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The Cross-Border Conversion of Companies

ABSTRACT

The cross-border conversion of companies, introduced to Directive 2017/1132 of 14.6.2017 relating to certain aspects of company law by the amendment made through Directive 2019/2121,[1] establishes a harmonized legal framework enabling companies to transfer their registered office to another Member State. This paper aims to analyze the premises of cross-border conversion and the legal effects of said conversion. During the transfer of a registered office, the legal and economic positions of shareholders, employees, and creditors may be affected. The paper provides a comprehensive overview of the protection mechanisms afforded to these groups under European Union law.

Keywords: freedom of establishment, conversion, registered office, employees, creditors, shareholders, protection.

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[1] Directive (EU) 2017/1132 relating to certain aspects of company law, 14 June 2017, OJ 2017.169.46, amended - as regards cross-border conversions, mergers and divisions - by the Directive (EU) 2019/2121, 27 November 2019, OJ 2019.321.1.

I. Introduction

The freedom of establishment for companies, resulting from Article 49 TFEU,[2] encompasses the right of a company formed under the legislation of a Member State to decide on the place of its business activity and the location of its registered office within the European legal and economic territory.[3] Under Art. 49 of the TFEU, in conjunction with Art. 54 of the TFEU, the freedom of establishment grants companies formed in accordance with the law of a Member State and having a registered office, central administration or principal place of business within the European Union, to set up undertakings (primary establishment) as well as agencies, branches and subsidiaries (secondary establishment) under the conditions laid down by the legislation of the destination Member State for its own companies.[4] It thus provides the right of a company established under the law of a Member State to convert itself into a company governed by the law of another Member State (corporate mobility). The cross-border conversion enables the removal of restrictions on the freedom of establishment, particularly in Member States where such an operation was not allowed under national legislation. A notable example is the *Polbud* case in Poland, where the European Court of Justice confirmed that requiring the liquidation of a company prior to its cross-border conversion constitutes a disproportionate restriction on the freedom of establishment under EU law.[5] The Polish legislator implemented the provisions on cross-border conversion into the Polish Commercial Companies Code[6] (Art. 580^{1}-580^{19}), which aligns national law with Directive 2019/2121, and simultaneously abolished the rule that transferring a company's registered office to another Member State necessitates the liquidation of said company.[7]

Under Art. 86b of the Directive 2017/1132, "cross-border conversion" means an operation whereby a company, without being dissolved or going into liquidation, converts the legal form under which it is registered in a departure Member State into the legal form of the destination Member State, as listed in Annex II, and transfers

[2] Treaty on the Functioning of the European Union, 2007/C 306/01, of 13 December 2007, consolidated version, 2008, OJ C115/13.

[3] Oplustil, 2024, 5.

[4] Gerner-Beuerle, 2019, 111.

[5] Polbud-Wykonawstwo sp. z o.o. w likwidacji, [CJEU] C-106/16, 25 October 2017, EU:C:2017:804.

[6] Code of Commercial Companies (and Partnerships), 15 September 2000, JL, 2024.18,96, hereinafter abbreviated as CCC.

[7] Amended Articles 270 p. 2 and 459 p. 3 CCC state that winding up of a company is a consequence of transferring the register office abroad, unless the transfer of the register office is to another Member State or a state that is party to the Agreement on the European Economic Area.

at least its registered office to the destination Member State, while retaining its legal personality. The definition uses crucial terms concerning cross-border conversion: "departure" Member State and "destination" Member State. A departure Member State means a Member State in which a company is registered prior to a cross-border conversion, and the destination Member State means a Member State in which a converted company is registered as a result of a cross-border conversion. The term "converted company" means a company formed in a destination Member State as a result of a cross-border conversion.

The provisions on cross-border conversion provide adequate protection for different groups of interest, particularly shareholders, employees, and creditors. On the other hand, the provisions on conversion impose additional requirements in those Member States where the admissibility of relocating the registered office was accepted before the aforementioned amendment, such as in Italy[8].

II. Premises of Cross-Border Conversion

As stated above, under Art. 86b of the Directive 2017/1132, cross-border conversion means an operation whereby a company, without being dissolved or going into liquidation, converts the legal form under which it is registered in a departure Member State into a legal form of the destination Member State, as listed in Annex II, and transfers at least its registered office to the destination Member State, while retaining its legal personality.

