

# European Private Company

Legal Costs for Setting-Up a Foreign Subsidiary

Survey for

VDMA and the University of Wuerzburg

## Introduction

The European Commission currently prepares a proposal for a Regulation on the European Private Company (EPC).

The objective of such Regulation is to simplify for European small and medium sized-enterprises (SMEs) the conduct of cross-border business by providing them with European form of organization that is, uniform in each Member State. The possibility to operate in various Member States according to the same corporate rules shall significantly reduce compliance costs and, therefore, enhance the mobility and competitiveness of the European SMEs. The existing statute for a European Stock Corporation (Societas Europaeas) designed for large companies does not seem to provide a viable option for SMEs.

One of the key arguments in favour of the EPC are the possible cost savings of incorporating companies in each of the Member States of the European Union.

As one of the world's leading law firms, we advise national and international companies in all areas of commercial law. We were approached by the German Engineering Association (VDMA) which is actively supporting the idea of an EPC Statute and Prof. Dr. Christoph Teichmann from the University of Wuerzburg (Germany) in order to conduct a survey among our European offices in respect of the costs which are currently incurred by establishing a limited liability company in the respective Member States which shall allow to assess the cost advantage of the EPC Statute.

We have forwarded the following Questionnaire which we have received from Prof. Teichmann, University of Wuerzburg, to our offices in Austria, Belgium, England, France, Hungary, Italy, the Netherlands, Poland, Portugal, Spain and Sweden and have received the following feedback.

## QUESTIONNAIRE

### FACTS

#### I. Alternative 1 (Small Subsidiary)

- Sector: distribution and services
- Employees: 2
- Registered capital: 10,000 € (if minimum capital required by the national law > 10,000 €, replace the registered capital to this value)
- Office rented (no purchase of real estate)
- No need of external financing or production facilities

#### II. Alternative 2 (Medium-Sized Subsidiary)

- Sector: mechanical engineering
- Employees: more than 250
- Registered capital: 200.000 €
- Need of external financing
- Need of production facilities
- Purchase of real estate

<b>I. THE INCORPORATION PROCESS</b>	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1. Lawyer's Fee		
1.1 Company Law		
(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	_____ €	_____ €
	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
(b) Drafting articles of association	_____ €	_____ €
(c) Preparation of votes/resolutions/general assembly	_____ €	_____ €
(d) Research about further required steps during the process	_____ €	_____ €
1.2 Labour Law	_____ €	_____ €
1.3 Tax Law	_____ €	_____ €
1.4 Further Legal Consulting during the process	_____ €	_____ €
2. Registration fee	_____ €	_____ €
3. Notary	_____ €	_____ €
4. Taxes/administrative fees	_____ €	_____ €
5. Public announcement	_____ €	_____ €
<b>6. Further costs (please specify)</b>	_____ €	_____ €
7. Total Cost of Incorporation	_____ €	_____ €
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>		
1. Preparation of regular assemblies	_____ €	_____ €
2. Preparation of Shareholder resolutions	_____ €	_____ €
3. General consulting in specific company law aspects	_____ €	_____ €
4. Total costs (annually)	_____ €	_____ €

**CONTENTS**

<b>1. AUSTRIA</b>	<b>PAGE</b>	<b>4</b>
<b>2. BELGIUM</b>	<b>PAGE</b>	<b>6</b>
<b>3. ENGLAND</b>	<b>PAGE</b>	<b>8</b>
<b>4. FRANCE</b>	<b>PAGE</b>	<b>10</b>
<b>5. HUNGARY</b>	<b>PAGE</b>	<b>12</b>
<b>6. ITALY</b>	<b>PAGE</b>	<b>17</b>
<b>7. NETHERLANDS</b>	<b>PAGE</b>	<b>19</b>
<b>8. POLAND</b>	<b>PAGE</b>	<b>21</b>
<b>9. SPAIN</b>	<b>PAGE</b>	<b>25</b>
<b>10. SWEDEN</b>	<b>PAGE</b>	<b>27</b>

