EU Regulatory Observatory:

The 28th Regime and Europe's Competitiveness: Big Upside, Hard Delivery

Petar Ganev

Senior Researcher, Institute for Market Economics (IME)

Radovan Ďurana

Analyst, INESS

10 December 2025

Summary

- The 28th Regime is conceived as an optional, EU-wide corporate legal framework that reduces the fragmentation caused by 27 national laws, offering firms a single, cross-border framework with fully digital, once-only procedures and speedy incorporation.

- The expert panel's verdict is clearly positive, an average score of 7.5/10, and a confidence-weighted rating of 7.07/10 (the strongest rating in the Observatory's assessments so far), with most experts clustered around 7-8, signalling broad agreement on its liberalising direction.

- The main expected benefit is a reduction in barriers to market entry and scaling up for startups and scaleups, provided the Regime brings about less substantive obligations, more flexible governance, and genuinely streamlined digital company lifecycle rules.

- Success is conditional on adoption. Because the Regime is voluntary, it must be simpler, cheaper, and more predictable than domestic alternatives; otherwise, firms may stay under national systems, leaving fragmentation largely intact.

- There are significant implementation hurdles related to legal certainty and the operation of parallel rules. The EU opt-in option must be insulated from divergent national interpretations, and the linkages with domestic administrations should remain uniform and minimal.

- The 28th Regime is only a partial fix; Europe's competitiveness gap is rooted in Single-Market fatigue, so the Regime should be placed within a horizontal strategy of regulatory simplification, mutual recognition, and systematic removal of cross-border barriers across sectors.

Table of contents

About the authors

Petar Ganev is a senior research fellow at the Institute for Market Economics (IME) in Sofia, Bulgaria. He has been with IME for more than 15 years. His interests include growth and the business cycle, fiscal policy and the role of government, regional development, free markets, and inequality. He is also studying the history of the Austrian School of Economics. He served as chairman of the board of the Bulgarian Macroeconomics Association (BMA) in 2016–17. He was also a member of the supervisory board of the biggest football club in Bulgaria, the PFC Levski Sofia, in 2020–23. He has rich experience in public policy debates and has authored numerous articles in the Bulgarian media.

Radovan Ďurana is a founding member of the Institute of Economic and Social Studies (INESS), based in Slovakia. After completing his studies at the Faculty of Management at Comenius University in Bratislava, he worked as a credit risk analyst for a commercial bank. At INESS, he is responsible for development and strategy. As a senior analyst there, he specialises in public finance, taxes, and the energy sector. He has served as an advisor to several ministers of the Slovak government and regularly writes op-eds in well-respected Slovak newspapers.

About EPICENTER

EPICENTER, the European Policy Information Center, is an independent initiative of twelve leading think tanks from across Europe. It seeks to inform the European policy debate and promote the principles of a free society by bringing together the expertise of its members.

EPICENTER is formed by the Center for Political Studies (Denmark), Civil Development Forum (Poland), Fundalib (Spain), the Institut economique Molinari (France), the Institute of Economic Affairs (UK), the Institute of Economic and Social Studies (Slovakia), the Institute for Market Studies (Bulgaria), Istituto Bruno Leoni (Italy), KEFiM (Greece), the Lithuanian Free Market Institute, Prometheus (Germany), and Timbro (Sweden). Like its members, EPICENTER is politically independent and does not accept taxpayer funding.

Introduction

The European Commission is considering implementing an optional '28th Regime' for companies – an EU-wide legal framework that allows businesses to operate under a single set of rules across all member states rather than navigating the laws of individual countries. The initiative is framed as a response to fragmentation in company law across the Single Market, which raises incorporation and compliance costs for startups and scaleups that seek to operate across borders. In the Commission's view, a voluntary EU regime would make it less costly to establish a company, reduce legal uncertainty when expanding into new member states, and enable business structures that are more compatible with venture capital and growth financing.

