax vehicle — which would undermine the proposal's deliberate separation from fiscal policy.

**A distributed model.** The Zone could exist as a legal jurisdiction without a single physical seat, operating digitally by default with physical arbitration hearings held in rotating EU institutional cities.

A network of designated Zone offices across participating Member States (see Section 5.4 on labour law) would give the Zone a physical presence where it matters — in the cities where startups and talent are concentrated — while maintaining jurisdictional unity. What matters is the legal framework, not the headquarters.

The choice of location is secondary to the institutional design. What matters is that the Zone operates under a single legal framework, administered by a single authority, regardless of where its offices are physically located.

#### *4.4 The Sovereignty Question*

The most immediate political objection to an EU Inc. Zone is sovereignty. The prospect of a jurisdiction within Europe where national law does not fully apply invites the charge that the Zone undermines the regulatory authority of Member States. The objection is intuitive — and, on examination, unfounded.

**Special Economic Zones already exist within the EU.** Ireland established the Shannon Free Zone in 1959 — the world's first modern SEZ. Portugal operates the Madeira International Business Centre (MIBC) under a regime authorised by the European Commission since 1987. Spain's Zona Especial Canaria (ZEC) offers differentiated fiscal and regulatory treatment with EU State Aid approval. Italy, France, Poland, and others maintain freeports, enterprise zones, and special fiscal territories. None of these are regarded as sovereignty crises. They are instruments of economic policy, voluntarily adopted by sovereign states, with differentiated rules within a defined perimeter.<sup>[19]</sup>

**The Zone is more sovereignty-respecting than the EU Inc. regulation itself.** The regulation, adopted under Article 114 TFEU, imposes a new corporate form on all 27 Member States simultaneously — whether they want it or not. It is directly applicable, with no opt-out. The Zone, by contrast, could be established via enhanced cooperation among willing Member States, allowing others to remain outside. This is not an erosion of sovereignty; it is its exercise. Enhanced cooperation was designed precisely for this purpose: Article 20 TEU allows a minimum of nine Member States to move ahead within the institutional framework of the Union, without requiring the rest to follow.

**The greater sovereignty risk lies in the status quo.** When 27 courts interpret the same insolvency rules differently, the result is not sovereignty — it is incoherence. When founders flee to Delaware, Singapore, or the Cayman Islands because no European jurisdiction offers comparable legal certainty, Europe loses not just companies but the tax revenue, employment, and innovation those companies

generate. The Zone keeps those companies on European soil, under European law, subject to European oversight. That is a sovereignty gain, not a loss.

The sovereignty question is best assessed by outcomes. If fragmented implementation drives startups to incorporate outside Europe entirely, the result is a loss of the very economic activity that sovereign regulatory authority is meant to govern. A single, high-quality European jurisdiction that retains those companies strengthens Europe's regulatory reach — and its sovereignty in practice.

#### *4.5 Institutional Incentives and National Participation*

The harder threat to the Zone is not abstract sovereignty rhetoric. It is institutional self-interest: registries, ministries, legal professions, and national administrations that may quietly resist a structure that centralises prestige and workflow. This deserves a direct answer.

**Why would a Member State want to host or participate?** Increased company formation within its territory; retained tax base under the CFC path (profits are taxed where founders reside, not where the Zone sits); attraction of venture capital and founder talent; spillover employment in legal, financial, and advisory services; shared governance through participating-state representation on the Zone's governing board. The host state gains institutional prestige and economic activity without ceding fiscal sovereignty.

**How are local professionals not simply bypassed?** The Zone's specialised legal ecosystem would include an EU-accredited bar of corporate lawyers — many of whom would be practitioners from participating Member States. Local law firms gain access to a concentrated pool of cross-border corporate work. National courts retain jurisdiction over all matters outside the Zone's scope (tax, labour, criminal, regulatory compliance). The Zone creates a new category of high-value work; it does not eliminate existing categories.

**What does the broader European economy gain?** Companies that would otherwise incorporate in Delaware, Singapore, or the Cayman Islands instead incorporate in Europe — under European law, subject to European oversight, paying European taxes. That is not a transfer of activity between Member States. It is a net addition to the European ecosystem. The political case is strongest when framed this way: the Zone's primary competitor is not Paris or Berlin — it is Wilmington.

#### *4.6 Governance*

The more the Zone centralises institutional functions, the more important it becomes to answer: who governs it, and why will people trust it? Concentration of discretion without accountability is not a

feature — it is a vulnerability. The Zone's governance should be designed to make centralisation a source of legitimacy, not suspicion.

The Zone authority should be governed by an **independent governing board** with: (a) representatives of each participating Member State, ensuring shared ownership; (b) an advisory panel of founders, investors, and legal practitioners, ensuring the Zone remains responsive to market needs; (c) transparent appointment criteria for arbitrators, registry administrators, and senior officials, with published conflict-of-interest rules; (d) judicial independence safeguards — the arbitration centre and any future court must operate with full decisional autonomy from the governing board; (e) annual public reporting on registrations, dispute outcomes, financial performance, and user satisfaction. This governance structure mirrors the DIFC's model, where an independent authority oversees the jurisdiction's administrative functions while the courts operate with full judicial independence. The objective is institutional quality through accountability, not administrative discretion.

## 5. Implementation Principles

### IN BRIEF

Practical design for each dimension: a self-contained corporate law supplement modelled on the DIFC Companies Law replacing Article 4's national law default, two-track tax (unanimity or CFC rules), arbitration-first dispute resolution building toward a specialised court under Article 257 TFEU, dedicated insolvency framework, four labour law solutions, and a unified digital registry.

The following section sets out the key design parameters for each dimension of the EU Inc. Zone. These are presented as a *direction of travel*, not a finished blueprint. Each would require significant legal, institutional, and political work. But the structural logic is consistent: where the EU Inc. harmonises across 27 existing systems, the Zone offers a single complementary framework.

### 5.1 The Zone Corporate Law Supplement

The Zone does not create new corporate law from scratch. It takes the EU Inc. regulation as its base and does what Article 4 should have done: instead of sending founders back to 27 national legal systems for everything the regulation does not cover, the Zone provides a single, self-contained supplement. Same regulation. Different gap-filler. That is the core structural innovation.

The supplement would be modelled primarily on the **DIFC Companies Law** (DIFC Law No. 5 of 2018) — purpose-built for a special economic zone operating within a larger legal system. The DIFC statute is compact (~200 sections versus 1,300 for the UK Companies Act), modern, English-language, and has been stress-tested for twenty years in a functioning jurisdiction. It covers exactly the areas where Article 4 currently defers to national law: directors' duties, board liability, dividend distribution, share transfers, minority protection, related party transactions, accounts and audit, and winding up. The ADGM Companies Regulations (2020) offer a similarly modern alternative.

The design philosophy should draw on **Delaware's enabling approach** rather than the prescriptive tradition of most European civil law codes. An enabling statute says what companies *can* do; a prescriptive code says what they *must* do. The Delaware General Corporation Law succeeds because it maximises flexibility within broad fiduciary constraints — and because the Court of Chancery has developed, over decades, the *business judgment rule*: courts defer to board decisions made in good faith,

on an informed basis, in the honest belief they serve the company's interest. This doctrine — not any specific statutory provision — is the single most important reason companies choose Delaware. The Zone's statute should codify an equivalent standard.