# Austria

<b>I. THE INCORPORATION PROCESS</b>	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1. Lawyer's Fee		
1.1 Company Law		
(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	0-470 €	0-470 €
	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
(b) Drafting articles of association	470 €	470 €
(c) Preparation of votes/resolutions/general assembly	470 €	470 €
(d) Research about further required steps during the process	0 €	0 €
1.2 Labour Law	470 €	2,000 €
1.3 Tax Law	0 €	2,000 €
1.4 Further Legal Consulting during the process	470 €	470 €
2. Registration fee	ca. 320 €	ca. 320 €
3. Notary	1,000 €	1,000 €
4. Taxes/administrative fees	350 €	1% of share capital
5. Public announcement	0 €	0 €
<b>6. Further costs (please specify)</b>	<b>0 €</b>	<b>0 €</b>
7. Total Cost of Incorporation	ca. 4,020 €	ca. 7,200 - 8000€
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>		
1. Preparation of regular assemblies	470 €	470 €
2. Preparation of Shareholder resolutions	470 €	470 €
3. General consulting in specific company law aspects	470 €/h €	470 €/h €
4. Total costs (annually)	€	€

# Belgium



<b>I. THE INCORPORATION PROCESS</b>	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1. Lawyer's Fee		
1.1 Company Law		
(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	2,000 €	2,000 €
	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
(b) Drafting articles of association	1,000 €	1,000 €
(c) Preparation of votes/resolutions/general assembly	1,500 €	1,500 €
(d) Research about further required steps during the process	500 €	2,000 €
1.2 Labour Law	2,000 €	2,000 €
1.3 Tax Law	3,000 €	3,000 €
1.4 Further Legal Consulting during the process	2,500 €	2,500 €
2. Registration fee	500 €	500 €
3. Notary	2,000 €	2,000 €
4. Taxes/administrative fees	0 €	0 €
5. Public announcement	0 €	0 €
<b>6. Further costs (please specify)</b>	0 €	0 €
7. Total Cost of Incorporation	15,000 €	24,500 €
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>		
1. Preparation of regular assemblies	1,500 €	1,500 €
2. Preparation of Shareholder resolutions	part of 1	part of 1
3. General consulting in specific company law aspects	3,000 €	3,000 €
4. Total costs (annually)	4,500 €	5,500 €

# England

<b>I. THE INCORPORATION PROCESS</b>		<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1.	Lawyer's Fee		
1	Company Law		
	(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	1,000 €	1,000 €
		<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
	(b) Drafting articles of association		
	(c) Preparation of votes/resolutions/general assembly	1,400 €	1,400 €
	(d) Research about further required steps during the process		
1.2	Labour Law	2,000 €	2,000 €
1.3	Tax Law	2,000 €	2,000 €
1.4	Further Legal Consulting during the process	1,000 €	1,000 €
2.	Registration fee	80 €	80 €
3.	Notary	10 €	10 €
4.	Taxes/administrative fees	€	€
5.	Public announcement	€	€
<b>6.</b>	<b>Further costs (please specify)</b>	€	€
7.	Total Cost of Incorporation	7,490 €	7,490 €
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>			
1.	Preparation of regular assemblies		
2.	Preparation of Shareholder resolutions	1,500 €	1,500 €
3.	General consulting in specific company law aspects		
4.	Total costs (annually)	1,500 €	1,500 €

# France

<b>I. THE INCORPORATION PROCESS</b>	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1. Lawyer's Fee		
1.1 Company Law		
(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	2,000-3,000 €	2,000-4,000€
	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
(b) Drafting articles of association		
(c) Preparation of votes/resolutions/general assembly		
(d) Research about further required steps during the process		
1.2 Labour Law		
1.3 Tax Law		
1.4 Further Legal Consulting during the process		
2. Registration fee		
3. Notary		
4. Taxes/administrative fees	300 €	300 €
5. Public announcement	200-300 €	200-300 €
<b>6. Further costs (please specify)</b>	N/A	N/A
7. Total Cost of Incorporation	1,500-2,000€	2,000-8,000 €
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>		
1. Preparation of regular assemblies		
2. Preparation of Shareholder resolutions		
3. General consulting in specific company law aspects		
4. Total costs (annually)		