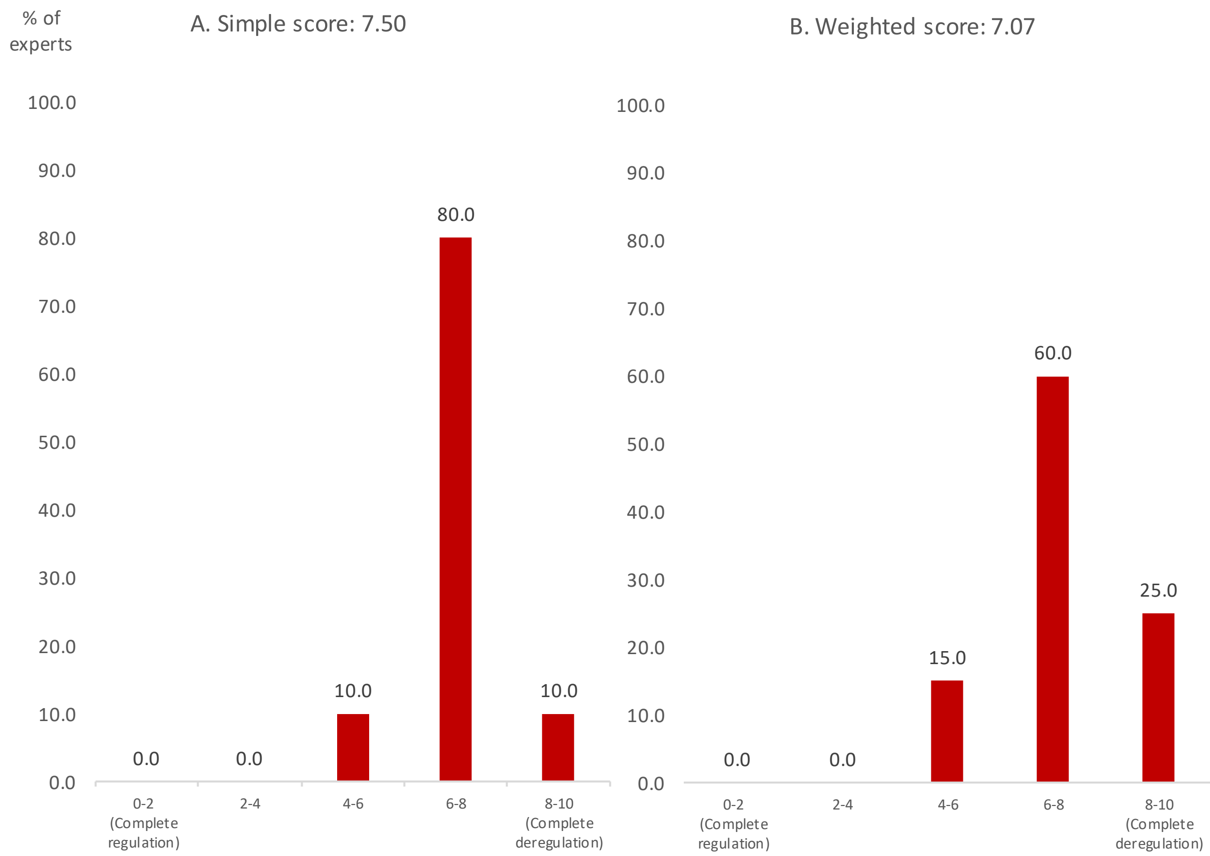
Crucially, the 28th Regime is designed as an additional, opt-in track rather than as a replacement for existing national systems. Therefore, its success hinges on whether it can offer a simpler and more attractive alternative, while remaining interoperable with various national legal systems. As with other recent simplification efforts in the EU, the key question is whether this proposal represents a meaningful liberalising step that improves prospects for market entry and scaling or whether it risks becoming another layer in an already complex regulatory landscape.

The EU Regulatory Observatory's assessment of the 28th Regime

The experts' panel rated the 28th Regime 7.5 out of 10 on average, with a confidence-weighted score of 7.07.[1] Notably, this is the highest score awarded by the expert panel to date. The distribution of ratings is tightly clustered; most experts rated the initiative a 7 or 8, with a small minority assigning a lower value and another small group placing it near the top of the scale. This rating pattern suggests a significant consensus that the proposal is pro-market and pro-competition, while some reservations about design risks and a lack of detail persist.

