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in the European Union

Krzysztof WACH



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Support for Business Succession in the European Union

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ABSTRACT

The paper summarizes - from the point of view of management sciences - institutional factors that matter for conducting the policy of support for business succession by member states in the European Union. Describing challenges for family business in Europe is the entering point for the discussion. The main part focuses on the chronological analysis of the EU documents in favour of ownership transfer and succession of enterprises.

JEL classifications: H7, K2

Key words: succession, family business, ownership transfer, European Union

Support for Business Succession in the European Union

Krzysztof Wach, PhD

Introduction

In 2002 it was estimated that during the following 10 years, as many as 1/3 of enterprises from 15 countries of the then European Union made transfer of ownership, however, this indicator ranged from 25 to 40% in individual member states. In absolute numbers this indicator amounted to about 610 thousand small and medium-sized enterprises, out of which nearly a half employs workers (about 2.1 million workplaces) (the European Commission, 2002, p.7). At the beginning of 2006, it was estimated for the EU countries that “even 690 thousand enterprises a year should find new owners – these enterprises, although small and medium-sized in majority, give 2.8 million workplaces in total” (the European Commission, 2006b, p.5). The quoted data show unequivocally that the question of continuity of enterprises, especially family ones, is one of the key problems which will make competitiveness of economy and the dynamics of workplace forming impaired if not solved. The enterprise ownership transfer is a chance for „survival” for many, mainly family firms.

At the beginning of 2007, the European Commission appointed the Expert Group on Family Business, EGFB. The result of the experts’ work was the report entitled "Overview of Family Business Relevant Issues" published by the end of 2008. It is worth stressing that the appointment of this expert group significantly changes the hitherto prevailing Community policy which will treat this problem much more broadly, not focusing only on the question of the transfer of enterprise ownership but on the question of family entrepreneurship, whose one of the key areas is enterprise succession (tab. 1).

Table 1. Challenges for Family Business in Europe

Challenge	Policy Recommendations	Concerned Level
Lack of awareness by politicians of the economic and social/societal contribution of family	Provide an operational definition of “family business”	Expert Group on Family Business Relevant Issues
	Conduct and disseminate	National governments,

businesses, resulting in a low level of activity to create a family business friendly environment	research on family businesses	chambers of commerce in cooperation with researchers
	Establish family business representative organisations	Family business sector with the assistance of the European Commission and national governments
	Empower the family business representative organisations	European Commission and national governments
Lack of family firms' awareness of the importance of timely planning for intergenerational business transfer (particularly in the NMS and against the changing Framework conditions such as socio-demographic change), resulting in ill-prepared successions endangering the firms' survival	Establish/continue awareness raising measures of the importance of planning business transfers as well as the provision of practical planning tools	European Commission and national governments, in cooperation with chambers of commerce and family business networks as well as education providers
	Establish training for entrepreneurs and successors to prepare them to cope with the challenges of the transfer process	
Financial obligations	Reduce/abolish inheritance/gift tax	National governments
	Establish access to finance which does not involve the loss of control of business decisions	
Balancing business and family issues, resulting in the need for specific governance instruments	Raise awareness to the importance of governance structures and provide information on/assistance in their design and establishment	European Commission and national governments, in cooperation with chambers of commerce and family business networks
	Provide financial support for the establishment of governance instruments	National and regional governments
Lack of family business specific management and entrepreneurship education	Tailor management and entrepreneurship education towards the specific needs of family business owners/managers (i.e., dealing with specific issues, focusing on practical applicability)	National governments (particularly in the NMS) in cooperation with education providers
Limited access to finance for growth	Establish tax regimes treating retained profits favourably	National governments
Attracting and maintaining a (skilled) workforce	Launch an image campaign	Family business networks, in cooperation with national governments

Source: (Mandl 2008, pp. 4-5).

Directions in Evolution of Community Policy in Favour of Business Succession

Already at the beginning of 1990s, the European Commission noticed the complexity of enterprise succession problem and its significance for the survival of European enterprises, especially family ones. On 29 - 30 January 1993 in Brussels, a symposium on the transfer of enterprise ownership took place, organized under auspices of the European Commission. The symposium allowed the European Commission to identify the main problems connected with enterprise succession in the form of a communication of 29th June 1994, and indicate the best practice in this scope. The communication postulated focusing on the questions, such as (European Commission, 1994b, pp. 1-23):

- ensuring continuity to partnerships and sole traders
- preparing enterprises to ownership transfer by adopting the most suitable organizational and legal form,
- supporting the transfer of enterprise ownership by administrative and legislative powers,
- ensuring tax reliefs in case of enterprise ownership transfer within the family.

On 7th December 1994, the Commission passed, in the form of recommendation, detailed guidelines on the improvement of the conditions for enterprise ownership transfer in the Community member states. These recommendations also concerned numerous areas affecting the transfer of enterprise ownership, such as taxation, the change in legal status of an enterprise, access to transfer financing. The recommendations directed to individual member states included in this legal act were as follows: (the European Commission, 1994a, pp. 1-9):

- inducing initiatives which serve raising awareness, passing information and providing trainings on how to plan enterprise ownership transfer,
- ensuring proper financial environment conducting enterprise ownership transfer,
- providing legal possibilities for enterprise restructuring in order to prepare to ownership transfer, especially with reference to legal status of an enterprise,
- establishing legal regulations ensuring the continuity of partnerships and sole traders in case of death of one of partners or the owner,
- creating favourable regulations concerning inheritance or donation tax from enterprise ownership transfer in order to ensure survival to them,
- facilitating enterprise ownership transfer to third persons by introducing beneficial tax regulations.

