

Presentation

- 1. Latest developments in the field of Corporate governance (brief overview)**
- 2. The European Company Statute**
 - The E&Y study on the application of the SE regulation, the Conference of 26 May and the next steps

EWPCC seminar 2 June 2010, Lars Hammer-Jespersen, DG MARKT

European Commission 
Internal Market & Services DG

Recent developments within the European Commission's policy in the field of corporate governance

Overview

- Crisis-related work
 - Remuneration policies
 - Directors' remuneration
 - Financial sector remuneration
 - Corporate Governance in financial institutions
- Work on the principles of CG - does „comply-or-explain“ function in practice?
 - Corporate Governance in all listed companies

Documents on-line and more information
on corporate governance available on

http://ec.europa.eu/internal_market/company/index_en.htm

E&Y study on the application of the SE regulation

Structure of the study

- 1) Legal mapping,
- 2) Inventory of SEs,
- 3) Main drivers, trends and problems
- 4) Ideas on possible amendments

Legal mapping: Some conclusions

- Method of implementation of options by MS in general:
Rules on SEs are aligned with rules on national PLCs (but with some exceptions)

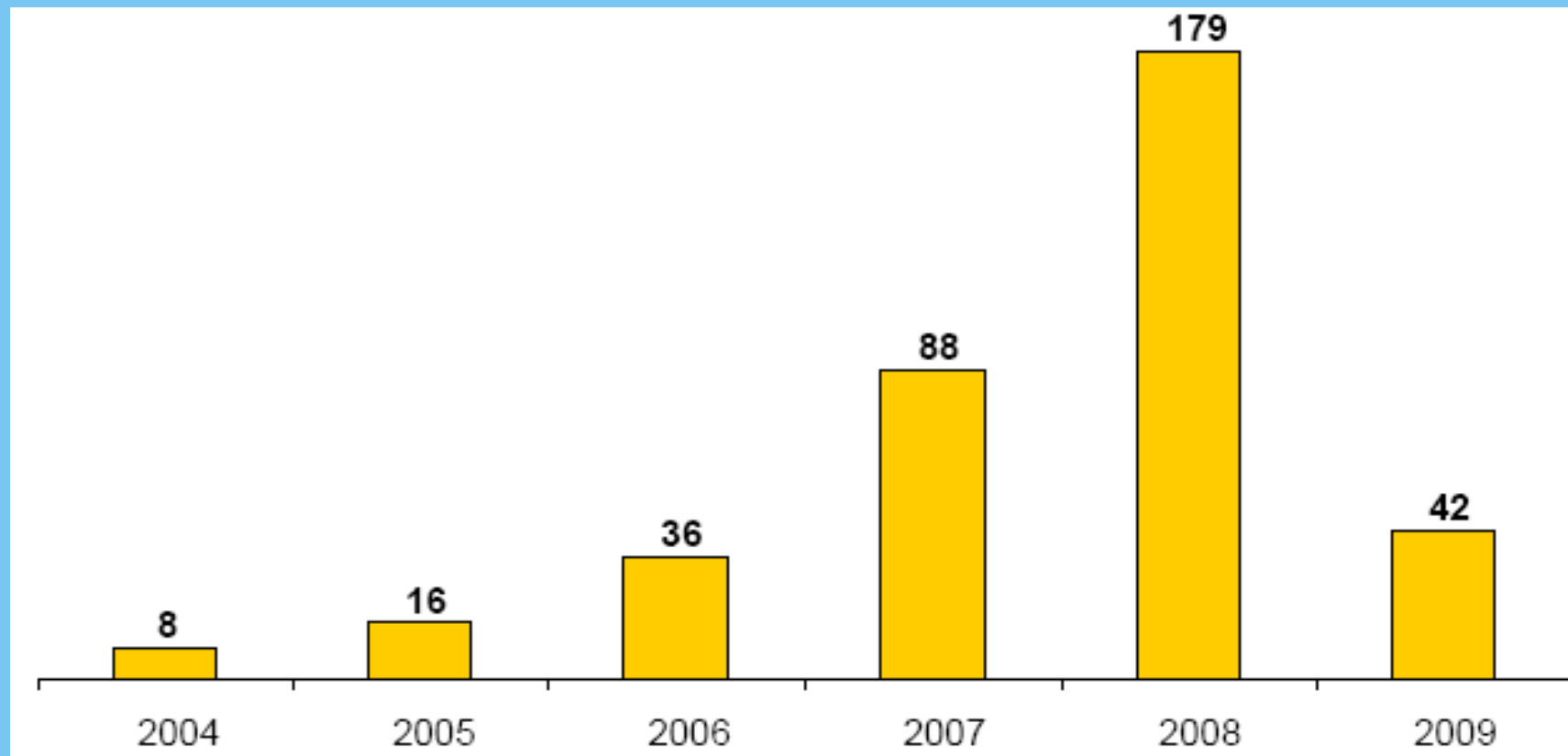
=> differences btw MS mostly reflect the differences in the rules on national PLCs.

