Address on the occasion on the Official Ceremony for the Publication of the European Model Company Act, Rome, Italy, 2017-03-31

EMCA : the way forward

Pierre-Henri Conac
Professor of Commercial law
University of Luxembourg

Dear Vice-Minister of Justice Ferri, dear Colleagues, Ladies and Gentlemen,

I want first to thank Professor Giuliana Scognamiglio for organizing the official ceremony for the publication of the European Model Company Act (EMCA) in Rome at the University of La Sapienza. We have a very sunny day in Rome, so thank you Giuliana for this too.

I also want to thank and pay a special tribute to Professor Theodor Baums from the Goethe University in Frankfurt who had the original idea of the EMCA and who, unfortunately, could not be with us today for family reasons. He sends us his best wishes.

I want to acknowledge and pay tribute to the chairman of the EMCA, Professor Paul Krüger Andersen, from the University of Aarhus in Denmark who has led this work and all the EMCA Group to this successful day. Finally, I also want to thank all the members of EMCA, current and previous, for their work and enthusiasm.

Today, we are celebrating an achievement. We chose to celebrate the publication of the EMCA in Rome on Friday the 31st of March, on the same month of the 60th anniversary of the signature of the Treaty of Rome on the 25th of March 1957 establishing what is now the European Union. This was a deliberate choice from the members of the EMCA because Rome is the symbol of European Unity and of the common values of the European continent.

The EMCA is also, in its field, a reflection of European values and shows, in this time of euro pessimism, that Europe can achieve success. Europeans can the proud that this complex project took only 10 years to complete. Although this might look like a long time from an outside perspective, it was not. Actually, Europe has been faster than the United States although, in comparison with our American counterparts of the Model Business Corporation Act (MBCA) who served as our model, we had to deal with very different traditions in company law.

Not all was easy and I can remember situations where, after a debate, a colleague would essentially say “this solution is not like my company law but I accept the draft”. This is when you realize that company law is cultural and reflects long established traditions deeply rooted in the history of each Member State. Discovering these differences was a source of mutual enrichment and made our discussion always enjoyable and often funny. In the process we developed life long friendships so that the EMCA was also a personal experience for all of us.
The task now for the members of the EMCA is to make this work known in the European Union since it was designed for the Member States and candidate countries in mind. However, it should be also of interest beyond the European Union. Therefore, in order to favour the European and worldwide diffusion of the EMCA, it was decided to make it freely available for download on the Internet on SSRN and not to publish this work as a book. I am convinced this was the right decision in order to reach easily to all those potentially interested by this work.

We enjoy the support of the European Commission and we hope this will also help to make the EMCA known among the Member States and their stakeholders. We will also gladly accept to present in conferences the EMCA or specific topics or chapters which would be of interest for the organisers of the conference. Therefore, we hope it could become a useful reference for academics, practitioners and ministries and be part of the circulation of models in company law.

We are planning to have a limited update of the EMCA in the next two or three years in order to take into account comments and improvements which will be suggested after the publication on Internet. Afterwards, we will update the EMCA regularly like the US MBCA to keep pace with legal and case law developments in the Member States and potentially also beyond.

As to the future of the EMCA, the composition of the group will evolve, as it has already in the past, in order to involve other academics and may be even practitioners, also from countries close to the European Union (Switzerland, Turkey or Russia for instance) or more distant but who could also have an interest in the EMCA (USA for instance).

Today, is an historical day. As you are sitting in this room, you might not realize it but I tell you so. Sometimes, people who lived through an historical day did not immediately realize it. They realized it only in hindsight sometimes long after when the old world had gone.

The EMCA is the Rome treaty of company law. It belongs to Europeans and those in the world who have an interest in company law. We hope it will be helpful and have a positive impact.