In essence, the term "conversion" means a transfer of the company's registered office into another Member State. A comparable procedure is governed by the provision of Regulation 2157/2001 of 8 October 2001 on the Statute of the European Company.[9] However, unlike the SE, which retains its legal form irrespective of the transfer of its registered office, a company undergoing cross-border conversion may adopt a different legal form in the destination Member State, subject to the applicable national laws.

The definition of cross-border conversion stipulates that a "company" may convert its legal form into another legal form, as listed in Annex II. The wording of this definition imposes the conclusion that a company (without further specification of the type of company) is only eligible to undergo conversion into another legal form

[8] Vale Építési kft, [CJEU] C-378/10, 12 July 2012, EU C:2012:440.

[9] Council Regulation No 2157/2001 on the Statute for a European company (SE), 8 October 2001, OJ EU L.2001.294.1. Under Article 8 para. 1 of the Regulation, the registered office of an SE may be transferred to another Member State. Such a transfer shall not result in the winding up of the SE or in the creation of a new legal person.

(not necessarily a company), provided that the resulting legal form is likewise listed in Annex II.

Annex II predominantly refers to companies.[10] In the Polish context, in contrast, two types of companies, limited liability company (*spółka z ograniczoną odpowiedzialnością*) and *joint-stock company* (*spółka akcyjna*), and even one partnership: limited joint-stock partnership (*spółka komandytowo-akcyjna*), are listed in Annex II. Notably, while the limited joint-stock partnership is classified as a partnership under Polish law, it is treated as a company in other Member States, such as France, Spain, and Germany. This broader classification across jurisdictions justifies its inclusion in Annex II. Unlike the limited joint-stock partnership in Poland, in all other Member States, it is a type of company, which is why this legal form is listed in Annex II. Polish law also recognizes another type of company in Poland (*prosta spółka akcyjna*), which is not listed in Annex II, because it is a new legal form admissible in Poland only since 1 July 2021, and is thus currently excluded from the scope of permissible cross-border conversions under the applicable EU framework.[11]

The prevailing interpretation that only companies of the legal forms listed in Annex II may undergo cross-border conversion is supported by two principal considerations. First, it arises from a comparison with the provisions governing cross-border mergers, which adopt a broader interpretation of the term "company", as reflected in Article 119 of Directive 2017/1132. Second, it is grounded in the explicit wording of Article 86b of the Directive, which defines both "company" and "cross-border conversion" with direct reference to Annex II.

While it could be argued that Annex II merely identifies the permissible legal forms of companies in the destination Member State, it is crucial to observe that Art. 86b of Directive 2017/1132 provides a definition of "company" specifically for the purpose of cross-border conversion, so that "company" indeed means a limited liability company of a type listed in Annex II. In light of the definition of cross-border conversion and the interpretation of the term "company", a conclusion is drawn that only entities whose legal form in the departure Member State is included in Annex II are eligible to convert into a legal form likewise listed in Annex II in the destination Member State.

[10] In France: *société anonyme, société en commandite par actions, société à responsabilité limitée, société par actions simplifiée*; in Spain: *sociedad anónima, sociedad encomanditaria por acciones; soceidad de responsabilidad limitada*; in Germany: *die Aktiengesellschaft, die Kommanditgesellschaft auf Aktien, die Gesellschaft mit beschränkter Haftung*.

[11] Adversely, Oplustil believes that a Polish simple joint-stock company may undergo conversion; however, converting companies from other Member States into a Polish simple joint-stock company shall not be admissible. See: Oplustil, 2024, 51; Similarly: Jara, 2024, Art. 580[1] MN 3.

III. Consequences of Cross-Border Conversion

Pursuant to Art. 86r of Directive 2017/1132, cross-border conversion entails three essential legal consequences. First, all the company's assets and liabilities shall be those of the converted company, including all contracts, credits, rights, and obligations. This principle is commonly referred to in Polish legal doctrine as a "continuity principle".[12] Second, the company's shareholders shall become the shareholders of the converted company, unless they have exercised their right to dispose of their shares as referred to in Article 86i. Third, the rights and obligations of the company arising from contracts of employment, or from employment relationships existing at the date on which the cross-border conversion takes effect, shall be those of the converted company.