- Flexibility of the SE rules in each MS:
Some MS appear to have slightly more flexible rules than others, but assessment is uncertain

Inventory of SEs: Main findings

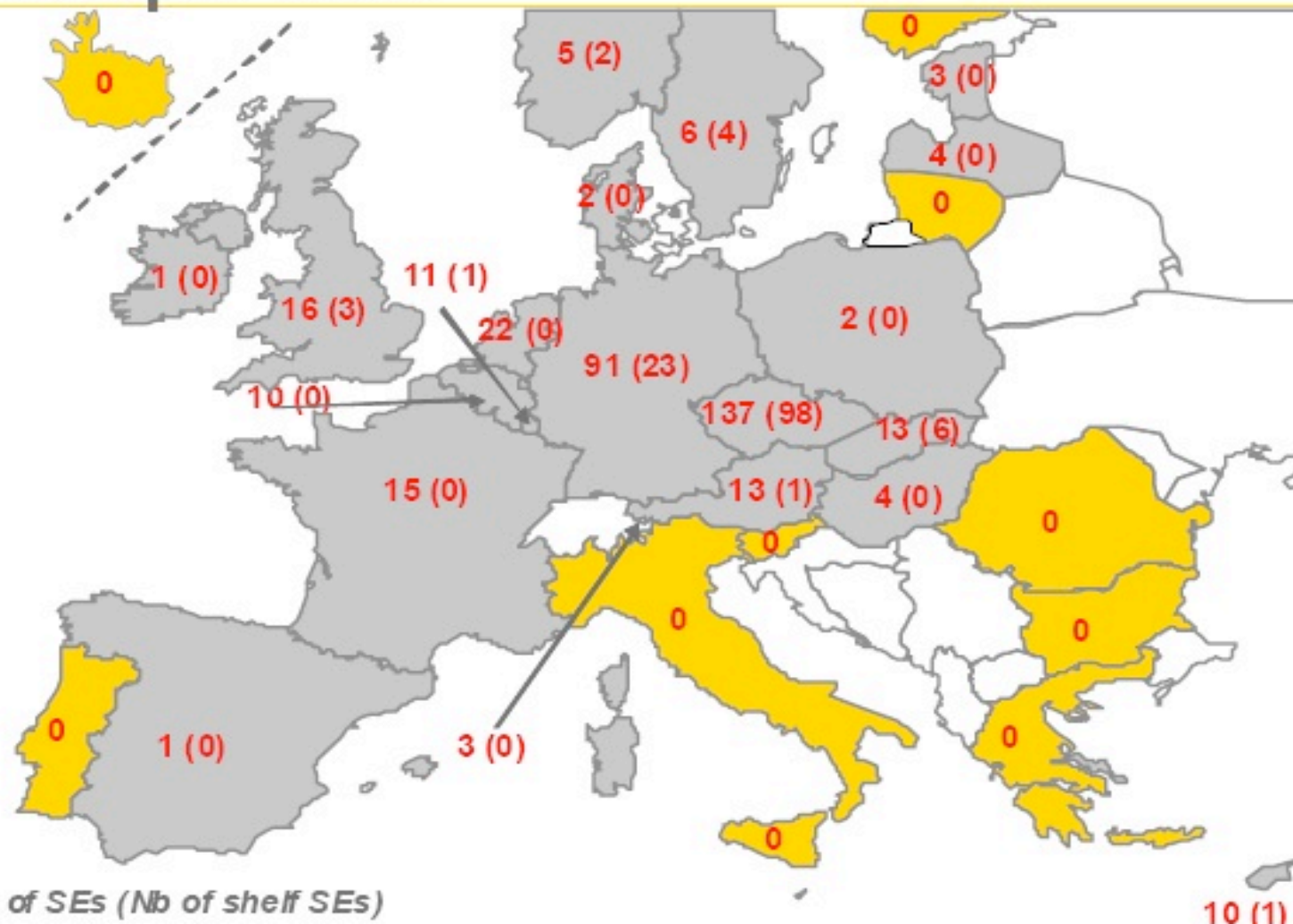
- 369 SEs at 15 April 2009 (431 SEs at 10 Sep. 09)
- Exponential increase until 2008
- SEs in 20 EU/EEA MS, but 65% in CZ+DE
- 38 % of all SEs appear to be "shelf" SEs
- Non-shelf SEs: 75% parent companies, 20% subsidiaries, 5% independent companies
- April '09: 69% had no employees, 17% had over 250
- 68% were created with minimum capital requirement
- Average balance sheet total is € 524 million
- Average net turn over is € 366 million
- Fields of activity: financial & insurance activities (31%)
- 10% are listed companies
- 10% have transferred registered office

SE incorporations per year



NB: For the year 2009, incorporations until 15 April were taken into account.