# Hungary

<b>I. THE INCORPORATION PROCESS</b>		<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1.	Lawyer's Fee		
1.1	Company Law		
	(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	1,000 €	2,000 €
		Likely minimum	Likely minimum
	(b) Drafting articles of association	1,000€	1,500€
	(c) Preparation of votes/resolutions/general assembly	0 €	0 €
		N/A. See note 1.1(c)	N/A. See note 1.1(c)
	(d) Research about further required steps during the process	1,000 €	1,000 €
		Likely minimum	Likely minimum
1.2	Labour Law	€	€
		See note 1.2	See note 1.2
1.3	Tax Law	€	€
		See note 1.2	See note 1.2
1.4	Further Legal Consulting during the process	€	€
		See note 1.2	See note 1.2

2.	Registration fee	P 388.60 E 58.30 € See note 2.1	P 388.60 E 58.30€ See note 2.1
3.	Notary	€ See note 3.1	€ See note 3.1
4.	Taxes/administrative fees	N/A €	N/A €
5.	Public announcement	P 97.12 E 0.00 € See note 2.1	P 97.12 E 0.00 € See note 2.1
6.	<b>Further costs (please specify)</b>	€	€
	<b>official Hungarian translations of corporate documents of the legal person(s) which are establishing the entity</b>	See note 6.1	See note 6.1
7.	Total Cost of Incorporation	2,058.30 €	2,558.30 €
		Anticipatable minimum: : amount of actual fees to be incurred depends on client's particular requirements	Anticipatable minimum: amount of actual fees to be incurred depends on client's particular requirements

## II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)

1.	Preparation of regular assemblies	750 € Likely minimum	1,000€ Likely minimum
2.	Preparation of Shareholder resolutions	€ See note II. 2	€ See note II.2
3.	General consulting in specific company law aspects	€ Variable subject to client's needs	€ Variable subject to client's needs



4.	Total costs (annually) (see note II.4)	750 €	1,000 €
		Anticipatable minimum: amount of actual fees to be incurred depends on client's particular requirements	Anticipatable minimum: amount of actual fees to be incurred depends on client's particular requirements

**Notes:**

**General:** the entity will have the legal form of a Hungarian limited liability company.

**1.1(c)** No such actions are required relative to the establishment of a Hungarian limited liability company.

**1.2** In our experience the amount of fees incurred relative to these processes tends to be client dependent. More sophisticated clients with an established process for forming subsidiaries tend to be able to ask focused questions on these issues, resulting in less total fees incurred, than do clients who are less experienced in establishing subsidiaries, and who generally need more support in identifying the advice they require and processing the advice they've received. That said, the larger the investment project, the more the client is willing to spend in outside counsel fees to assure that they have received the full range of legal advice required to enable them to implement their project efficiently. If the project is driven by trans border tax considerations, the amount of legal fees incurred relative to the trans border tax advising can be significant.

However, because the amount of the legal fees incurred depends on the specific needs of the particular client, it is not possible in the abstract to provide a generally applicable estimate of the fees likely to be incurred.

**2.1** The registration fees are established in Hungarian forint, the exchange rate of which vacillates against that of the Euro daily. The € amounts indicated above are based on the exchange rate of the Hungarian forint to the Euro on 27 February 2008.

"P" indicates the current fee for paper filings, while "E" indicates the current fee for electronic filings, of corporate documents.

Assuming no further interim changes to the relevant legislation, effective 1 July 2008, all corporate documents will be required to be submitted to the trade registry electronically; paper filings will not be permitted. However, it is possible that the filing fees indicated by "E" on the attached will be changed as of 1 July 2008.

**3.1** Notarial fees apply to (i) the signature specimen of a managing director, which is signed in Hungary; and (ii) certain corporate documents which are signed outside of Hungary.

The fees of non-Hungarian notaries vary according to the country in which the relevant document is notarized. Unless Hungary has signed a bilateral treaty on the recognition and enforcement of public documents with the country in which the corporate document is notarized, the notarized documents must have the Apostille attached. The fees for obtaining that Apostille vary depending on the country in which that Apostille is issued. If the country in which the relevant documents are signed is not a signatory to the Hague Apostille convention, certain corporate documents signed abroad must be legalized by the Hungarian embassy or consulate in the country in which the document is signed. The fees for this service also vary.