[1] The weighted average accounts for the experts' confidence levels and the harmonisation of responses along the regulation–deregulation scale. For details, see the methodological note at the end of this brief.

Figure 1. Percentages of scores and average scores in the EU Regulatory Observatory's assessment of the Digital Package



Notes: A: The simple average does not account for the experts' confidence levels and the harmonisation of responses along the regulation–deregulation scale; N = 20. B: The weighted average accounts for both the experts' confidence levels and the harmonisation of responses along the regulation–deregulation scale; N = 20.

In terms of interpretation, a weighted score of above seven places the initiative in the moderately liberalising reforms category. Experts generally expect a net reduction in burdens for firms that opt in and a meaningful potential contribution to deeper market integration. At the same time, the fact that the score does not approach the upper end of the scale indicates a conditional endorsement; the panel sees real promise but also highlights features that could materially weaken adoption or dilute the impact of the reform if not addressed at the legislative stage.

> If the EU delivers a bold, uniform framework as envisioned by its proponents, the reform will be a major leap toward a freer and more integrated market. It is conceptually a robust liberalising initiative that addresses long-standing single market inefficiencies, making it easier for businesses to compete and scale-up. However, if it turns out to be too complex or restricted, it may not gain traction, limiting its liberalizing effect in practice.
>
> - Latchezar Bogdanov (Chief Economist, Institute for Market Economics)

Most experts agree that the proposed 28th Regime has several advantages, including speedy firm registration, full digitalisation of procedures, reduced fragmentation across member states, seamless operation throughout the EU, and very low capital requirements that significantly lower barriers to entry for startups and scaleups. However, it also has weaknesses, such as practical challenges related to real-world implementation across 27 national legal systems, the presence of multiple safeguards that may limit flexibility, the introduction of a new and potentially complex dispute-resolution framework, and restrictions aimed at curbing aggressive acquisitions, which may reduce the overall openness of the Regime to certain investment strategies.

Will the 28th Regime create new opportunities and push competitiveness in the EU?

The 28th Regime can be read as an attempt to tackle one of the most persistent structural obstacles in the Single Market – the costs and complexity arising from divergent national corporate law regimes. By offering a single, EU-wide, optional framework, the initiative could lower barriers to cross-border establishment and scaling up, effectively giving firms a legal 'passport' to travel across member states. If the regime genuinely simplifies incorporation, makes governance more flexible, and streamlines digital procedures, it will reduce the time between a firm's founding and market entry as well as recurring compliance hurdles for companies expanding beyond their home jurisdiction. In this regard, the proposed Regime has a plausible competitiveness logic, especially for startups and scaleups operating in environments where speed and organisational flexibility are decisive advantages.

The broader policy rationale also links the Regime to Europe's finance and investment bottlenecks in scaling up. A standardised EU corporate track may make it easier for investors to recognise opportunities, navigate across borders, and comply with commonly used venture capital structures, including flexible stock arrangements and faster capital increases. If the Regime is implemented loosely, it may reduce transaction costs in fundraising rounds and the legal uncertainty surrounding cross-border investment structures. In addition to direct benefits for the firms that opt in, a well-designed Regime could also exert a healthy pressure on member states to modernise and simplify their domestic corporate law frameworks.

However, these benefits are conditional. The proposed Regime is unclear on several key issues, making it difficult to assess whether the EU framework will ultimately be materially lighter than national alternatives once it becomes binding law. The key areas that need more clarity include the following:

- **Taxation**

One key uncertainty is how taxation would work for companies operating in several member states under the 28th Regime. It is not clear which country's tax rules would apply with regard to, say, asset depreciation, loss carry-forward, and other important corporate tax mechanics. Even though EU representatives insist that taxation will remain fully under national control, the Regime may be unattractive if the tax situation remains complex. Any attempt to distribute taxes among member states, as we have learned from the minimum corporate tax framework, could hardly be considered a simplification. Politically, member states are also unlikely to accept solutions that threaten their tax revenues (at the expense of the EU budget), which raises the question of whether the 28th Regime implicitly points toward the creation of a separate EU-level economic area in the long run.