With respect to the situation of creditors, the cross-border conversion may result in a change of jurisdiction due to the transfer of the registered office to the destination Member State. The legal frameworks governing creditor protection differ significantly among Member States, which adds significant complexity to the cross-border operation process, and can lead to uncertainty both for the companies involved and for their creditors. As such, creditors should be granted by the Member States the ability to apply for safeguards. When assessing such safeguards, the appropriate authority should take into account whether a creditor's claim against the company or a third party is of at least an equivalent value, and of a commensurate credit quality, as it was before the cross-border operation, and whether the claim may be brought in the same jurisdiction[13].

It should be emphasized that although the assets and liabilities of the company remain those of the converted entity, the operation requires the transfer of at least the registered office to the destination Member State. This means that the conversion does not require relocating the company's principal place of business to that Member State.[14] In other words, a company's registered and operational head offices do not have to coincide.[15] Under ordinary circumstances, the registered office is typically located in a State where the principal place of business is conducted and the central administration, i.e., management board or board of directors, operates.[16] Nevertheless,

[12] Oplustil, 2024, 429; Pinior and Strzępka, 2024, 1329.

[13] Recitals 22-23 of the Preamble to Directive 2019/2121.

[14] Oplustil and Mucha, 2020, 143; Oplustil, 2024, 82.

[15] Gerner-Beuerle and Schillig, 2019, 140.

[16] Under Article 41 of the Polish Civil Code, 23 April 1964, JL 2024.1061, unless statutory law or articles of association do not provide otherwise, a legal person's central office shall be where its managing organ operates.

this principle holds limited practical relevance in contemporary corporate practice. Given the widespread availability of advanced communication technologies, corporate management may be effectively exercised remotely.

In practice, concerns may arise regarding the genuine purpose of relocating a registered office to another Member State, particularly when a transfer of the place of business activity does not accompany such relocation. In a cross-border conversion, the authority issuing the pre-conversion certificate, attesting to the completion of the procedure in the departure Member State, shall examine whether or not a cross-border conversion is set up for abusive or fraudulent purposes leading to or aimed at the evasion or circumvention of EU or national law, or for criminal purposes (Art. 86m sec. 8 of the Directive).[17] This assessment enables the authority to determine whether transferring the registered office to another Member State without a simultaneous relocation of the business activity has legal and economic justification.

Consequently, the legal position of the stakeholders, particularly the employees, may vary depending on the location of the business enterprise. If the business enterprise, or organised part thereof, remains in the departure Member State, the employees' rights shall be governed by the law applicable to the departure Member State.[18] Conversely, transferring the principal place of business to another Member State may give rise to redundancies and other employment-related consequences.[19] Consequently, the applicable law may shift as a consequence of transferring a business enterprise or branches to a destination Member State.[20] Nevertheless, the converted company shall be responsible for all the obligations arising from employment contracts or any employment relationships, independently of all the protection mechanisms introduced by European Law.

In contrast, the legal position of shareholders is subject to a different set of considerations. The transfer of a company's registered office into another Member State invariably results in a change of the law applicable to the exercise of shareholders' rights (*lex societatis*).[21] In recognition of this shift, the European legislator has introduced enhanced protection measures for shareholders, particularly in the form of the right to dispose of shares (sell-out).

17 Teichmann, 2022, 376.

18 Teichmann, 2019, 10.

19 The Act on particular rules for terminating employment relationships with employees for reasons unrelated to employees, 13 March 2003, JL 2024.61.

20 Roest, 2019, 84; Jara, 2024, Art. 580[4], MN 17.

21 Garcimartín and Gandía, 2019, 20.

IV. Protection Mechanisms under Directive 2017/1132

1. Creditors' Protections (Art. 86j of Directive 2017/1132)

The legal framework governing cross-border conversions within the European Union provides a multi-layered system of protection for creditors whose claims antedate the disclosure of the draft terms of the cross-border conversion and have not fallen due at the time of such disclosure.

First, the creditors should be provided with safeguards in the draft terms of cross-border conversion. Under Article 86d point (f) of the Directive, the draft terms shall include any safeguards offered to creditors, such as guarantees or pledges.