At the same time, the Zone is European, and its governance standards should reflect that. The EU's existing corporate governance acquis — Shareholder Rights Directive II, Corporate Sustainability Due Diligence Directive, Corporate Sustainability Reporting Directive — provides a floor that the Zone would be bound to respect. The result is a combination no other jurisdiction currently offers: **the specific institutional attributes that make corporate law predictable — unified administration, specialised adjudication, procedural speed, and concentrated expertise — within a European governance framework.** That is the pitch to both founders (who want flexibility and predictability) and policymakers (who want sustainability and stakeholder protection).

The specific areas the supplement would need to cover are those where Article 4's national law default currently creates divergence:

Area	Article 4 default	Zone supplement
<b>Directors' duties</b>	27 different fiduciary standards	Codified duties (good faith, independent judgment, avoid conflicts, reasonable care) with business judgment rule
<b>Board liability</b>	27 different standards and safe harbours	Single standard with codified safe harbours
<b>Dividends</b>	National capital maintenance rules	Solvency-test approach (DIFC model) — simpler and more founder-friendly
<b>Share transfers</b>	National securities law	Zone transfer rules, integrated with Zone registry
<b>Minority protection</b>	National derivative actions, unfair prejudice remedies	Codified remedies adjudicated by Zone court
<b>Accounts and audit</b>	National GAAP or IFRS with national variations	IFRS mandatory, Zone-approved auditors
<b>Winding up</b>	National insolvency law	Zone insolvency framework (see Section 5.4)
<b>Pre-insolvency restructuring</b>	27 implementations of Restructuring Directive	Zone restructuring rules

An important qualification: the full supplement described above represents the Zone's *mature* design. The initial phase would be deliberately narrower — covering formation, governance, cap table mechanics, internal corporate procedure, and dispute clauses. Residual questions not yet covered by the Zone supplement would be resolved by a tightly drafted conflict rule pointing to a single designated legal system (likely the law of the host state or a standard reference framework), rather than reverting to Article 4's 27-way national law default. This is not a retreat from ambition — it is how serious institutional projects survive first contact with political reality. Subsequent phases would extend the supplement as the legal basis strengthens and operational experience accumulates.

This approach reflects what the Draghi Report originally envisioned: a 'normatively self-contained legal universe' with minimal cross-references to national law. The EU Inc. regulation narrowed that ambition for political reasons. The Zone supplement restores it incrementally — within a bounded institutional space where the political cost is lower and the evidence base can be built before broader adoption.

## 5.2 Fiscal Treatment

The EU Inc. regulation does not extend to tax harmonisation — Article 114(2) TFEU excludes fiscal provisions from its legal basis, and Article 115 requires unanimity. The Zone does not eliminate tax complexity, but it reframes the question. Two architectures are possible, depending on whether unanimity can be achieved:

*Path A: With unanimity.* If Member States agree, the Zone could operate its own corporate tax regime at a rate and structure designed to attract high-growth companies, with fiscal revenue redistributed to Member States based on the residency of founders and shareholders. This is the cleanest design and the one that most closely mirrors the DIFC model. If unanimity on tax proves achievable, it would also open the door to unified labour provisions (see Section 5.5).

*Path B: Without unanimity.* If unanimity is not achievable — the far more likely scenario — the Zone can rely on existing Controlled Foreign Corporation (CFC) rules, already harmonised across the EU by the Anti-Tax Avoidance Directive (ATAD, 2016/1164, Articles 7–8).<sup>[20]</sup> Under CFC rules, when a Zone-domiciled company is controlled by founders resident in a given Member State, that state's tax authority attributes and taxes the company's undistributed profits under its own rules. The control test is met when more than 50% of voting rights or capital is held by residents of a single Member State. The fiscal revenue stays where the controlling persons reside — no new tax treaty or bilateral agreement is required, and no Member State loses tax base. The Zone entity is effectively tax-transparent to the founders' home jurisdiction. This means, in practice, that **Path B offers no fiscal**

**advantage whatsoever over local incorporation.** Founders pay the same tax they would pay at home. This is not a weakness — it is the design's strongest political defence: the Zone competes purely on procedural quality, judicial efficiency, and administrative simplicity, not on tax. It is structurally incapable of being a tax haven. Several operational questions require further technical design under Path B:

*Multi-founder companies.* Where founders reside in multiple Member States and no single state holds a controlling interest, the CFC rules may not attribute income to any single jurisdiction. The Zone could adopt a default rule attributing taxable income pro rata to each founder's state of tax residence, based on equity share. *Venture-backed companies.* Where institutional investors (VCs, funds) hold the majority of voting rights but no founder individually controls the company, the CFC control test may not be met. Treatment would default to standard corporate taxation in the host state, with the host state retaining the revenue. *Reinvested earnings.* Under most CFC regimes, undistributed profits in genuine economic activity are excluded from CFC attribution. Zone companies reinvesting earnings in R&D, hiring, or expansion would typically fall outside the CFC rules, being taxed only upon distribution. *VAT.* Zone entities trading goods and services across Member States would remain subject to the EU VAT system, including the One Stop Shop (OSS) mechanism. The Zone's digital-first registry could integrate VAT reporting, reducing friction without requiring a separate fiscal regime. *Withholding on dividends.* Dividends paid by Zone companies to shareholders would be subject to the Parent-Subsidiary Directive (2011/96/EU) where applicable, eliminating withholding between EU corporate shareholders. Individual shareholders would be subject to their state of residence's rules. *Transfer pricing.* Zone entities with subsidiaries in Member States would be subject to standard OECD transfer pricing guidelines as implemented through the EU Transfer Pricing Directive. *Pillar Two.* Zone companies within the scope of the OECD/G20 Inclusive Framework (consolidated revenue over €750 million) would be subject to the 15% minimum effective tax rate under Directive 2022/2523.

These are real operational complexities, not reasons to abandon the CFC path. The point is that each has an existing EU-law solution. The CFC mechanism provides a foundation that avoids the political impossibility of fiscal unanimity while ensuring no Member State loses tax base.

### 5.3 Dispute Resolution

Two models are possible, operating in sequence. The first and most readily implementable is an **EU Inc. Arbitration Centre**, with arbitration clauses built into the Zone's company statute. Internationally recruited specialist arbitrators. Proceedings conducted online by default, in English, with expedited timelines. Arbitral awards enforceable in 172 countries under the New York

Convention — wider coverage than any court judgment. This path requires no intergovernmental treaty and raises no Opinion 1/09 concerns.

*A critical design feature: mandatory transparency.* Standard commercial arbitration is confidential — awards are private between the parties and do not generate public case law. This is the principal objection to relying on arbitration for precedent-building. The Zone's arbitration centre would operate under a different model: all awards published in anonymised form as a condition of the company statute. This is not unprecedented. ICSID publishes investment arbitration awards unless a party objects (and since the 2022 rule amendments, consent to publish is presumed). The ICC has permitted publication of all awards made since 2019. The UNCITRAL Rules on Transparency (2014) introduced systematic disclosure for treaty-based arbitration. What these institutions adopted incrementally, the Zone can mandate from inception — because it is designing its institutions from scratch, not retrofitting transparency onto legacy confidentiality norms.

Published anonymised awards would create what investment arbitration scholars call *arbitral jurisprudence* — not formally binding precedent, but a coherent, publicly accessible body of reasoning that arbitrators, practitioners, and companies can rely on for predictability.<sup>[22]</sup> Over time, this soft precedent hardens as arbitrators cite prior awards, patterns crystallise, and a Zone-specific corpus of corporate dispute resolution emerges. This is the mechanism by which a single body resolves disputes faster and more predictably than 27 national courts applying 27 interpretive traditions.

