

Legal and Regulatory Aspects of Inter-Enterprise Cooperation

/ In the Context of Steward Ownership and Enterprise:
An EU Perspective-Updated with the emerging legal
framework /

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Note: Selected concepts referenced in this presentation are derived from preliminary academic discussions within the European Law Institute. These proposals are subject to further refinement and have not been formally adopted.

Inter-Enterprise Cooperation:

- Fosters innovation and cross-sector synergies in the EU.
- Aligns with long-term strategic goals under steward ownership.
- Requires supportive legal and regulatory frameworks.

1. Introduction

- EU corporate law is shifting towards sustainability and purpose.
- Steward ownership entrusts control to long-term stewards.
- Enterprise foundations (EFs) are shaped by proposals within the emerging ELI framework

2. Competition Law

- Articles 101 & 102 TFEU prohibit anti-competitive conduct.
- 2023 Guidelines permit exemptions for sustainability agreements.
- Important to distinguish cooperation from collusion.

3. Corporate Governance

- The future legal framework should provide a robust governance architecture for EFs, addressing a key limitation in existing EU company law.
- Directors apply business judgment in line with purpose.
- Supports CSRD (postponed) and CSDDD (deleted?) reforms. Omnibus??

4. Financial Regulation

- Steward-owned enterprises face capital market barriers due to low equity liquidity and mission-driven ownership models.
- Existing EU financial regulations are designed for profit-maximizing shareholders, creating structural mismatches.
- Future legal frameworks should enhance transparency and trust, enabling cross-border recognition and reducing legal uncertainty for EFs

5. Taxation and Legal Certainty

- Tax neutrality is essential for fair treatment of EFs across their lifecycle.
- Best practice guidelines, not harmonization, balance national fiscal sovereignty with legal clarity.
- Predictable tax treatment supports cross-border cooperation among steward-owned enterprises.

6. Optionality and Legal Pluralism

- Optionality enables modular adoption, aligning with the principle of subsidiarity.
- Facilitates legal coherence for stewardship-oriented enterprises operating across diverse national regimes.
- The 28th regime offers enhanced legal certainty without displacing existing national legal structures. Enables cross-border recognition of EFs.

7. Conclusion

- There is potential to redefine regulatory approaches to inter-enterprise cooperation within the EU.
- Steward ownership and enterprise foundations align with EU objectives on sustainability, competitiveness, and inclusion.
- Legal recognition across regulatory domains can enhance the efficacy of mission-driven enterprise collaboration.

Reimagining Enterprise Purpose: "Earth is now our only shareholder." — Patagonia, Inc.

- Steward ownership challenges the primacy of profit by embedding long-term purpose at the core of corporate governance.
- Enterprise foundations reflect a shift toward responsibility, interdependence, and ecological accountability.
- Legal frameworks must evolve to support enterprises whose mission transcends shareholder value — serving society, future generations, and the planet.