Second, creditors who are dissatisfied with the safeguards provided in the draft terms may file a petition, within three months of the disclosure of the draft terms of the cross-border conversion, to the appropriate administrative or judicial authority for adequate safeguards, provided that such creditors can credibly demonstrate that, due to the cross-border conversion, the satisfaction of their claims is jeopardised and the company has failed to provide adequate protection (Art. 86j of the Directive). For example, under Polish law (Art. 580^{12} CCC), creditors who credibly demonstrate that their satisfaction is at stake due to a company conversion may request judicial protection. In such a dispute, a civil court competent to adjudicate commercial matters – having jurisdiction over the company's registered office in the departure Member State – shall, upon the request of a creditor submitted within three months of the disclosure of the draft terms of conversion, decide whether to grant the safeguard. The creditor's demand does not suspend the issue of a pre-conversion certificate by the registry court; however, the enforcement of security depends on the effectiveness of the cross-border conversion. As a result, the converted company shall provide the safeguard after registration of the cross-border conversion in the destination Member State.[22]

Third, apart from the above-stated protection system, Member States shall ensure that creditors whose claims antedate the disclosure of the cross-border conversion's draft terms have the right to institute proceedings against the company in the departure Member State within two years of the date the conversion has taken effect. The option of instituting such proceedings shall be in addition to other rules on the choice of jurisdiction that are applicable pursuant to EU law.

Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2021 on jurisdiction and the recognition and enforcement of judgments

[22] Pinior and Żaba, 2024, 1369.

in civil and commercial matters[23], imposes the rule that the court of a Member State, having jurisdiction over the company's registered office, has jurisdiction in civil and commercial matters.[24] After the date of the cross-border conversion, applying the rule provided for in Regulation 1215/2012, the court of the Member State having jurisdiction over the converted company would have jurisdiction in disputes with creditors. However, under Directive 2017/1132, after the date of the cross-border conversion, creditors whose claims antedate the disclosure of the draft terms will have the option of initiating proceedings before the court of the departure Member State. Scholarly commentary underlines that this jurisdictional exception significantly enhances creditor protection: it mitigates the financial and procedural burdens associated with pursuing claims in a foreign jurisdiction, and it serves as a deterrent against the strategic relocation of companies aimed at evading domestic obligations.[25]

2. Employee Protection

2.1. Participation Rights

The Directive provides a protection system in cross-border operations (mergers, divisions, conversions) analogous to the formation of a European company.[26] The protection includes all forms of employee involvement, i.e., employees' rights to information and consultation (Art. 86k) and employee participation (Art. 86l). The latter is governed by the before-and-after principle, mandating that the rights on participation granted to the employees before the operation shall remain in force after the cross-border operation.[27] The protection of participation rights is essential for Member States that provide employees' rights to elect or nominate supervisory or administrative board members, such as Germany[28] or the Netherlands.[29]

Primarily, participation rights, in the context of cross-border conversion, depend on the legal framework in the destination and departure Member States. For instance,

[23] OJ L.351, 20.12.2012.

[24] Article 4 in connection with Article 63 of the Regulation.

[25] Dumkiewicz, 2024, 3; Jara, 2024, Art. 580[12], MN 9.

[26] Directive 2001/86/EC supplementing the Statute for the European Company with regard to the involvement of employees, 8 October 2001, OJ L 294, 10.11.2001.

[27] Teichmann, 2019, 11; Garcimartín and Gandía, 2019, 35; Oplustil, 2024, 525.

[28] In the case of Germany, the participation rights result from the Act of 2 May 1976 (Gesetz über die Mitbestimmung der Arbeitnehmer, BGBl I S. 1153) and the Act of 18 May 2004 (Gesetz über die Drittelbeteiligung der Arbeitnehmer im Aufsichtsrat, BGBl I S. 974)

[29] See on varying forms of participation: Roest, 2019, 78.

a Polish company originating from a jurisdiction where no employee participation system is in place, that converts its legal form into a German company, which operates under a statutory employee participation regime, will be required to implement employee participation rights, provided that the converted entity satisfies the conditions stipulated under German law. Conversely, no such obligation arises when a Polish company converts into a Czech company, as the Czech legal system similarly lacks a mandatory employee participation framework.