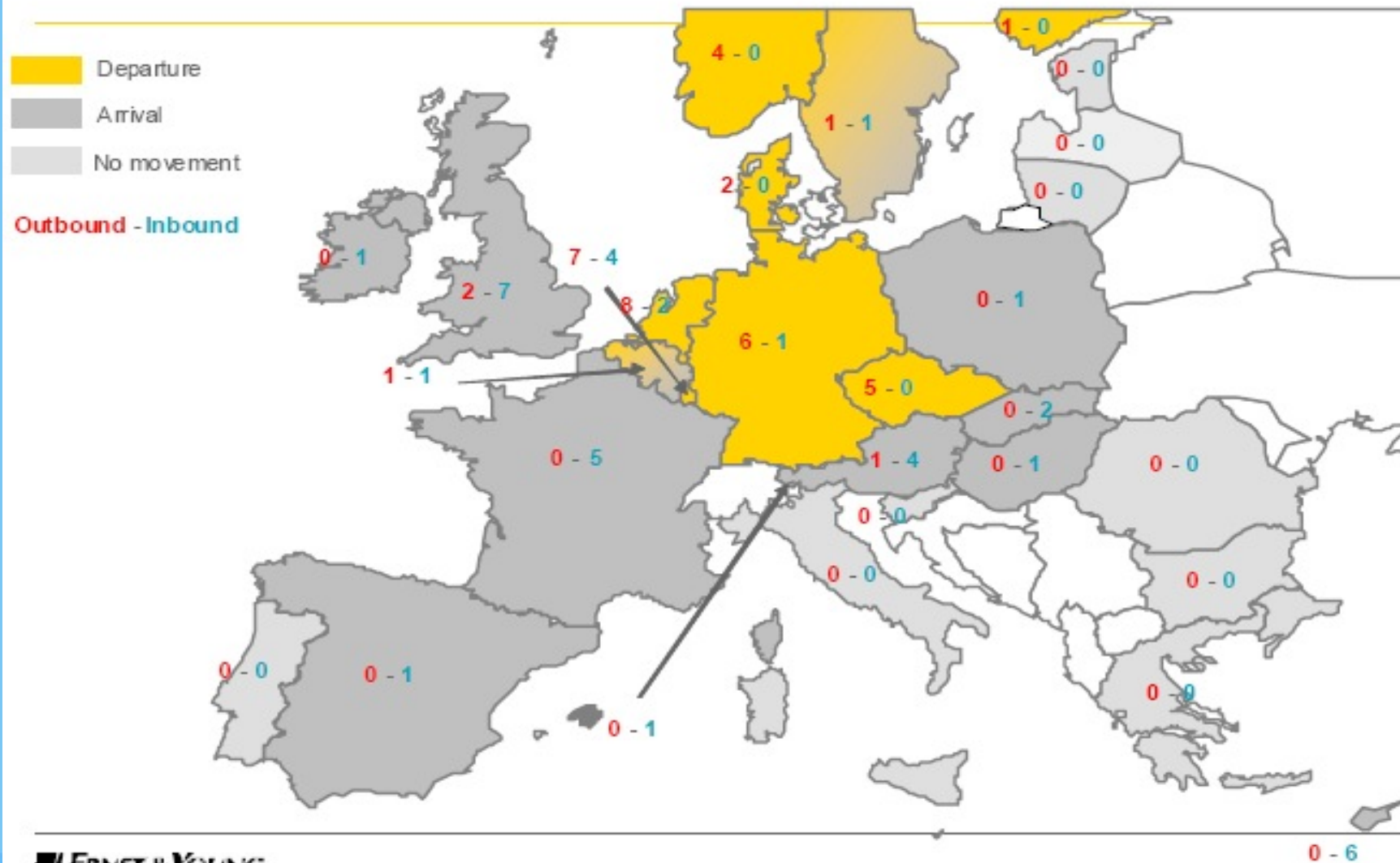
SE by Member States of registered office as on 15 April 2009



Legend : Nb of SEs (Nb of shelf SEs)

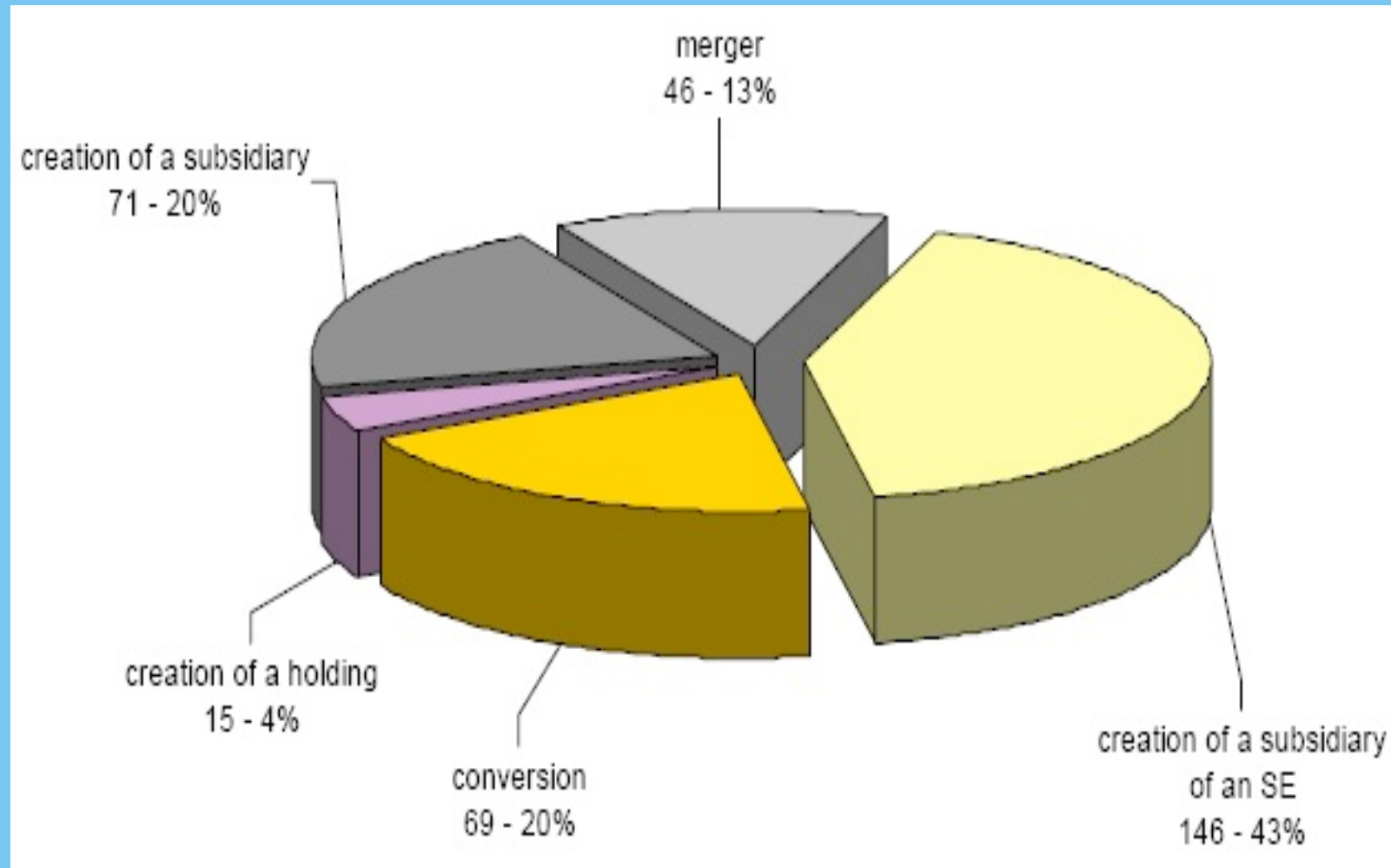
European Commission 
Internal Market & Services DG