- **Labour code**

The conventional view of a company, where the administrative building is located right next to its factory, contrasts sharply with that of modern technology companies that create their products collaboratively in different parts of the EU or the world. If the 28th Regime is to be beneficial, will a firm be able to follow a single set of rules or will it have to continue complying with the labour codes of individual countries, as is currently the case? The same concern applies to labour taxation and social security; without clarity on whether a firm can avoid navigating 27 different systems, the practical benefits for cross-border scaling will remain uncertain.

- **Government support**

Another unresolved issue is eligibility for public incentives. If companies established under the 28th Regime are not clearly 'anchored' to a specific member state, they may not benefit from national tax breaks, investment incentives, or support programmes that are often crucial for startups and scaleups. The alternative, EU-level incentives, will require the EU to have the authority and instruments to provide meaningful support. Without a clear answer, firms may hesitate to opt in, especially in sectors where state support is a significant part of the business environment.

- **Legal disputes**

The framework is also vague on jurisdiction and enforcement. In disputes over matters such as share ownership or corporate governance, it is unclear which courts will serve as the competent authority. If the commercial courts of member states handle such cases, the EU will need to implement mechanisms that ensure consistent interpretation across jurisdictions; otherwise, firms could face increased fragmentation. If, instead, the EU were to set up its own commercial dispute resolution structure, that would require a substantial institutional shift and may introduce new complexities. The real legal certainty promised by the Regime, therefore, hinges on how this issue is resolved.

- **Adoption and neutrality**

The voluntary nature of the Regime is a key design parameter that must be taken seriously. The 28th Regime will succeed only if it offers a clear advantage in terms of simplicity, cost, and legal certainty. Moreover, there is a significant risk that coexistence with 27 national regimes may increase complexity rather than reduce it, particularly if the linkages between the EU option and domestic administrations are not uniform, minimal, and predictable.

Finally, there are systemic risks that go beyond technical design. The Regime could drift toward selectivity or protectionism if access hinges on politicised definitions of what counts as 'innovative', or if eligibility becomes subject to gatekeeping rather than being legally neutral. A related concern is that an EU-wide corporate law framework may evolve into a centralised compliance vehicle rather than a permissive alternative, thereby reproducing the regulatory density it is meant to avoid. The long-term impact on competitiveness, therefore, depends on enhancing procedural simplification, preserving neutrality, and preventing a drift into top-down industrial steering or administrative micromanagement.

Conclusion and policy recommendations

The experts' assessment supports a cautiously positive rating for the proposed 28th Regime; it has credible potential to open new opportunities for firms and strengthen EU competitiveness, primarily by lowering cross-border legal hurdles and improving the investment environment. The net effect is expected to be liberalising, as indicated by the panel's weighted score, but the endorsement is explicitly conditional on design choices that will determine whether the Regime is widely used and less cumbersome than national systems.

From a policy perspective, three priorities stand out. First, the EU framework must be demonstrably simpler in substance, not just in procedure. A 'digital' or 'streamlined' incorporation route is insufficient if the underlying obligations mirror or exceed national burdens. Second, adoption should be treated as a key design objective. The Regime should be built to minimise switching costs and administrative ambiguity, so that opting in becomes an obvious advantage rather than a gamble. Third, clear safeguards are needed to prevent selective access or a drift toward protectionism. The eligibility criteria should be neutral, transparent, and market-based, ensuring that the 28th Regime remains a tool for promoting openness and competition rather than a channel for discretionary industrial policy.

If these conditions are met, the 28th Regime could reduce real-world barriers to entry and scaling up rather than merely rearranging regulatory complexity. If they are not, it risks joining the list of well-intended but weakly adopted EU corporate law instruments, leaving fragmentation intact and adding another layer to the legal architecture. However, even a well-designed and widely used 28th Regime will only address one part of Europe's competitiveness problem.

More broadly, the 28th Regime should be treated as one instrument within a wider competitiveness agenda centred on revitalising the Single Market. The main problem is not merely the absence of an EU-level corporate form, but also the accumulated costs of regulatory and administrative barriers that continue to fragment cross-border activity across various sectors. The debate on Europe's competitiveness increasingly recognises that Europe's growth handicap stems from a Single Market that is incomplete in practice and weighed down by layered obligations, uneven national implementation, and persistent compliance hurdles for firms looking to operate across the EU. A new optional regime can ease the process of incorporation and scaling up for some companies, but it will not by itself resolve the structural bottlenecks that arise from regulatory heterogeneity across member states.