The second, longer-term model is a dedicated **EU Corporate Court** modelled on the Delaware Court of Chancery, which would require either an intergovernmental treaty or Article 257 TFEU. This court would produce formal, binding precedent — public judgments that constitute case law in the full legal sense. The transition from arbitration to court mirrors DIFC's own trajectory: the DIFC Courts, staffed by internationally recruited common-law judges issuing public judgments, are what built the jurisdiction's credibility — not its arbitration centre. The Zone's arbitration centre bridges the gap, building a body of accessible reasoning while the institutional conditions for a formal court are assembled.

To make this system credible, published awards alone are not enough. Four institutional safeguards would ensure that transparency produces genuine coherence rather than merely visible fragmentation:

*First*, a standing appellate arbitral panel for internal consistency — not a court, but a review body that can reconcile divergent awards and issue short harmonisation opinions. *Second*, publication of not only full awards but also headnotes, doctrinal summaries, and issue classifications, ensuring transparency produces usability. *Third*, a rule that materially novel departures from prior awards must be expressly

reasoned — giving soft precedent structural discipline. *Fourth*, an annual Zone jurisprudence report prepared by an independent rapporteur or academic board, turning individual decisions into doctrine. Together, these create a governed system of jurisprudential development, not merely a collection of published outcomes.

To be explicit about the architecture: **arbitration is not the Zone's permanent judicial design. It is the institutional bridge.** The long-term objective is a specialised court established under Article 257 TFEU — which explicitly provides for courts attached to the General Court in specific areas. Such a court would refer questions of EU law to the CJEU through the preliminary reference procedure, preserving the Union's interpretive hierarchy while providing the specialised first-instance expertise that 27 generalist national courts cannot. The CJEU remains the ultimate interpreter. The Zone does not attempt to engineer around that — it provides a single, expert forum below the CJEU, instead of 27 generalist forums producing 27 divergent interpretations. The Unified Patent Court operates on exactly this logic.

#### 5.4 Insolvency

The Zone would operate a dedicated insolvency framework for Zone-domiciled companies, addressing creditor priority, director liability in the zone of insolvency, and cross-border recognition of proceedings. Under the Recast Insolvency Regulation (2015/848), jurisdiction is determined by the debtor's centre of main interests (COMI).<sup>[21]</sup> If the Zone is the COMI, the Zone's own insolvency rules apply — a significant advantage over the EU Inc., where the regulation's simplified insolvency provisions are interpreted and administered by the national courts of whichever Member State the company is registered in. Draghi explicitly included insolvency as one of his four target domains. The Zone can complement the regulation by providing the institutional continuity that a single-jurisdiction framework makes possible.

COMI is a real practical vulnerability for digital-first companies, and the Zone must address it proactively. The Zone's company statute should establish a **COMI protocol** for Zone-registered companies: (1) *default presumption* — a company registered in the Zone is presumed to have its COMI in the Zone unless the contrary is proven, mirroring Article 3(1) of the Recast Insolvency Regulation; (2) *evidence hierarchy* — the Zone registry maintains records of board meetings, administrative decisions, and principal management activity that serve as evidence of COMI location; (3) *principal-management indicators* — where Zone companies operate a distributed team, COMI is determined by where strategic decisions are taken and where the company's affairs are administered, not by where individual employees work; (4) *creditor-notice standards* — all Zone-registered companies publish their COMI status on the Zone registry, giving creditors clear notice; (5) *anti-abuse rules* — COMI

migration to the Zone within 12 months of insolvency is rebuttably presumed abusive, preventing forum-shopping. This protocol does not eliminate COMI contestation entirely, but it creates a defensible framework that courts and creditors can rely on.

### *5.5 Labour Law*

This is the domain where the Zone has the least structural advantage, and intellectual honesty requires acknowledging its limits. The Rome I Regulation (Article 8) provides that an employment contract is governed by the law of the place where the employee habitually works. A software engineer working remotely from Paris is subject to French labour law regardless of where the employer is domiciled. No Zone design can override this.

Because labour is the most politically explosive area, the design is deliberately modular — each module delivers value independently, and no later module is required for earlier ones to function:

**Module A: Compliance products (no legislative change required).** Standardised employment contracts, payroll integration guidance, worker-information templates, and cross-border hiring toolkits designed to pre-comply with the minimum requirements of all 27 Member States and the EU social acquis (Working Time Directive, Transparent and Predictable Working Conditions Directive). This is not new law — it is a compliance infrastructure that dramatically reduces the cost and complexity of cross-border hiring. Module A can be delivered from day one.

**Module B: Host-state Zone employment framework.** For employees physically based in the Zone's location, the host jurisdiction enacts a dedicated employment framework — as the DIFC has done with its own Employment Law (DIFC Law No. 2 of 2019), which operates independently of UAE federal labour law. Module B requires only the host state's consent and covers Zone-based staff directly.

**Module C: Designated premises in participating states.** A network of **EU Inc. Zone offices** in key startup hubs — Paris, Berlin, Amsterdam, Lisbon, Warsaw. Under Rome I Article 8, the applicable law is determined by where the employee habitually works. If those premises are jurisdictionally designated as part of the Zone (via bilateral agreement or enhanced cooperation regulation), employees working in them fall under the Zone's employment framework. This is exactly how the DIFC operates: employees in Gate Village are under DIFC Law, not UAE federal labour law, even though Gate Village is physically in Dubai. An important caveat: unlike the DIFC, the EU model requires each participating state to voluntarily agree to exempt specific premises from its own labour law — a significant political step. Module C requires bilateral or enhanced-cooperation consent and scales with demand.

**Module D: Harmonised labour track (optional, long-term).** If unanimity is achievable on labour (which becomes more plausible if it is also achieved on tax), an opt-in labour framework could be created under Article 153 TFEU for Zone-registered companies, covering areas where EU competence exists — working conditions, information and consultation of workers, equality — while respecting the hard exclusions of Article 153(5) on pay, association, and strike rights. Enhanced cooperation provides a fallback.

This modular architecture matters because it shows that the Zone can deliver meaningful value on labour even if full unification never arrives. Module A alone — standardised contracts and compliance tools — would substantially reduce the cross-border hiring friction that founders cite as one of Europe's most persistent operational barriers.

### *5.6 Commercial Relations*

When a Zone company contracts with a supplier or customer outside the Zone, the question of applicable law is resolved by standard private international law. Under Rome I Regulation Article 3, parties to a commercial contract have full autonomy to choose the governing law and dispute resolution forum. A Zone company can specify Zone law and the Zone arbitration body in its contracts, just as a Delaware company specifies Delaware law today. The only constraints apply to consumer contracts and employment contracts, which carry mandatory protections. For B2B commercial relationships — the overwhelming majority of Zone company interactions — this is standard contractual practice, not a structural problem.

### *5.7 Administration and Registry*

The EU Inc. relies on the Business Registers Interconnection System (BRIS) — a technical interface that links 27 separate national company registers, allowing cross-border searches and document exchange. BRIS is an interoperability layer, not a unified system: each Member State continues to operate its own register, with its own filing requirements, its own data formats, its own administrative procedures, and its own response times. The Commission's 'EU central interface' collects company data and forwards it to national business registers without permanently storing it at EU level — a pass-through portal, not a centralised database.<sup>[\*]</sup> The founder's experience of incorporating and maintaining an EU Inc. will depend entirely on which national register they use. The Zone replaces this with one registry: one process, one interface, one set of requirements, one administrative culture — regardless of the founder's nationality.