Migration of the SEs



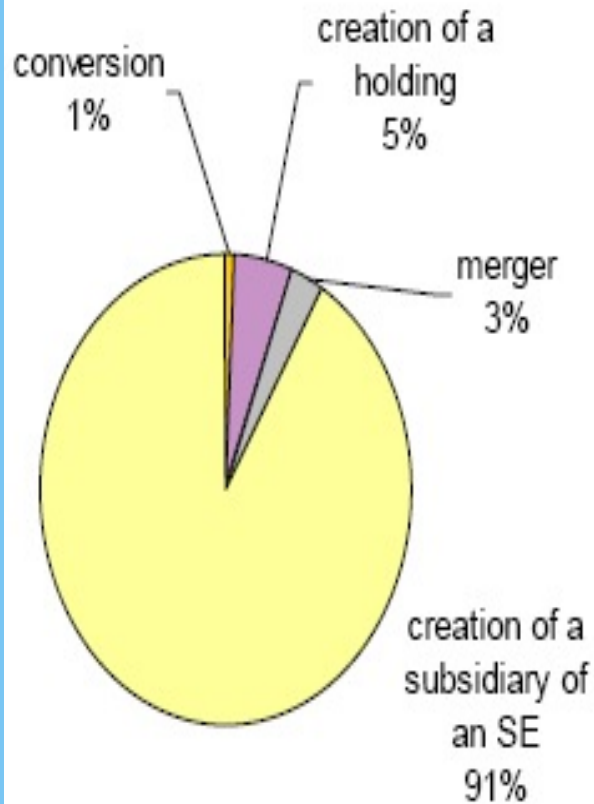
European Commission
Internal Market & Services DG

Method of creation

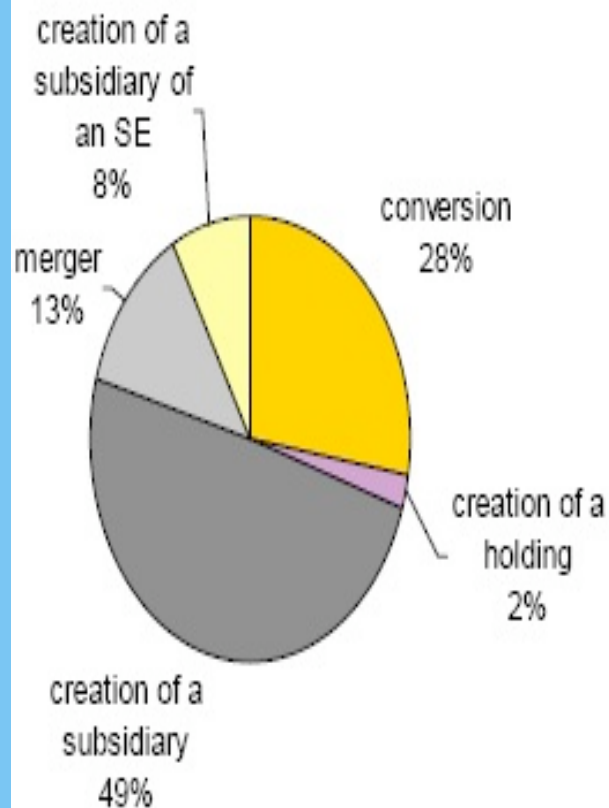


Method of creation (2)