Restoring the Single Market's original logic, therefore, requires a horizontal effort that goes beyond introducing one corporate law initiative; it involves systematically removing discriminatory or duplicative norms, lowering compliance burdens wherever possible, and strengthening mutual recognition so that firms do not have to navigate 27 versions of the same rule in practice. This implies the simplification of existing EU legislation and restraint in producing new layers of regulation as well as more consistent enforcement against national measures that re-fragment the market through licensing, reporting, or procedural hurdles. In this regard, the 28th Regime can help serve as a useful opt-in shortcut, but it cannot substitute for a general simplification drive and a sustained defence of Single Market principles across member states, without which Europe's competitiveness problem will remain unresolved.

Methodological note

The results of the EU Regulatory Observatory's assessment are presented both as a simple and as a weighted average in order to (a) calibrate the different perceptions and biases of the experts on the regulation–deregulation scale, (b) take into account the experts' confidence in their area of expertise, and (c) take in to account the extent to which the rating is informed by the expert's knowledge of the sector.

This process involved three key steps:

1. Harmonising perceptions and reducing biases: The experts were asked to rate 40 hypothetical scenarios (vignettes) in each policy area (King et al. 2004; Pemstein et al. 2020) to evaluate whether the policy is moving towards more regulation (anti-liberal) or more deregulation (pro-liberal). To ensure comparability across respondents, we used a standardised scale of 0–10 where:

    - 0 = complete regulation (anti-liberal stance)
    - 5 = no change/status quo
    - 10 = complete deregulation (pro-liberal stance)

To improve interpretive accuracy, vignettes were designed separately for eight distinct policy areas in which liberalisation may take different forms:

1. Digital platforms
2. Environment and emissions
3. Trade policy
4. Common fisheries policy
5. Common commercial policy
6. Agricultural policy
7. Energy markets
8. Consumer protection

Each vignette set consisted of five imaginary policy scenarios ranging from strongly regulatory to strongly liberalising[2]. These served as scale anchors, allowing for the standardisation of experts' ratings across and within areas.

2. Experts' rating: The experts evaluated the EU regulations using the same scale.

3. Experts' confidence level: For each regulation, the experts reported their confidence regarding their topic-specific expertise and the extent to their rating was informed by their expertise (both on the 0–10 scale).

[2] While the assignment of ideal scores is necessarily subjective to some extent, we aim to operate within the boundaries of mainstream policy consensus to ensure broad acceptability and analytical clarity. Ratings that deviate substantially from common interpretations are reviewed and revised accordingly, based on expert feedback.

The final weighted average score is computed as follows.

Rescaling procedure

Let X_i denote the raw rating given by expert i to the vignette set, and let Y denote the pre-specified 'true' rating of the vignettes. For each expert, we estimated a simple linear regression model:

$$Y = a_i + b_i \bullet X_i$$

The resulting coefficients a_i (intercept) and b_i (slope) capture the expert's idiosyncratic use of the response scale.

Subsequently, all real directive ratings provided by expert i were adjusted as follows:

$$Y_{ij} = a_i + b_i \bullet X_{ij}$$

where Y_{ij} is the standardized liberalisation score assigned by expert i to directive j, and X_{ij} is the original raw score for that directive.

Confidence and expertise weighting

To incorporate experts' self-assessments of their confidence, we applied a calibrated confidence-weighted adjustment to each expert's rating, ensuring that the evaluations are not excessively distorted. Traditional linear weighting methods tend to disproportionately suppress scores with moderate confidence, pulling down the mean rating significantly. We followed this weighting method to preserve the core evaluative signal of the base rating – especially for moderately confident assessments – while still rewarding higher confidence and down-weighting uncertain responses in a controlled and proportional manner.