### *5.8 Specialised Legal Ecosystem*

The Zone would develop an EU-accredited bar of corporate lawyers and agents authorised to practise within it, creating a concentrated pool of expertise analogous to the Delaware corporate bar. Delaware's Court of Chancery works not just because of institutional design but because it is surrounded by a dense ecosystem of specialist lawyers, corporate agents, and service providers who collectively produce a self-reinforcing body of expertise. The Zone can replicate this effect by accrediting practitioners, publishing case digests and arbitral precedents, and establishing continuing education requirements specific to Zone law. Over time, this ecosystem becomes the Zone's most durable competitive advantage — harder to replicate than any single rule or institution.

## 6. Comparative Analysis

### IN BRIEF

The DIFC, ADGM, and AIFC demonstrate that purpose-built jurisdictions attract capital and build trust through institutional quality. Complementary infrastructure could be operational within 18–24 months of authorisation; building trust-effective jurisprudence takes longer — approximately five years.

### 6.1 International Precedents: DIFC, ADGM, AIFC

The EU Inc. Zone model is not theoretical. The Dubai International Financial Centre (DIFC), established by UAE Federal Law No. 8 of 2004, operates as a common-law jurisdiction within a civil-law country.<sup>[23]</sup> It has its own court system (the DIFC Courts, staffed by internationally recruited judges), its own company law, its own regulatory authority, and its own arbitration centre. As of 2024, it hosts nearly 7,000 active registered companies.<sup>[24]</sup> The ADGM and AIFC follow the same model. None required the host country to modify its national tax regime. Their competitive advantage is procedural certainty and judicial quality, not fiscal arbitrage.

### 6.2 Implementation Speed: Two Timelines

Any jurisdiction must be measured on two timelines, not one. The first is **creation**: how long from political agreement to the first company registration. The second is **trust-effective operativity**: how long until the jurisdiction has built enough predictable case law, institutional reputation, and practitioner expertise that founders and investors choose it with confidence — the way they choose Delaware today. Creation is necessary; trust is what makes a jurisdiction real.

*Timeline 1: Creation.* The DIFC went from founding law to operational jurisdiction in approximately two years (2002–2004). The ADGM took roughly two and a half (2013–2015). The AIFC was operational within two and a half years of its constitutional statute (2015–2018). All three included physical infrastructure, court buildings, and full regulatory authorities. An EU Inc. Zone built on arbitration and a digital-first registry — no courthouses, no physical gate villages — could realistically accept its first company registration within **18 to 24 months** of political agreement. The legal framework must be drafted, arbitration rules codified, arbitrators recruited, and the registry software

built. None of this requires an intergovernmental treaty, Opinion 1/09 analysis, or decade-long ratification process.

By contrast, the EU Inc. regulation — proposed in March 2026 — must pass through Council negotiation, European Parliament amendment, triologue, formal adoption, an implementation period of 12–24 months, and national setup by each Member State. The first EU Inc. company is unlikely before **2029–2030**. The Unified Patent Court — the EU's most comparable institutional achievement — took a decade from treaty signing to operation (2013–2023), with most delays caused by national ratification challenges rather than institutional design. Spain and Poland never signed.

*Timeline 2: Trust-effective operativity.* This is the timeline that matters more — and where the Zone's structural advantage is most decisive. Delaware is not Delaware because it has a company statute. It is Delaware because the Court of Chancery has built, over decades, a coherent body of corporate case law that lawyers and investors anywhere in the world can rely on. The question is: how fast can a new jurisdiction reach that level of predictability?

For the EU Inc., the answer is: very slowly. Twenty-seven national courts will develop 27 independent bodies of case law, with no binding horizontal precedent between them. When interpretations diverge — as they inevitably will — the only harmonising mechanism is the CJEU's preliminary reference procedure, which takes an average of 16.8 months per question. Each divergence must first be identified, then referred, then decided, then absorbed into national practice. A coherent, trustworthy body of EU Inc. case law will take **a decade or more** to emerge — and even then, it will remain fragmented across jurisdictions. In the meantime, founders and investors will have no reliable basis for predicting how a dispute will be resolved. Forum shopping between Member States will further erode consistency.

The Zone inverts this dynamic. **One arbitration body, operating under mandatory transparency rules, produces one body of publicly accessible jurisprudence from Day 1.** Every anonymised award adds to the same corpus. Practitioners study them; submissions improve; arbitrators cite prior reasoning; the next generation of awards is more refined. This is a feedback loop that compounds: the more disputes the Zone resolves, the more predictable it becomes, the more companies choose it, the more disputes arise, and the cycle accelerates. Standard commercial arbitration cannot achieve this because confidentiality prevents the accumulation of public reasoning. The Zone's mandatory publication rule is what makes arbitration function as a precedent-building mechanism — a deliberate design choice, not a feature inherent to arbitration itself.

The DIFC illustrates this trajectory. It achieved jurisdictional credibility within approximately five years — but this was driven by its *Courts* (staffed by internationally recruited common-law judges

issuing public judgments), not by its arbitration centre. The Zone's two-track design reflects this lesson: mandatory-transparency arbitration builds soft precedent immediately, while institutional conditions for a formal court are assembled in parallel.

The concentrated legal ecosystem reinforces this further. A specialist bar of Zone-accredited practitioners, trained in one body of law and one set of arbitral precedents, builds collective expertise at a pace that 27 fragmented national bars cannot match. This is precisely what happened in Delaware: a small, specialist corporate bar, a single court, and a self-reinforcing cycle of expertise that turned a small state into the world's dominant corporate jurisdiction. The Zone can replicate this effect in years, not decades — because it starts with the structural conditions that took Delaware a century to develop organically.

### 6.3 *EU Inc. vs. EU Inc. Zone*

The core difference is structural. The regulation harmonises the rules. The Zone concentrates the institutions that apply them. Tax and labour remain national in both cases — neither instrument can change that. The comparison below reflects honest assessments of where the Zone adds value and where it does not.

Dimension	EU Inc. (COM(2026) 321)	EU Inc. Zone (complement)	
<b>Registry</b>	Digital registration via EU interface, but 27 national registers interconnected by BRIS	One unified registry, one process, one interface	●
<b>Corporate law</b>	Harmonised statute — a genuine advance over the SE. But Article 4 defers residual matters to national law, creating 27 potential interpretive variants	Self-contained statute within the Zone — aims to eliminate the gap-filling that produces divergence. How far this can go depends on the legal basis chosen	●
<b>Dispute resolution</b>	27 national courts interpreting one regulation, with proposed specialised chambers. CJEU preliminary reference available (avg. 16.8 months)	One arbitration body building one coherent body of case law. Dedicated court as longer-term objective. Starts from zero — but one institution builds precedent faster than 27	●

<b>Insolvency</b>	Simplified liquidation procedures, interpreted by 27 different national courts	One dedicated framework, one set of proceedings. COMI questions exist for digital-only companies, but the structural advantage of unified interpretation is clear	●
<b>Iterability</b>	A regulation, once adopted, is effectively frozen for years. Amendment requires a new legislative cycle	A zone can update its procedures, expand its scope, and respond to market feedback continuously. For a tech audience accustomed to continuous deployment, this distinction is existential	●
<b>Trust</b>	Builds on existing national judicial reputations — but 27 courts will develop 27 divergent interpretive traditions	One specialised body builds coherent case law faster than 27 courts diverging. Starts from zero — this is a long-term bet on institutional quality	●
<b>Tax</b>	National tax regimes apply; harmonisation excluded by Article 114(2) TFEU	National tax still applies — unanimity for a Zone tax regime is politically unlikely. Neither instrument can change this without Treaty-level action	◐
<b>Labour</b>	National employment law applies — 27 different regimes	National labour law applies in both cases. Standardised contracts can reduce friction, but the Zone cannot unify 27 employment regimes	◐

● = clear structural advantage ◐ = same in both — honest about limitations

## 7. Implementation Pathway

### IN BRIEF

The Zone is designed as complementary anti-fragmentation infrastructure — sequenced in three phases so that each stage depends on legal validation and demonstrated operational need. The pathway runs through the legislative process already underway: COM(2026) 321 provides the natural vehicle for authorising Phase 1 through the amendments proposed in Section 8.