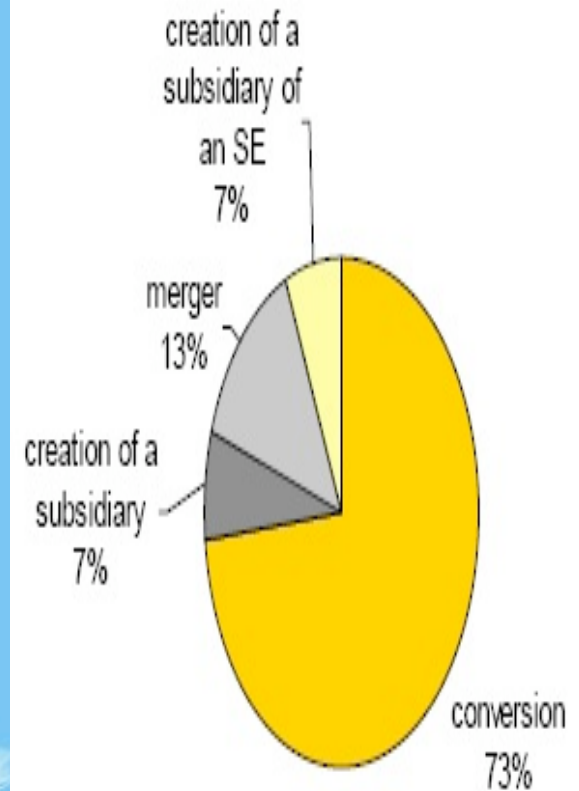
Czech Republic



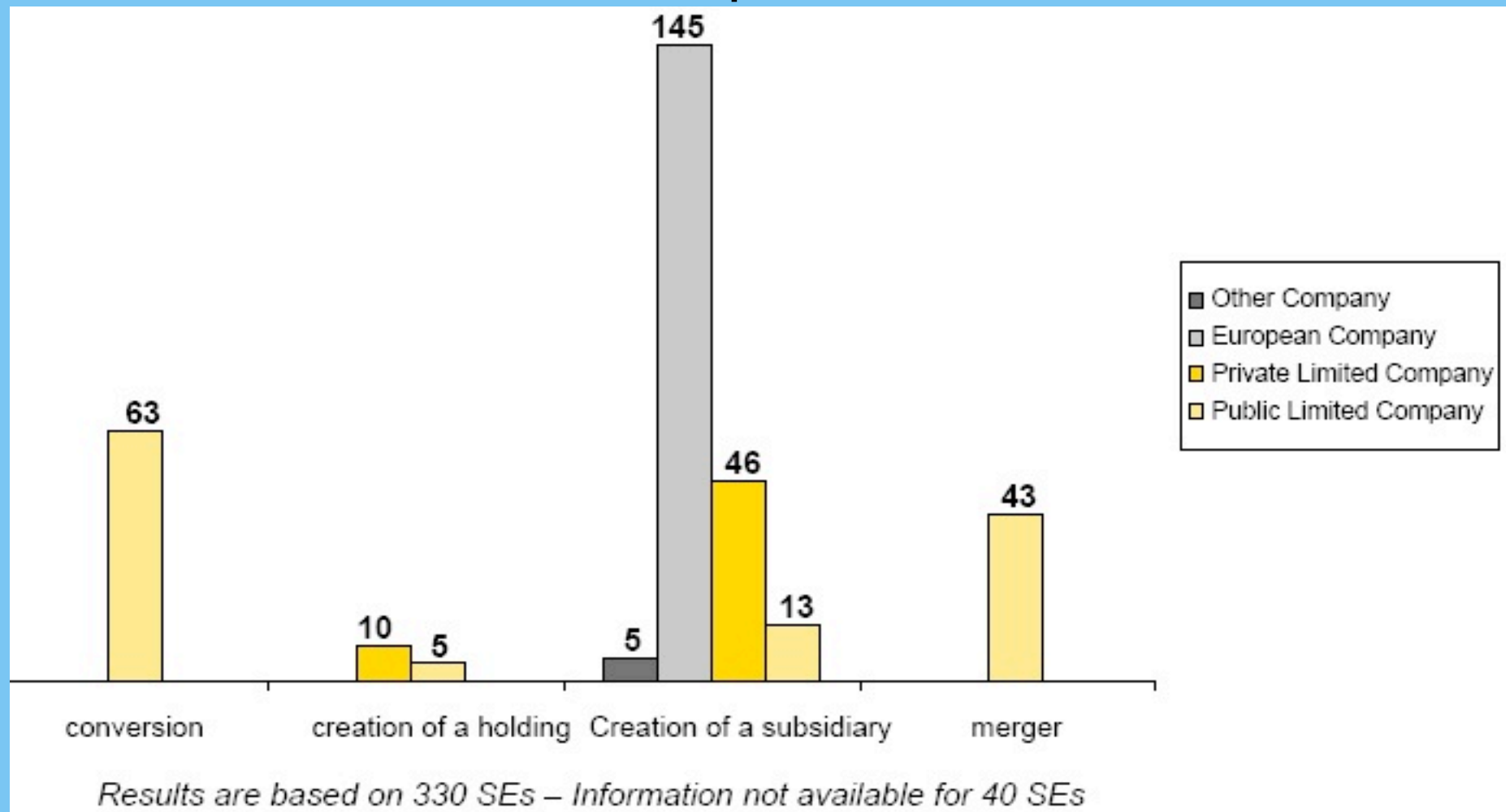
Germany



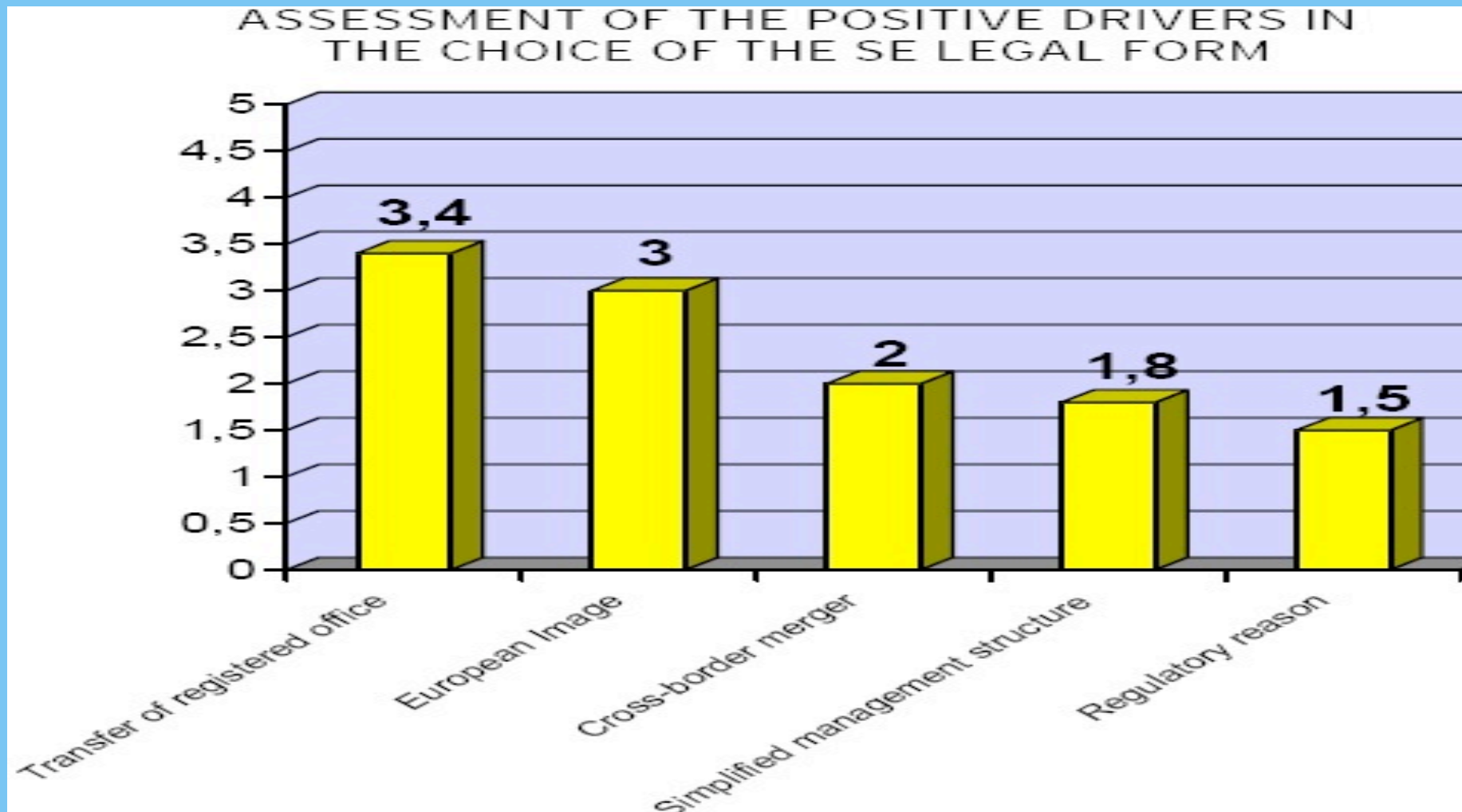
France



Method of creation (3): Legal form of founding companies



Main positive drivers to set up an SE



Other possible drivers?

Corporate law:

Not mentioned as a driver. Result of the inter- and intra MS analysis shows correlation with distribution of SEs only in a few cases.

Tax law:

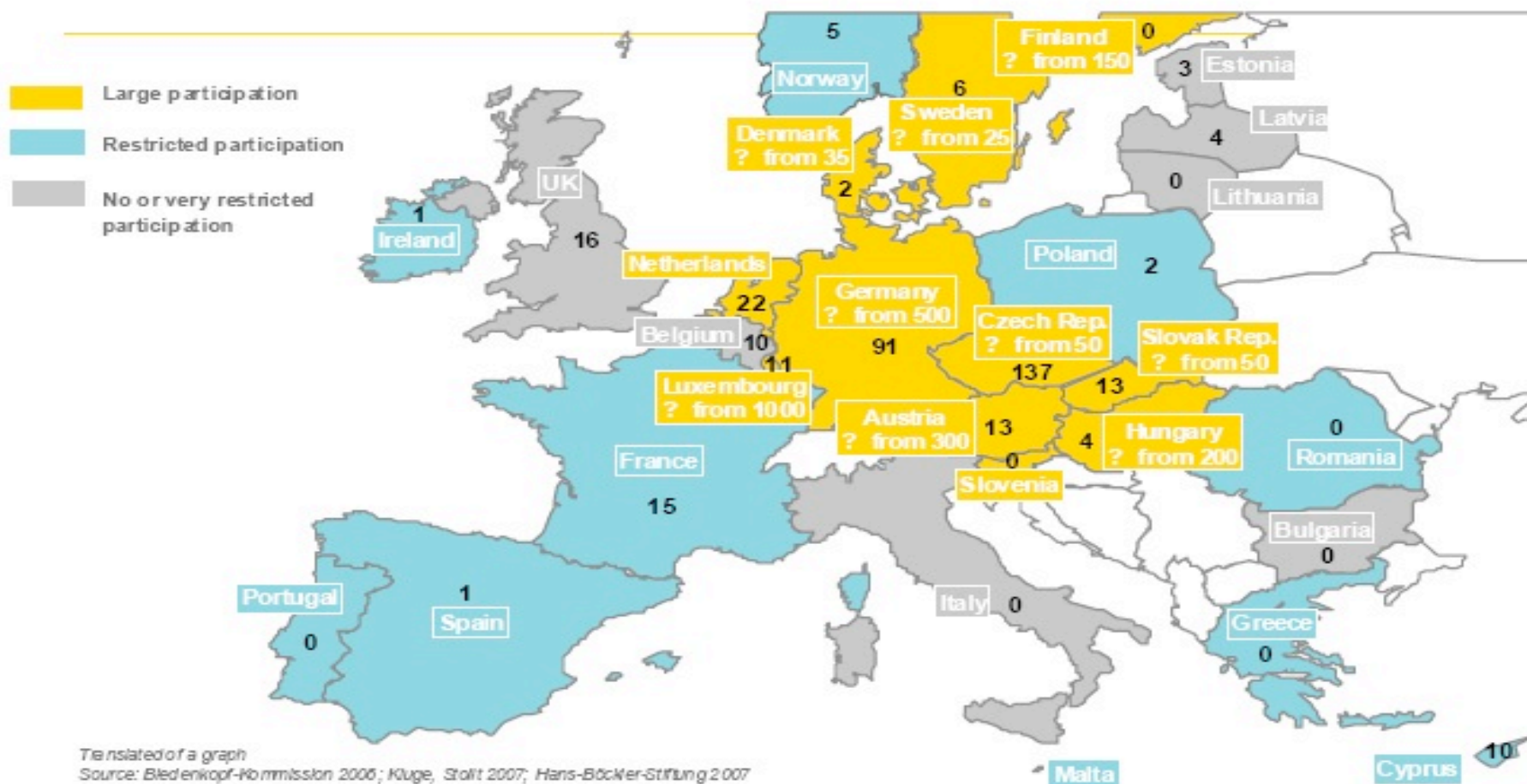
Mentioned as possible driver. Related to transfer of reg. office. But no obvious conclusion yet on the importance of this driver.