Second, the protection mechanism for participation rights applies to a company departing for a state with a lower level of participation rights.[30] Article 86l sec. 2; of the Directive sets out two cumulative conditions under which employee participation rights must be addressed in the context of a cross-border conversion. The first condition is that, within six months prior to the disclosure of the draft terms of the cross-border conversion, the company must have employed an average number of employees equivalent to at least four-fifths of the applicable threshold laid down in the law of the departure Member State, thereby triggering employee participation. The second condition is that the law of the destination Member State does not provide:

a) a level of employee participation at least equivalent to that existing in the company prior to the cross-border conversion, assessed by the proportion of employee representatives among the members of the administrative or supervisory body; or

b) an entitlement for employees of establishments of the converted company located in other Member States to exercise participation rights equal to those granted to employees employed in the destination Member State.[31]

For example, if the departing company meets the criteria in the departure Member State (e.g., in Germany), and the destination Member State does not provide for at least an equivalent level of employee participation (e.g., Poland), the protection mechanism resulting from Art. 86 l sec. 2 of the Directive must be invoked. In such circumstances, the Directive establishes a comprehensive framework for negotiations with a special negotiating body to safeguard employee participation rights.[32]

Moreover, employee protection is reinforced through the scrutiny of legality conducted by the competent authority responsible for issuing the pre-conversion certificate, pursuant to Article 86m of the Directive. This authority is required to examine all documentation prepared in the course of the conversion process, including, where applicable, arrangements concerning employee participation.

[30] Garcimartín and Gandía, 2019, 35; Roest, 2019, 89.

[31] Roest, 2019, 89.

[32] Ibid., 93.

2.2. **Additional Protection Mechanism**

In addition to the above-mentioned continuity principle, stating that the rights and obligations of the company arising from contracts of employment or from employment relationships, and existing at the date on which the cross-border conversion takes effect, shall be those of the converted company (Art. 86r p. c.), the Directive introduces further measures protecting the interest of employees in the cross-border procedure. Specifically, the draft terms of the conversion must include mandatory information regarding the likely repercussions on employment (Art. 86d). Moreover, the procedure requires the preparation of a report, addressed to both shareholders and employees, informing them of the legal and economic aspects of the conversion and the implications for the company's future business (Art. 86e). The report shall detail the expected impact of the conversion on employment relationships, as well as, where applicable, any measures that will be made to safeguard those relationships; any material changes to the relevant conditions of employment or the location of the company's places of business; and how those factors will affect company subsidiaries.

Nevertheless, the actual situation of the employees shall depend on the scope of assets transferred to the destination state, as outlined above, given that the law applicable to employees is determined by the location of the employing establishment or the performance of work.[33] Accordingly, employee protection will continue to be governed by the national labour law of the departure Member State, provided that the place of work or service remains within its jurisdiction.

The protection of employees' rights shall be subject to scrutiny by the competent authority during the issuance of the pre-conversion certificate. This control mechanism is intended to prevent so-called artificial arrangements aimed at abusive or fraudulent purposes, which may unduly prejudice the rights of stakeholders, including employees.[34] Guidance on interpreting potential abuses of employee rights is provided in Recital 35 of Directive (EU) 2019/2121, which acknowledges that, under certain circumstances, the cross-border operation could serve for abusive or fraudulent purposes, such as for the circumvention of the rights of employees, social security payments or tax obligations, or for criminal purposes. In particular, it is crucial to counteract 'shell' or 'front' companies set up to evade, circumvent, or infringe EU or national law.[35]

[33] Davies and others, 2019, 217.

[34] Teichmann, 2019, 13; Garcimartín and Gandía, 2019, 37; Roest, 2019, 97; Davies and others, 2019, 203; Schmidt, 2019, 237; Jara, 2024, Art. 580[12], MN 9.

[35] Oplustil, 2024, 323; Dumkiewicz, 2024, Art. 580[13].

3. Protection of Shareholders

As a consequence of a cross-border conversion, shareholders may find themselves subject to a different legal regime, as they become shareholders of a company governed by the law of the destination Member State rather than that of the departure Member State. In such circumstances, it is essential to ensure that, at a minimum, shareholders who voted against the approval of the draft terms are granted the right to exit the company and to receive cash compensation equivalent to the value of their shares.[36]

The decision on cross-border conversion falls within the competence of the general meeting of shareholders. The shareholders' resolution requires a majority of no less than two-thirds, but not more than 90%, of the votes attached to the shares, or to the subscribed capital represented at the general meeting (Art. 86h of Directive 2017/1132). In any event, the voting threshold shall not be higher than that provided for in national law to approve cross-border mergers.[37]

Pursuant to Art. 86i of Directive 2017/1132, Member States are obliged to ensure that shareholders voting against the approval of the draft terms of the cross-border conversion have the right to dispose of their shares for adequate cash compensation, provided their demand is submitted no longer than one month after the general meeting deciding thereon.[38] Member States shall determine the period within which the cash compensation is to be paid, which may not exceed two months from the date the cross-border conversion takes effect.