The EU Inc. Zone could be established with a *mandatory review at fifteen years*, with independent evaluation at ten, reducing political risk and providing an evidence base for permanent legislation. The Zone would continue unless affirmatively terminated by legislative act — ensuring that companies registered in the Zone face no existential uncertainty about their legal framework. This is not a permanent carve-out from EU law but a structured complement: if the Zone's institutional innovations prove effective, they provide a tested template for a future unanimity-based regulation that extends those solutions EU-wide. If they do not, the review provides the evidence base for an orderly wind-down with transition provisions for registered companies. Either way, the EU gains empirical evidence rather than legislating from theory.

### 7.1 The legislative opportunity

COM(2026) 321 is currently before the European Parliament's JURI Committee. This is the natural legislative vehicle for introducing complementary safeguards against fragmented implementation. Rather than proposing a separate instrument — which would require its own legislative cycle — the amendments proposed in Section 8 can be incorporated into the regulation as it passes through ordinary legislative procedure. The approach is deliberately incremental: a feasibility study first, strengthened dispute resolution immediately, a fragmentation review at five years, and an enhanced cooperation trigger if needed.

### 7.2 Legal basis

The legal basis question is not a footnote. It is central to whether this proposal can be realised within the EU's constitutional framework, and it deserves serious engagement rather than reassuring language.

Article 114 TFEU has been the basis for the EU Inc. regulation itself — though that choice is not uncontested. The CJEU held in the *European Cooperative Society* case (C-436/03) that Article 114 cannot be used to create new EU-wide corporate forms that exist alongside national regimes, because such measures do not constitute 'approximation' of Member State laws. The *Societas Europaea* was based on Article 352 TFEU, not Article 114. Multiple academic commentators have argued the Commission's choice of Article 114 for EU Inc. is legally questionable. Using Article 114 as the basis for a complementary Zone — which would go further than the regulation in concentrating institutional functions — would face the same constitutional challenge, likely in stronger form.

The Meroni doctrine (Cases 9/56 and 10/56) restricts delegation of broad discretionary powers to EU bodies. The CJEU relaxed this in the *ESMA Short Selling* case (C-270/12), permitting delegation of limited powers that are 'precisely delineated' and subject to judicial review. But the Zone's proposed functions — dispute resolution, registry administration, insolvency management — are not limited technical powers. They are the core functions of a legal system. A Zone authority exercising these functions would need to be carefully designed to avoid the Meroni constraint entirely — which is precisely why the arbitration-first model matters. Arbitration operates under party autonomy and the New York Convention. It does not delegate EU sovereign powers to a new body; it allows private parties to choose a forum. No EU body exercises discretionary authority in this phase. The Meroni problem does not arise.

The longer-term judicial architecture — a dedicated Zone court — has a clear Treaty pathway that has been used before. Article 257 TFEU explicitly provides for the creation of specialised courts attached to the General Court. The EU Civil Service Tribunal (2004–2016) was established under this provision. Such a court would refer questions of EU law to the CJEU through the preliminary reference procedure, preserving the Union's interpretive hierarchy. This is not constitutionally novel — it is a Treaty-provided mechanism. The political difficulty is real; the constitutional difficulty is overstated.

Alternative legal bases include Article 352 TFEU (the flexibility clause, requiring unanimity — politically demanding but constitutionally cleaner) or enhanced cooperation under Articles 326–334 TFEU.<sup>[27]</sup> Enhanced cooperation has been used to create the European Public Prosecutor's Office (EPPO) and the Unitary Patent system. It is not a shortcut around hard political questions — it is itself procedurally constrained and requires Council authorisation — but it is a tested mechanism for willing states to advance within the institutional framework. The Zone's phased approach — arbitration first, enhanced cooperation second, specialised court third — is designed to match constitutional ambition to political readiness at each stage rather than requiring all constitutional questions to be resolved before anything begins.

This paper does not claim the legal basis question is settled. It claims it is solvable — through institutional design that respects the EU's constitutional constraints while working within the Treaty-provided mechanisms that already exist. The time-bound element is a political design choice, not a constitutional argument. The legal basis must stand on its own merits regardless of duration.

### *7.3 Sequencing: a constitutionalised build path*

The proposal is expressly sequenced so that each stage depends on legal validation and demonstrated operational need. Nothing in the initial phase presupposes acceptance of a fully autonomous jurisdictional claim.

**Phase 1: Voluntary framework (no autonomous jurisdictional claim).** A voluntary corporate law supplement applied to Zone-registered companies, plus an arbitration centre operating under party autonomy and the New York Convention, plus a central registry prototype. Phase 1 covers formation, governance, cap table mechanics, internal corporate procedure, dispute clauses, and registry administration. It does not claim full autonomy over every residual issue. Residual questions are resolved by a tightly drafted conflict rule until a stronger legal basis exists. This phase requires no new EU body exercising sovereign powers, no Treaty change, and no intergovernmental agreement. It can be authorised through the amendments proposed in [Section 8](#).

**Phase 2: Enhanced cooperation (after feasibility study and fragmentation review).** Only after the 12-month feasibility study and five-year fragmentation assessment have generated evidence, willing Member States pursue enhanced cooperation under Articles 326–334 TFEU. This formalises the Zone's institutional framework, extends the corporate law supplement, and establishes the Zone authority with participating-state representation. Phase 2 requires Council authorisation and remains open to all Member States at any time under Article 328 TFEU.

**Phase 3: Specialised court (after demonstrated demand and jurisprudential maturity).** Only after the arbitration body has generated a sufficient body of published reasoning and demonstrated operational demand, an Article 257 TFEU specialised court or treaty-based judicial step is pursued. This court inherits the arbitral body of knowledge, produces formal binding precedent, and refers questions of EU law to the CJEU through the preliminary reference procedure.

This sequencing is strategically important: it tells institutional sceptics that the proposal does not ask anyone to swallow the full constitutional problem at once. Each phase earns the next through evidence, not assumption. The amendments in Section 8 authorise only Phase 1 — the feasibility study, strengthened dispute resolution, and review mechanism. Phases 2 and 3 require separate political decisions informed by real-world data.

The Bruegel think-tank's 'Regime 0' proposal has already laid analytical groundwork for a more ambitious EU-level corporate regime.<sup>[25]</sup> The Jacques Delors Centre has similarly argued for a paradigm shift from harmonisation to unified corporate governance.<sup>[26]</sup> The EU Inc. Zone translates these academic insights into an institutionally feasible design — and the amendments that follow provide the legislative mechanism to begin.

## 8. Proposed Amendments

### IN BRIEF

Four concrete amendments to COM(2026) 321 that would authorise parallel work on a complementary Zone architecture — without altering the regulation's core provisions.

The Zone described in this paper is an architectural concept — a direction of travel that requires significant additional design work. The four amendments below are the concrete legislative ask. They do not require the Zone to be built. They do not alter the regulation's core provisions on company formation, governance, or employee stock options. They require the EU to take the fragmentation risk seriously and to build institutional safeguards — starting with a feasibility study, strengthened dispute resolution, and a review mechanism that generates evidence rather than assumptions.