Let the base score provided by expert i be defined as

$$S_i = \text{Intercept}_i + \text{Slope}_i \bullet \text{Expertise}_i$$

where Intercept and Slope are derived from the vignette results of each participant to harmonise the regulation–deregulation scale, while Expertise is the self-rated domain knowledge on a scale of 0–10. The adjusted (final) score is then computed as

$$\hat{S}_i = S_i \bullet 1 + \alpha \bullet \frac{C_i - \bar{C}}{C_{\max}}$$

where $C_i = C_i^{\text{policy}} + C_i^{\text{content}}$ is the sum of the expert's two confidence ratings (each on a 0–10 scale). $\bar{C}$ = 10 is the neutral midpoint of the total confidence score (used as the baseline), $C_{\max}$ = 20 is the maximum possible combined confidence, and α is a gain parameter controlling the sensitivity of the adjustment to confidence (e.g., α = 0.25).

This adjustment ensures that if C_i = 10, then $\hat{S}_i = S_i$ (no change); if C_i > 10, then $\hat{S}_i > S_i$ (slight upward adjustment), and if C_i < 10, then $\hat{S}_i < S_i$ (mild discounting).

The choice of α determines the extent to which confidence modifies the score. In our case, we set α = 0.25, such that a fully confident response (C_i = 20) is scaled up by 12.5%, while a minimally confident one (C_i = 0) is scaled down by 12.5%. This creates a bounded influence window, avoiding extremes while maintaining relative differences.

This method draws on soft-threshold weighting methods described in the expert assessment literature (e.g., Belton and Stewart 2002; Cooke 1991) and achieves the goal of respecting expertise without allowing a few confident respondents to disproportionately skew the aggregate outcomes.

Our panel of experts

The EU Regulatory Observatory panel comprises 34 experts, representing more than 25% of the current EU member countries. Most of them (62%) hold a PhD in their area of expertise. The majority (66.7%) work as researchers or policy advisors in think tanks, government bodies, or non-governmental organisations, while one out of five (20.8%) hold tenure track or tenured academic positions, as lecturers, associate professors, or professors; the rest of the experts (12.5%) are researchers in academic institutions (including PhD candidates and postdoctoral fellows). Two-thirds of the panel (66%) have more than eight years of professional experience.

References

European Commission (2025). 28th regime – A single harmonized set of rules for innovative companies throughout the EU. Brussels: European Commission. https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14674-28th-regime-a-single-harmonized-set-of-rules-for-innovative-companies-throughout-the-EU_en

European Parliament (2025). Draft report with recommendations to the Commission on the 28th Regime: A new legal framework for innovative companies. Brussels: Committee on Legal Affairs. https://www.europarl.europa.eu/doceo/document/JURI-PR-773199_EN.pdf

European Parliament (2025). Simplification of registration of companies in the 28th Regime: Towards a single digital company register. Brussels: Policy Department for Justice, Civil Liberties and Institutional Affairs, Directorate–General for Citizens' Rights, Justice and Institutional Affairs, Council of the European Union. https://www.europarl.europa.eu/RegData/etudes/IDAN/2025/776000/IUST_IDA(2025)776000_EN.pdf

European Parliament (2025). Identification of hurdles that companies, especially innovative start-ups, face in the EU justifying the need for a 28th Regime. Brussels: Policy Department for Justice, Civil Liberties and Institutional Affairs, Directorate–General for Citizens' Rights, Justice and Institutional Affairs, Council of the European Union. https://www.europarl.europa.eu/RegData/etudes/STUD/2025/775947/IUST_STU(2025)775947_EN.pdf

Oudin, P. (2025). The promises and perils of a 28th Regime for European innovative companies. Oxford Business Law Blog. October 2025. https://blogs.law.ox.ac.uk/oblb/blog-post/2025/10/promises-and-perils-28th-regime-european-innovative-companies

The European Economic and Social Committee (2025). Establishing the 28th regime in Europe. A unified legal framework to support growth and business. Belgium: Secretariat of the Employers' Group. https://www.ecmi.eu/sites/default/files/study_eesc_28th_regime.pdf

Allied for Startups (2025). One company, one market: Delivering a true 28th Regime for Europe's startups. Brussels: Allied for Startups. https://alliedforstartups.org/wp-content/uploads/AFS-Position-28th-regime.pdf