Negative drivers/practical problems

- Set-up costs, complexity and legal uncertainty
- Employee involvement (complex, time consuming and not always relevant)
- Lack of public recognition
- Location of reg. office and head office

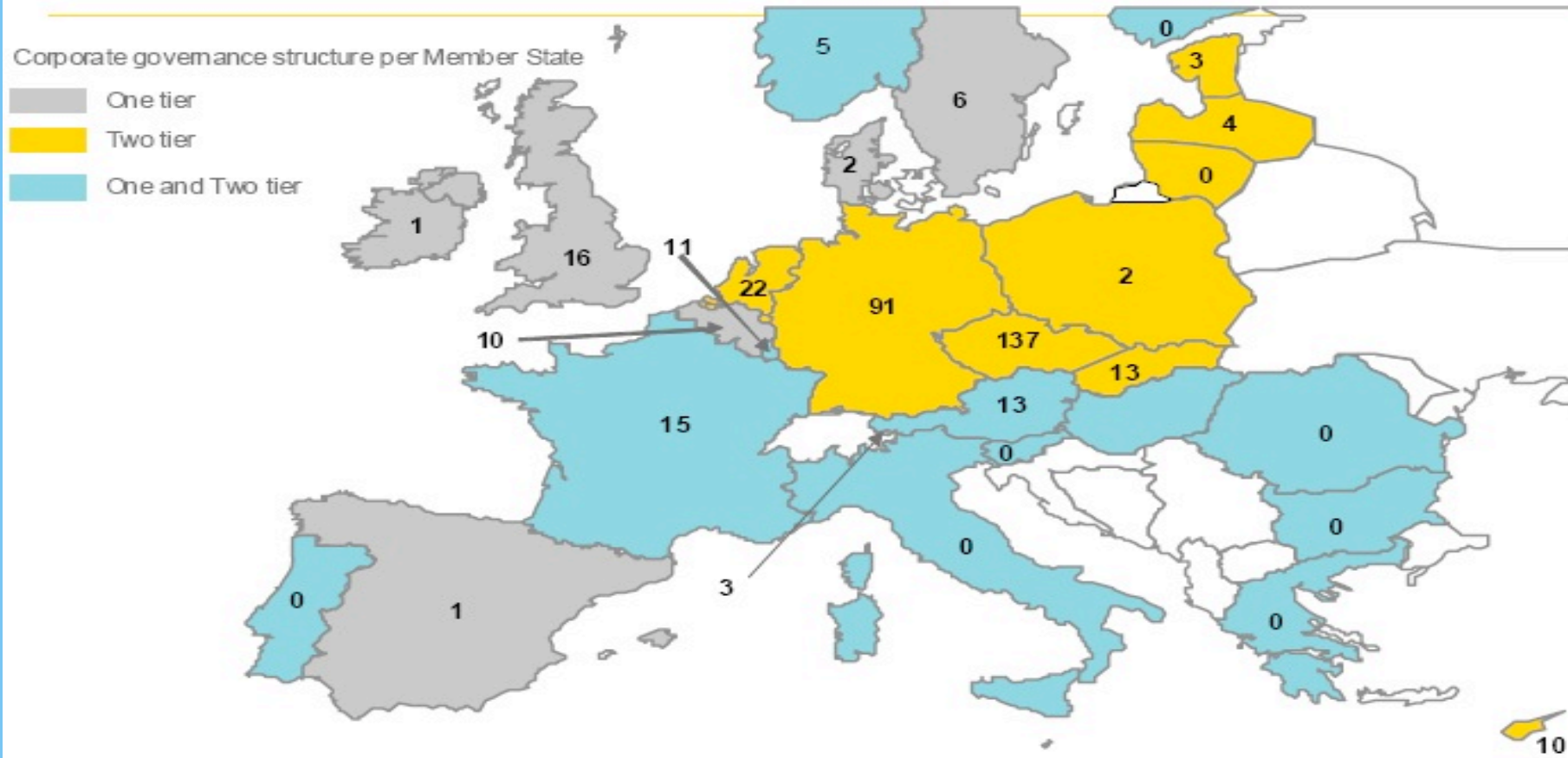
Main trends (1)