### *Amendment 1: Feasibility Study*

*Insert new Article [X] — Complementary Institutional Architecture.*

'Within 12 months of the entry into force of this Regulation, the Commission shall publish a feasibility study on the establishment of complementary institutional infrastructure for companies incorporated under this Regulation. The study shall assess: (a) the potential for unified dispute resolution through a specialised arbitration body or court; (b) a dedicated insolvency framework; (c) a centralised company registry; (d) the legal basis for establishing such infrastructure, including through enhanced cooperation; and (e) the institutional design required to enable continuous procedural adaptation in response to market needs. The study shall draw on the experience of existing Special Economic Zones within and outside the European Union, on the implementation experience of the Societas Europaea, and shall include a structured consultation with founders, investors, and legal practitioners operating across Member States.'

### *Amendment 2: Strengthened Dispute Resolution*

*Replace the current non-binding language on dispute resolution with:*

'Member States shall designate or establish specialised judicial chambers for disputes arising under this Regulation, with judges experienced in corporate and commercial law. Where both parties so request,

proceedings may be conducted in English. The Commission shall publish annual guidelines for convergent interpretation and facilitate regular coordination among designated chambers, including through joint training programmes and a shared case-law database.'

### *Amendment 3: Review Clause with Fragmentation Assessment*

*Insert new Article [Y] — Review and Assessment.*

'Within five years of entry into force, the Commission shall publish a comprehensive assessment of the Regulation's implementation, with particular attention to: (a) the degree of divergence in judicial interpretation across Member States; (b) the number of EU Inc. registrations relative to national company formations; (c) the administrative experience of founders operating across multiple Member States. Where the assessment identifies significant fragmentation analogous to the experience of the *Societas Europaea* (Council Regulation (EC) No 2157/2001), the Commission shall propose a complementary instrument, which may include the establishment of an EU Inc. Zone under enhanced cooperation.'

### *Amendment 4: Enhanced Cooperation Trigger*

*Insert new Article [Z] — Enhanced Cooperation.*

'Where nine or more Member States submit a request to the Commission under Article 329(1) TFEU to establish a complementary EU Inc. Zone within the framework of enhanced cooperation (Article 20 TEU), the Commission shall submit a proposal to the Council within twelve months. Authorisation to proceed shall be granted by the Council in accordance with Article 329(1) TFEU. Such enhanced cooperation shall be without prejudice to the continued operation of this Regulation in all Member States and shall remain open to all Member States at any time in accordance with Article 328 TFEU.'

These amendments do not require the EU Inc. regulation to fail before the Zone is considered. They authorise *parallel work* — beginning the institutional design now so that, if the fragmentation risk materialises, a tested complementary architecture is ready. If the regulation succeeds on its own terms, the Zone becomes unnecessary. Either way, the EU gains evidence rather than legislating from theory.

### *Pre-committed evaluation metrics*

To make the five-year fragmentation review credible, success and failure should be defined in advance — not retrospectively. The following indicators are proposed for the review under Amendment 3:

**Success indicators:** average incorporation time under 48 hours across all Member States; average cost per filing within 20% of the regulation's cap; dispute resolution time in specialised chambers under 12 months; consistency of judicial outcomes across Member States (measured by divergence in interpretation of key provisions); founder satisfaction above 70% in structured surveys; venture capital adoption rate (share of new VC-backed companies choosing EU Inc. over national forms); cross-border hiring friction measurably reduced; litigation forum predictable at formation.

**Failure indicators:** fewer than 5,000 registrations in five years (adjusting for the SE baseline); no measurable speed advantage over national incorporation; persistent legal uncertainty on key provisions (evidenced by divergent national court rulings); unsuccessful cross-border recognition of insolvency proceedings; labour compliance complexity unchanged from pre-regulation baseline; tax treatment uncertainty deterring adoption.

This is not asking for faith. It is asking for an experiment with pre-committed evaluation criteria. If the regulation meets the success indicators, the Zone becomes unnecessary — and this paper's purpose will have been served by strengthening the implementation safeguards that made success possible.

## 9. Frequently Asked Questions

### IN BRIEF

This paper proposes a feasibility study on complementary anti-fragmentation infrastructure, not an operational plan. The questions below address the most common political, legal, and practical concerns. The consistent theme: each of these issues is, in our view, more readily solved within a single institutional framework than by expecting 27 Member States to coordinate spontaneously.

### *Political and strategic*

#### **1. Doesn't this split the EU Inc. coalition?**

No. The four amendments in Section 8 strengthen the regulation — they don't compete with it. If they lead to better implementation safeguards, this paper's purpose is served whether or not a Zone is ever established.

#### **2. Is this a startup-law enclave for well-advised founders?**

The Zone is open to any company incorporated under the regulation, regardless of size, sector, or funding stage. Its institutional advantages — predictable dispute resolution, streamlined administration — are as relevant to a family-owned manufacturer trading across borders as to a venture-backed startup. The EU Inc. regulation itself targets the same constituency; the Zone simply provides better implementation infrastructure for it.

#### **3. Why not just fix the regulation instead?**

That is exactly what the amendments do. But some fragmentation is structural — it comes from 27 courts interpreting one text, not from drafting failures. You cannot fix that by improving the text. You fix it by providing unified institutions.

#### **4. If this is really just an insurance policy, why build it now?**

Because building institutional infrastructure after fragmentation materialises means starting from zero when the damage is already done. Insurance is bought before the event, not after.

#### **5. Isn't the real answer a federal Europe?**

Perhaps. But that requires Treaty change, which requires unanimity, which is not on the table. The

Zone works within existing Treaty mechanisms. It is the most ambitious reform available without Treaty revision.

## **6. Which Member States would likely participate?**

States already competing for startup ecosystems: Ireland, the Netherlands, Estonia, Luxembourg, Lithuania, Portugal. States with existing Special Economic Zone experience. The minimum threshold is nine under Article 20 TEU. Enhanced cooperation remains open to all Member States at any time under Article 328 TFEU.

## **7. Could this be used to undermine worker protections?**

No. The Zone is bound by the EU social acquis. Module A compliance tools are designed to pre-comply with all 27 Member States' minimum requirements. Module B (host-state Zone employment framework) can only be adopted by a state that affirmatively chooses to create it. Nothing overrides existing protections without explicit consent.

### *Legal and constitutional*

## **8. What is the legal basis?**

Phased. Phase 1 requires no new EU body exercising sovereign powers — arbitration operates under party autonomy and the New York Convention. Phase 2 uses enhanced cooperation (EPPO, Unitary Patent precedent). Phase 3 uses Article 257 TFEU for a specialised court (Civil Service Tribunal precedent). Nothing in Phase 1 presupposes acceptance of a fully autonomous jurisdictional claim.

## **9. Does this require a new regulation?**

Phase 1 does not. The four amendments in Section 8 can be incorporated into COM(2026) 321 as it passes through ordinary legislative procedure. Phase 2 requires a separate enhanced cooperation decision by the Council.

## **10. What happens if only 8 states want to join?**

Enhanced cooperation requires 9. Below that threshold, the Zone could still operate as a voluntary framework under Phase 1 — arbitration centre, registry prototype, compliance tools — without formal enhanced cooperation status. The institutional value exists regardless of the legal wrapper.

## **11. How does the Zone court relate to the CJEU?**

Subordinate. A specialised court under Article 257 TFEU refers questions of EU law to the CJEU through the preliminary reference procedure. The CJEU remains the ultimate interpreter. The Zone provides one expert first-instance forum instead of 27 generalist ones.

**12. Is arbitral jurisprudence real precedent?**

Not formally binding. But the Zone's four safeguards — standing appellate panel, published headnotes, departure-reasoning rule, annual jurisprudence report — create a governed system of soft precedent with structural discipline. The dedicated court under Phase 3 produces formal binding case law.