The acquisition of shares by the company in this context constitutes an exception to the general prohibition on a company acquiring its own shares.[39] Under Polish law, in the context of cross-border conversion, the company may acquire its own shares either on its own account, or on behalf of those shareholders who remain in the converted company (Art. 580^{11} para. 5 of the Commercial Companies Code), depending on the decision of the remaining shareholders or of the company itself.[40]

Certain scholars argue that the remaining shareholders should be given priority in acquiring shares over the company.[41] The acquisition of shares must be completed before the effective date of the cross-border conversion by concluding contracts be-

[36] Recital 18 of Directive 2019/2121.

[37] Under Polish law, the required majority is three-quarters of votes, representing at least half of the subscribed capital (Art. 580^{10} para. 3 CCC).

[38] Under Polish law, the demand shall be submitted no longer than ten days after the general meeting (Art. 580^{11} para. 3 CCC).

[39] Oplustil, 2024, 472; Dumkiewicz, 2024, Art. 580^{11}, MN 3.

[40] Pinior and Żaba, 2024, 1368.

[41] Oplustil, 2024, 472; Dumkiewicz, 2024, Art. 580^{11}, MN 3.

tween the company and the eligible shareholders.[42] The payment for the shares may be effected within two months following the conversion date, in which case the obligation to pay rests with the converted company.

Furthermore, shareholders who have declared their decision to exercise the right to dispose of their shares, but who consider that the cash compensation offered by the company has not been adequately set, are entitled to claim additional cash compensation before the competent authority under national law. The rights to dispose of shares shall be governed exclusively by the law of the departure Member State, and the exclusive competence to resolve any disputes relating to those rights lies within the jurisdiction of that departure Member State.

Member States shall establish a time limit within which claims for additional cash compensation may be submitted.[43] They may also provide that the final decision regarding such compensation shall apply uniformly to all shareholders who have exercised their right to dispose of shares. This approach reflects the principle of equal treatment of shareholders, and efficiently uses time and resources to fulfil obligations towards shareholders.[44]

V. Conclusions

The cross-border conversion of a company results in the continuation of the legal personality by the converted company, and all the assets and liabilities of the company, including all contracts, credits, rights and obligations, shall be those of the converted company. Notwithstanding this continuity, the legal positions of the three principal stakeholder groups: creditors, employees, and shareholders, are subject to distinct considerations, each necessitating tailored protective measures.

Creditors must be afforded adequate safeguards in the draft terms of the cross-border conversion. Any disputes arising from these safeguards may be pursued through supplementary proceedings before the competent authority. Crucially, the principal protective mechanism encompasses disputes concerning the safeguards themselves, and any claims predating the disclosure of the draft terms. Following the conversion, creditors whose claims arose prior to such disclosure retain the right to initiate legal proceedings before the courts of the departure Member State.

[42] Oplustil, 2024, 473; Dumkiewicz, 2024, Art. 580^{11}, MN 5.

[43] Under Polish law, the demand shall be submitted within two weeks after the general meeting (Art. 580^{11} para. 6 CCC).

[44] Schmidt, 2019, 259; Oplustil, 2024, 470; Dumkiewicz, 2024, Art. 580^{14}, MN 5; Jara, 2024, Art. 580^{11}, MN 14.

The protection of employees operates on two distinct levels. First, the protection refers to employee involvement, i.e., employees' rights to information, consultation, and employee participation, which is governed by the "before-and-after" rule. Pursuant to said principle, any participation rights conferred upon employees prior to the cross-border operation shall remain effective after the conversion. Second, the contractual and employment rights are preserved under the "continuation rule". However, the practical implications for employees depend on the scope of asset transfer to the destination Member State. The applicable law governing employment relationships is determined by the location of the employing establishment, or the place where the work is performed.

The legal status of shareholders transforms as a result of a conversion and the consequent change in the applicable legal framework. Shareholders become company members governed by the law of the destination Member State. Member States are obliged to ensure that shareholders who voted against the approval of the draft terms are granted an exit right, entitling them to receive cash compensation equivalent to the fair value of their shares. Furthermore, shareholders who deem the offered compensation inadequate are entitled to seek additional cash compensation before the competent authority, in accordance with national law.

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