Worker board-level participation in Europe

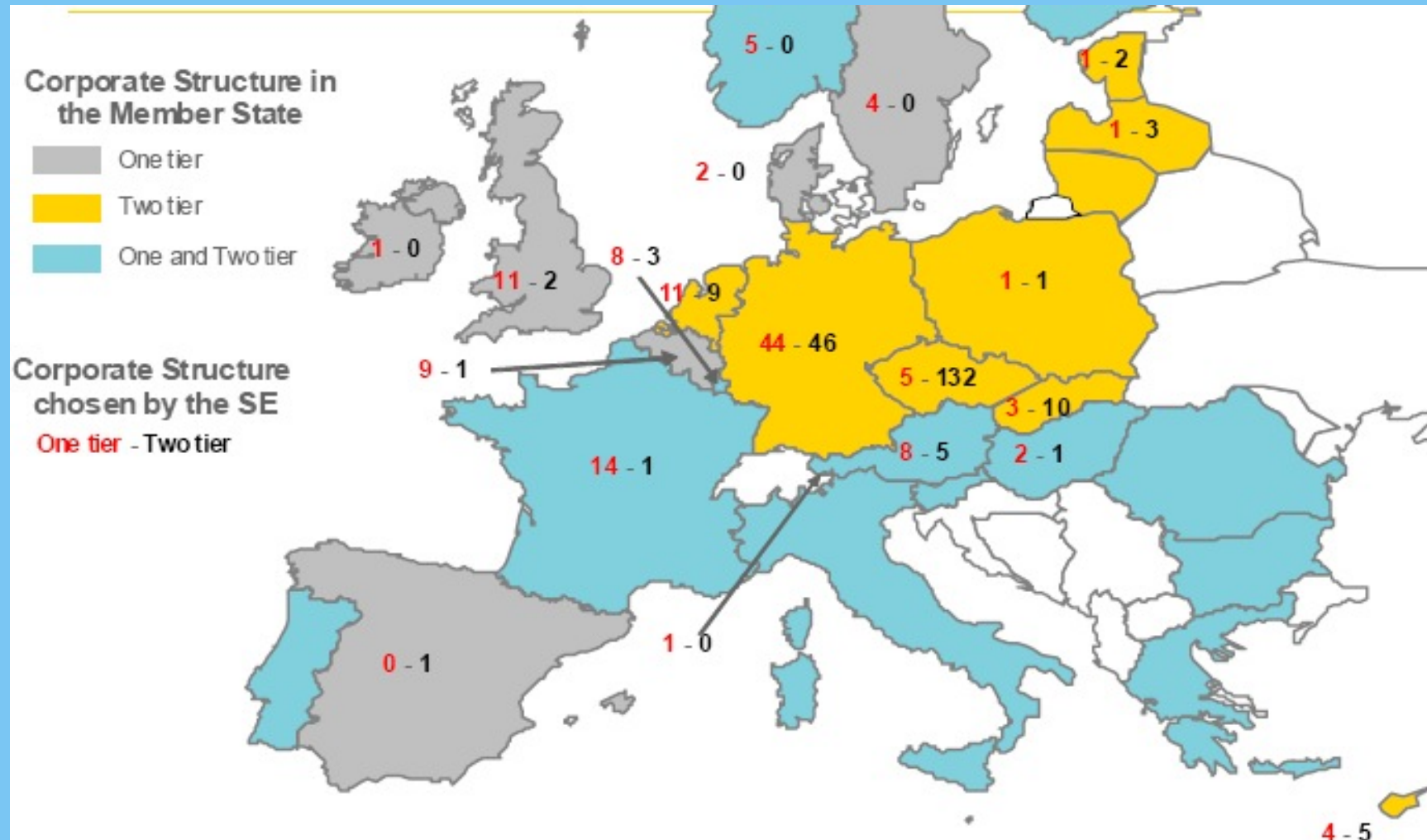


Main trends (2)

Corporate Governance structure



Corporate Governance in more detail



European Commission 
Internal Market & Services DG

Corporate Governance: No. of members just before and after creation of the SE

Member States	Breakdown of number of SEs according to the variation in the number of the corporate organs		
	Decrease	Stagnation	Increase
Austria	1	3	0
Belgium	1	1	3
Cyprus	0	1	1
Czech Republic	2	120	8
Germany	5	31	5
Denmark	0	2	0
Estonia	0	1	2
France	5	4	1
Hungary	0	1	0
Luxembourg	1	1	0
Latvia	0	1	2
Netherlands	0	2	3
Norway	1	4	0
Poland	0	2	0
Slovakia	1	2	3
Total	17	176	28

Main trends (3): Other possible explanations

- Specific business case
- Possibility of transfer of seat
- Specific differences in MS' legislation of importance for some companies
- European/transnational image
- Simplified group structure/regulatory reasons
- Size of national companies
- Knowledge in the legal and business community
- Date of implementation of the SE Directive

The study's main recommendations for amendments

- Align the rules on employee participation with the 10th Company Law Directive
- Ensure employee arrangements also where the SE originate as a shelf SE
- Extend the ways to set up an SE
- Simplify the required cross-border elements to set up an SE

NB: COM has not taken any position yet on any possible proposals for amendments

Conference on SE (26 May)

Debated issues, *inter alia*:

- Shelves/Employee involvement
- Set up costs/time/registration
- Reporting/notification/publication
- Cross-border requirement
- Separation of registered/real seat
- Competition with 10th CLD/ECJ (/SPE?)

Next steps

- Publication of result of public consultation
- COM report, cf. Art: 69
- Timing of any possible COM ideas or proposals for amendments: not decided yet.

Documents on-line and more information
on the European Company Statute
available on

[http://ec.europa.eu/internal_market/company/se/
index_en.htm](http://ec.europa.eu/internal_market/company/se/index_en.htm)