**13. What law applies to matters the Zone supplement doesn't cover?**

A tightly drafted conflict rule pointing to a single designated legal system — the host state's law or a standard reference framework — rather than Article 4's 27-way default. One fallback, not twenty-seven.

**14. How do you prevent regulatory arbitrage or a race to the bottom?**

The EU governance acquis — Shareholder Rights Directive II, Corporate Sustainability Due Diligence Directive, Corporate Sustainability Reporting Directive — provides a mandatory floor. The Zone cannot go below it. It competes on institutional quality, not on lower standards.

*Practical and operational*

*A note on these questions: this paper proposes a feasibility study, not an operational plan. The answers below indicate directions that a feasibility study would develop in detail. In each case, our view is that these issues are more readily solved within a single institutional framework than by expecting 27 Member States to coordinate the same solutions independently.*

**15. Can I convert my existing national company to a Zone company?**

The Zone would need a dedicated conversion procedure, since the Cross-Border Conversions Directive (2019/2121) governs conversions between Member State forms and the Zone is not a Member State. This is a design question for the feasibility study, not a structural obstacle — the mechanism is straightforward to draft within a single institutional framework.

**16. Can I register in the Zone but have my team across Europe?**

Yes. The Zone is your legal home — corporate law, registry, dispute resolution. Your employees remain subject to local employment law wherever they physically work (Rome I, Article 8). Module A compliance tools — standardised contracts, payroll guidance, worker-information templates — reduce the friction. This is no different from incorporating in Delaware and operating in California.

**17. How do I open a bank account for a Zone company?**

Banking integration is a real operational requirement. The Zone would need recognition agreements with commercial banks and potentially a partnered banking framework — similar to what the DIFC

and ADGM have established. Solving this within one institutional framework is substantially simpler than expecting 27 national banking ecosystems to independently recognise a new EU company form with consistent KYC treatment.

### **18. What if my co-founder is in France and I'm in Germany — whose tax rules apply?**

Both. Under the CFC path, each founder's home state taxes their share based on equity ownership. Existing double taxation agreements apply. No fiscal advantage, no arbitrage — but also no new complexity beyond what already exists for any cross-border company structure.

### **19. How does the Zone interact with the EU Inc. regulation?**

You incorporate under the EU Inc. regulation. The Zone provides the institutional environment — the court, the registry, the administration. It is not a different company form; it is a different implementation infrastructure for the same form. Same regulation, different gap-filler.

### **20. What about VAT?**

Zone entities trading across Member States remain subject to the EU VAT system, including the One Stop Shop (OSS) mechanism. The Zone's digital-first registry could integrate VAT reporting, reducing friction without requiring a separate fiscal regime. Again — one institutional framework coordinating this is simpler than 27.

### **21. What about insolvency and COMI?**

The Zone establishes a COMI protocol: default presumption that Zone-registered companies have their COMI in the Zone, evidence hierarchy based on registry records, creditor-notice standards, and anti-abuse rules preventing last-minute COMI migration. Designing this once, within one framework, is more coherent than leaving it to 27 national courts applying 27 different evidentiary standards.

## *Governance and accountability*

### **22. Who governs the Zone?**

An independent governing board with participating-state representation, a founder/investor advisory panel, transparent appointment criteria, judicial independence safeguards, conflict-of-interest rules, and annual public reporting. The more the Zone centralises, the more important accountability becomes — and the governance design reflects that.

### **23. What does this cost?**

The Zone's operating costs would be funded by registration fees and annual filing fees — the DIFC model is self-financing. No Member State budget contribution would be required. The feasibility study proposed in Amendment 1 would develop detailed cost projections.

#### **24. What happens to Zone companies if the Zone ends?**

The Zone continues unless affirmatively terminated by legislative act. Mandatory review at fifteen years, independent evaluation at ten. If termination occurs, registered companies would receive transition provisions for re-domiciliation. No sunset cliff.

#### *Measurement and evaluation*

#### **25. How do you measure success?**

Pre-committed metrics proposed for the five-year review: incorporation time, cost per filing, dispute resolution speed, consistency of judicial outcomes across Member States, founder satisfaction, venture adoption rate, cross-border hiring friction. Failure criteria are also defined in advance. This is not asking for faith — it is asking for an experiment with pre-committed evaluation.

#### **26. What does the Zone NOT do?**

It does not harmonise tax systems. It does not override local employment law for remote workers. It does not replace all national administrations. It does not create a sovereign enclave. It does not bypass the CJEU. It does not eliminate every source of cross-border friction. It provides unified corporate law administration — one court, one registry, one set of procedures — within a bounded institutional space.

#### **27. What if the regulation works fine on its own?**

Then the Zone becomes unnecessary, and this paper's purpose will have been served by strengthening the implementation safeguards that helped make success possible. That would be the best outcome.

## 10. Conclusion

### IN BRIEF

The 28th regime is the right idea. This paper proposes complementary institutional infrastructure to ensure it delivers — and four amendments to COM(2026) 321: a feasibility study, strengthened dispute resolution, a fragmentation review, and an enhanced cooperation trigger.

The EU Inc. regulation is the right idea. The amendments proposed above offer a concrete mechanism to safeguard its implementation — authorising parallel institutional design without altering the regulation's core provisions. The underlying question is whether harmonising rules across 27 sovereign states will, by itself, produce a unified experience for founders and investors. The EU's treaty architecture was designed for coordination between sovereign states, not for creating unified jurisdictions. Attempts to achieve uniformity through regulation alone face recurring structural limits — 27 courts, 27 tax authorities, 27 administrative traditions, 27 labour regimes — and the result, as with the *Societas Europaea* before it, is fragmentation in practice despite harmonisation on paper.

The EU Inc. Zone is not an alternative to the 28th regime. It is a complement designed to ensure the 28th regime delivers. The regulation provides the corporate law; the Zone provides the institutional infrastructure. Without complementary infrastructure, the EU Inc. risks being administered by 27 different courts, 27 different registries, 27 different administrative cultures — the same pattern that produced fewer than 4,000 *Societas Europaea* registrations in two decades. With it, the EU Inc. becomes what founders and investors were promised: a single, coherent, predictable legal environment.

This paper has been deliberately honest about what the Zone can and cannot do. It cannot solve labour law across 27 states, though it can reduce friction through standardised contracts and distributed Zone offices. It cannot create a fiscal regime without political agreement, though it can use existing CFC rules to ensure no Member State loses revenue. Its legal basis under EU law requires serious constitutional engagement — and this paper has engaged with it seriously, not dismissively. These constraints define the design space. They do not invalidate the direction.

The Zone does not add a layer of complexity to the European system. It removes twenty-six. A founder who uses the Zone deals with one court, one registry, one set of administrative procedures — instead of navigating 27. The Zone is open to any company incorporated under the regulation, regardless of size,

sector, or funding stage. Its institutional advantages — predictable dispute resolution, streamlined administration — are as relevant to a family-owned manufacturer trading across borders as to a venture-backed startup.

The sovereignty objection — that the Zone carves out a space where national law does not apply — dissolves on inspection. Special Economic Zones already operate across the EU: Shannon, Madeira, the Canary Islands. The Zone, established through enhanced cooperation, would require only willing Member States to participate. More fundamentally, the real sovereignty loss is not a European jurisdiction attracting companies — it is European companies incorporating in Delaware because no European jurisdiction offers comparable certainty. The Zone is designed to strengthen, not diminish, Europe's sovereign capacity to attract and govern high-growth companies.