**6.1** The trade registry extract (or similar document), with Apostille (unless a treaty on the recognition of public documents applies) or legalized (if the issuing country is not a signatory to the Hague Apostille Convention), of the legal person(s) establishing the Hungarian subsidiary must be filed with the Hungarian trade registry as proof of that legal person(s)'s existence and signature authority on its behalf. An official Hungarian translation of that document must be submitted to the Hungarian trade registry. That translation must be prepared in Hungary by a licensed translator. The fees of those translators vary according to the length of the document to be translated and the number of days within which that translation is required to be provided.

**II.2** Assuming that a wholly owned or closely held company has been established, nearly all corporate actions required to be taken may be taken by written resolution. In a multi-quotaholder company, only the annual financials must be approved through resolutions adopted at a meeting.

**II.4.** Statutory registration and/or publication fees will apply (i) to the required filing of annual financial statements with local authorities, and (ii) (beyond those mentioned in (i) of this sentence) to the extent that the resolutions adopted at the annual assembly result in the change of the corporate data of the company, which is registered in the Hungarian trade registry. This are not included in the information presented in item II of this questionnaire.

# Italy

<b>I. THE INCORPORATION PROCESS</b>	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1. Lawyer's Fee		
1.1 Company Law		
(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	500 €	1,000€
	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
(b) Drafting articles of association	500 €	500 €
(c) Preparation of votes/resolutions/general assembly	500 €	500 €
(d) Research about further required steps during the process	500 €	500 €
1.2 Labour Law	0 €	0 €
1.3 Tax Law	300 €	600 €
1.4 Further Legal Consulting during the process	500 €	1,000 €
2. Registration fee	500 €	700 €
3. Notary	3,000 €	5,000 €
4. Taxes/administrative fees	500 €	500 €
5. Public announcement	0 €	0 €
<b>6. Further costs (please specify)</b>	€	€
<b>7. Total Cost of Incorporation</b>	<b>6,800 €</b>	<b>10,300 €</b>
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>		
1. Preparation of regular assemblies	1,000 €	2,000 €
2. Preparation of Shareholder resolutions	1,000 €	2,000 €
3. General consulting in specific company law aspects	1,000 €	2,000 €
4. Total costs (annually)	3,000€	6,000€

# Netherlands

<b>I. THE INCORPORATION PROCESS</b>		<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1.	Lawyer's Fee		
1.1	Company Law		
	(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	500 €	1,500 €
		<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
	(b) Drafting articles of association	750 €	1,000 €
	(c) Preparation of votes/resolutions/general assembly	500 €	500 €
	(d) Research about further required steps during the process	250 €	500 €
1.2	Labour Law	0 €	0 €
1.3	Tax Law	1,000 €	2,000 €
1.4	Further Legal Consulting during the process		
2.	Registration fee	150 €	150 €
3.	Notary	250 €	500 €
4.	Taxes/administrative fees	100 €	100 €
5.	Public announcement	0 €	0 €
<b>6.</b>	<b>Further costs (please specify)</b>		
7.	Total Cost of Incorporation	3,500 €	6,250 €
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>			
1.	Preparation of regular assemblies	500 €	500 €
2.	Preparation of Shareholder resolutions	500 €	500 €
3.	General consulting in specific company law aspects	500 €	750 €
4.	Total costs (annually)	1,500 €	1,750 €

# Poland

<b>I. THE INCORPORATION PROCESS</b>	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1. Lawyer's Fee		
1.1 Company Law		
(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	1,200 €	1,400 €
	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
(b) Drafting articles of association	600 €	800 €
(c) Preparation of votes/resolutions/general assembly	300 €	400 €
(d) Research about further required steps during the process	1,000 €	1,500 €
1.2 Labour Law	900- 2,600 €	5,800 – 6,400 €
1.3 Tax Law	2,000 €	2,000 €
1.4 Further Legal Consulting during the process	2,200 €	2,200 €
	general corporate legal consulting, including tax registration	general corporate legal consulting, including tax registration
		25,000 – 50,000 € -legal consulting during obtaining external financing
		approx. 16,000 € - legal consulting during purchase of real estate, excluding negotiations