The DIFC, ADGM, and AIFC have demonstrated that purpose-built jurisdictions work. They attract capital, create jobs, and build legal ecosystems that compete on quality, not on tax. Europe has the regulatory expertise, the legal talent, and the political momentum to build a jurisdiction of comparable quality — adapted to European values and institutional strengths.

This paper proposes four amendments to COM(2026) 321, currently before the JURI Committee: a feasibility study on complementary infrastructure within 12 months, strengthened dispute resolution through mandatory specialised chambers, a five-year fragmentation review with explicit *Societas Europaea* comparator metrics, and an enhanced cooperation trigger enabling nine or more Member States to proceed. These amendments do not alter the regulation's core provisions — they provide an insurance policy against the fragmentation risk this paper identifies. If the regulation delivers a unified experience on its own, the Zone becomes unnecessary. If fragmentation materialises, a tested complement is ready. If these amendments lead to stronger implementation safeguards within the regulation itself, this paper will have achieved its purpose — whether or not a Zone is ever established. **The 28th regime was always the right idea. The question is whether good intentions will be enough, or whether institutional infrastructure is needed to make them real.**

*If you've read this far — share this paper. Every voice matters.*

# Notes

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- [1] Draghi, M., 'The future of European competitiveness', September 2024, Part B, Chapter 5, Section 2.3, p. 23. Available at: [https://commission.europa.eu/topics/competitiveness/draghi-report\\_en](https://commission.europa.eu/topics/competitiveness/draghi-report_en)
- [2] Letta, E., 'Much more than a market: Speed, Security, Solidarity', Report on the future of the Single Market, April 2024, pp. 73-76. Available at: <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>
- [3] The EU Inc. petition gathered over 24,000 signatures from founders, investors, and tech leaders including Patrick Collison (Stripe), Taavet Hinrikus (Wise), Arthur Mensch (Mistral), and Anton Osika (Lovable), supported by over 600 venture capital firms, 9,000 startups, and 20 industry associations. See: <https://www.eu-inc.org/petition>
- [4] European Parliament resolution of 20 January 2026 with recommendations to the Commission on the 28th Regime: a new legal framework for innovative companies. Available at: [https://www.europarl.europa.eu/doceo/document/TA-10-2026-0002\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-10-2026-0002_EN.html)
- [5] European Commission, Proposal for a Regulation of the European Parliament and of the Council on the 28th Regime Corporate Legal Framework — COM(2026) 321. Available at: [Commission document](#)
- [6] COM(2026) 321, Article 4: Defers to the law of the Member State of registration on matters not covered by the regulation.
- [7] Oxford Law Blog, 'Why the 28th Regime Proposal Falls Short of Europe's Challenge', March 2026. Available at: <https://blogs.law.ox.ac.uk/oblb/blog-post/2026/03/why-28th-regime-proposal-falls-short-europes-challenge>
- [8] Commissioner McGrath, press conference of 18 March 2026: 'What we need to avoid is 27 versions of the new 28th regime.'
- [9] Article 114(2) TFEU: "Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons." Available at: [EUR-Lex](#)
- [10] Article 115 TFEU requires unanimity for the approximation of provisions directly affecting the establishment or functioning of the internal market in the fiscal field. Available at: [EUR-Lex](#)
- [11] Article 153(5) TFEU: 'The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.' Available at: [EUR-Lex](#)
- [12] Article 257 TFEU provides for the creation of specialised courts attached to the General Court. The EU Civil Service Tribunal (2004–2016) was the sole precedent. Available at: [EUR-Lex](#)
- [13] Opinion 1/09 of the Court of Justice of the European Union, 8 March 2011, ECLI:EU:C:2011:123. Available at: [CURIA](#)
- [14] Agreement on a Unified Patent Court, OJ C 175, 20.6.2013. Operational from 1 June 2023. Spain and Poland did not sign. Available at: [EUR-Lex](#)
- [15] Regulation (EU) 2017/1001 on the European Union trade mark, Article 123. Available at: [EUR-Lex](#)
- [16] Council Regulation (EC) No 2157/2001 on the Statute for a European company (SE). Available at: [EUR-Lex](#). See also Utrecht Law Review, 'The Societas Europaea: Fact or Fiction?' (2023).
- [17] Garicano, L. and Malmendier, U., op-ed on the EU Inc. proposal, *Frankfurter Allgemeine Zeitung* and *Le Monde*, March 2026.
- [18] Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), ratified by 172 states. Available at: [UNCITRAL](#)
- [19] Shannon Free Zone: established by the Customs-Free Airport Act 1947 (Ireland), operational from 1959. Madeira MIBC: authorised under EU State Aid regime, most recently renewed by Commission Decision SA.21668 (2013). Zona Especial Canaria:

- established by Royal Decree-Law 2/2000 (Spain), approved under EU State Aid rules. See also: UNCTAD, 'World Investment Report 2019: Special Economic Zones', Chapter IV.
- [20] Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices (ATAD). Available at: [EUR-Lex](#)
- [21] Regulation (EU) 2015/848 on insolvency proceedings (recast). Article 3(1) on COMI jurisdiction. Available at: [EUR-Lex](#)
- [\*] The distinction between a centralised registry and an interoperability layer is constitutive, not merely administrative. The Commission has indicated that 'in a second step' it will establish a central EU register, but no timeline or legal text has been provided. The eu-inc.org policy proposal explicitly advocated for a genuinely centralised EU-Registry — 'a fully online, API-first, English-first, digital registry with a designated EU public authority.' The Commission's Phase 1 does not deliver this. As the ECGI has argued, a centralised registry is essential to avoid 'reproducing fragmentation through parallel national implementations.' See: ECGI, 'Toward a Pan-European Corporate Standard', 2026, [ecgi.global](#).
- [22] The soft precedent effect is empirically documented in investment arbitration, where ICSID tribunals routinely cite prior awards despite no formal obligation — creating de facto predictability without de jure stare decisis. See Kaufmann-Kohler, G., 'Arbitral Precedent: Dream, Necessity or Excuse?', *Arbitration International*, Vol. 23(3), 2007, pp. 357–378. A pure arbitration system can function effectively in the Zone's initial phase. Over time, as institutional conditions mature, the system can evolve toward a dedicated court producing formally binding case law — at which point arbitration and court jurisdiction would coexist, with private operators free to choose the forum best suited to their dispute. This dual-track model mirrors the DIFC, where parties choose between the DIFC Courts and the DIFC-LCIA Arbitration Centre.
- [23] UAE Federal Law No. 8 of 2004 concerning Financial Free Zones. The DIFC was established by Dubai Law No. 9 of 2004. See: [DIFC](#)
- [24] DIFC Authority, Annual Report 2024. As of end-2024, the DIFC hosted 6,920 active registered companies. See: [DIFC Annual Reports](#)
- [25] Bruegel Policy Brief, 'Regime 0: Europe-wide incorporation for startups to kickstart innovative growth', December 2025. Available at: <https://www.bruegel.org/policy-brief/regime-0-europe-wide-incorporation-startups-kickstart-innovative-growth>
- [26] Jacques Delors Centre, 'Regime change instead of business as usual: A pan-European corporate law to unlock cross-border growth for EU companies', 2025. Available at: <https://www.delorscentre.eu/en/publications/detail/publication/regime-change-instead-of-business-as-usual>
- [27] Article 20 TEU and Articles 326–334 TFEU on enhanced cooperation, requiring a minimum of nine participating Member States. Available at: [EUR-Lex](#)

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*The 28th regime was always the right idea.  
It simply needs to be built as a real jurisdiction.*

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