2.	Registration fee	Approx. 280 €	Approx. 280 €
3.	Notary	Approx. 340 € - please note that these are notarial fees for executing the articles of association only	Approx. 350 € - please note that these are notarial fees for executing the articles of association only
4.	Taxes/administrative fees	Approx. 70 € - please note that these are taxes for executing the articles of association only	Approx. 1,000 € - please note that these are taxes for executing the articles of association only
5.	Public announcement	Approx. 140 €	Approx. 140 €
6.	<b>Further costs (please specify)</b> <b>tax registration fee</b>	Approx. 50 €	Approx. 50 €
7.	Total Cost of Incorporation	9,080 – 10,780€	56,870 – 82,470€

**II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)**

1.	Preparation of regular assemblies	600 €	800 €
2.	Preparation of Shareholder resolutions	600 €	600 €
3.	General consulting in specific company law aspects	Difficult to quantify since it depends on specific issues/advice	Difficult to quantify since it depends on specific issues/advice€
4.	Total costs (annually)	Approx. 3,000 € - please note that this figure covers legal assistance during approval of annual financial	Approx 3,000 € - please note that this figure covers legal assistance during approval of annual financial

statements  
and one  
change of the  
management  
board per year

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one change of  
the  
management  
board per year

# Spain

<b>I. THE INCORPORATION PROCESS</b>	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1. Lawyer's Fee		
1.1 Company Law		
(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	2,000 €	2,000 €
	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
(b) Drafting articles of association	1,000 €	1,000 €
(c) Preparation of votes/resolutions/general assembly	N/A	N/A
(d) Research about further required steps during the process	1,000 €	1,000 €
1.2 Labour Law	1,500 €	3,000 €
1.3 Tax Law	1,500 €	3,000 €
1.4 Further Legal Consulting during the process	1,500 €	3,000 €
2. Registration fee	N/A	N/A
3. Notary	400 €	800 €
4. Taxes/administrative fees	400 €	800 €
5. Public announcement	N/A	N/A
<b>6. Further costs (please specify)</b>	€	€
7. Total Cost of Incorporation	9,300 €	14,600 €
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>		
1. Preparation of regular assemblies	2,000 €	2,000 €
2. Preparation of Shareholder resolutions	2,000 €	2,000 €
3. General consulting in specific company law aspects	2,000 €	4,000 €
4. Total costs (annually)	6,000 €	8,000 €

# Sweden

<b>I. THE INCORPORATION PROCESS</b>	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
1. Lawyer's Fee		
1.1 Company Law		
(a) Legal advice to client about the local company structures (e.g. choice of the appropriate legal form for a subsidiary)	500 €	1,000 €
	<b><u>Alternative 1:</u></b>	<b><u>Alternative 2:</u></b>
(b) Drafting articles of association	500 €	1,000 €
(c) Preparation of votes/resolutions/general assembly	500 €	500-1800 €
(d) Research about further required steps during the process	€	1,500 €
1.2 Labour Law	1,000 €	5,000 €
1.3 Tax Law	1,000 €	5,000 €
1.4 Further Legal Consulting during the process	€	€
2. Registration fee	200 €	200 €
3. Notary	N/A	N/A
4. Taxes/administrative fees	€	€
5. Public announcement	€	€
6. <b>Further costs (please specify)</b>	€	€
<b>The sample is approx. what may be expected. The cost to acquire a shelf company is 1,200 € for all normal transactions.</b>		
7. Total Cost of Incorporation	3,200 €	14,700 €
<b>II. REGULAR LEGAL CONSULTING (AFTER INCORPORATION)</b>		
1. Preparation of regular assemblies	500 €	500 €
2. Preparation of Shareholder resolutions	500 €	500 €
3. General consulting in specific company law aspects	500 €	500 €
4. Total costs (annually)	1,500 €	1,500 €

## Contact

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