The progress in the implementation of the above recommendations by member states was discussed at the forum organized by the Commission on 3 - 4 February in Lille in France. The working document summing up the debate included 13 conclusions systematized in three groups (the European Commission, 1997):

1. Legal measures facilitating transfer of enterprise ownership:

- facilitations in the scope of transferring partnership enterprises into limited enterprises,
- introducing simplified forms of limited enterprises,
- introducing limited companies wholly owned by sole traders
- ensuring legal continuity to partnerships, especially civil law partnerships,
- simplifying administrative formalities in the scope of enterprise ownership transfer.

2. Taxation means facilitating enterprise ownership transfer:

- decreasing tax rates from legacies and donations in the scope of enterprise ownership transfer,
- exemption from tax or decreasing the burden of tax on capital transfer in the scope of enterprise ownership to the benefit of third persons,
- liquidation of any forms of tax in the scope of enterprise transformation,
- increasing the number of agreements signed between member states on the avoidance of double taxation in the scope of taxes on inheritance and donations,
- ensuring information on tax consequences of enterprise ownership transfer.
- tax reforms should take into account facilitations for enterprise ownership transfer.

3. Supporting action in the scope of the facilitation of enterprise ownership transfer:

- ensuring proper financing of enterprise ownership transfer and beneficial loan strategy in this scope by financial institutions,
- ensuring broadly understood counseling in the scope of enterprise ownership transfer, already at the preliminary phase of planning an enterprise succession.

In 1998 the Commission published a report on activities undertaken till 31st December 1996 by member states in the scope of the facilitation of enterprise transfer (European Commission, 1998, pp. 2-18) which, apart from general conclusions convergent with Lille conclusions, included also comparative tables and the presentation of detailed progresses of 15 countries of the then European Union.

In November 2000, the Commission appointed an expert group on transferring small and medium-sized enterprises, the task of which was to draw up a report assessing the effects

of the implementation of recommendations made by the member states after 1998¹. In May 2002, a final report of the expert group was published, which contained the following recommendations (the European Commission, 2002b, p. 8 and 44-45):

- Creating the European Centre for Transfer of Enterprises coordinating and facilitating activity in this scope,
- creating the European database of sellers and buyers of enterprises, as well as the intensification of the existing databases and inducing the creation of such bases in countries in which they do not exist yet,
- arranging regular European seminars, meetings and forums on transfer of enterprises,
- the development of alternative and additional, tailor-made services in the scope of trainings and managing the process of enterprise ownership transfer,
- initiating programmes of support for enterprise transfer by national authorities, but also research in this scope,
- the attention of decision-makers should be equally divided between the support for setting up new enterprises and the support for the ownership transfer of already existing enterprises.

The report provided for the same means of achieving the effectiveness and efficiency of enterprise transfer, as the means presented in 1997 and 1998, yet their analysis was more detailed. A lot of attention was paid to the awareness of entrepreneurs on the transfer of enterprise ownership and creating the transfer market. To 2002 such markets existed in 4 member states (Austria, Denmark, France, Holland), and partially in other 4 countries (Germany, Luxembourg, Italy, Finland). The report called to the Commission to define, in agreement with the member states, time frame for the implementation of experts' recommendations.

On 23-24 September 2002 in Vienna, under the auspices of the Commission, the European Seminar on Enterprise Transfer was organized. Conclusions coming from the sum-up report were mostly informative. They basically postulated raising the awareness of the problem both among authorities and entrepreneurs, suggesting a number of instrument in this scope (the European Commission, 2002a, pp. 5-6).

On the basis of the Council's decision on 20th December 2000, the Fourth Multiannual Programme for Enterprise and Entrepreneurship and in particular for Small and Medium-Sized Enterprises 2001-2005 was passed (the European Council, 2000, pp. 84-91). Initially,

¹ The Project was called the *Best Project on Transfer of Businesses*.

the programme was intended for 5 years, but then it was prolonged by a year, till the end of 2006, so that it could agree with the Community's programming period. The programme contained 5 main objectives, and one of them, (the promotion of entrepreneurship) provided for the assistance in establishing new enterprises and the help in ownership transfer of already existing enterprises.

In *The Green Book of Entrepreneurship in Europe* published by the Commission in January 2003 (the European Commission, 2003a), a lot of space was devoted to enterprise transfer, although this subject was not a separately analyzed area. However, it permanently appeared in all areas indicated in the Book, including hitherto prevailing postulates in this scope.

In 2003, a handbook of good practice on transferring enterprise ownership was also published by the European Commission (the European Commission, 2003b).

In October 2002, the Commission appointed another expert group on enterprise transfer (so-called MAP 2002 Project), the works of which allowed to publish in August 2003 another report assessing progress in the scope of policy for the benefit of enterprise transfer. The report contained six key areas on which the Community policy on enterprise transfer should focus. These were the following areas (the European Commission, 2003c, p. 8):

1. Activities facilitating enterprise transfer by third persons.
2. Special activities facilitating transfer of ownership to employees.
3. Special rules in the scope of tax on inheritance and donations from enterprise transfer.
4. Incentives encouraging „timely” preparation of the process of enterprise transfer².
5. Tax reliefs from funds obtained from enterprise ownership transfer, which have been reinvested in another SME.
6. Financial instruments facilitating enterprise transfer.

The report postulated carrying out benchmarking for all identified key areas.

At the beginning of 2004, in the form of announcement, the Commission proclaimed *Entrepreneurship Action Plan - EAP* (a plan of actions for entrepreneurship) in which among nine indicated key actions, one concerned facilitations in enterprise transfer. The communication claims that “The Commission will continue giving assistance to national and regional decision-makers in order to facilitate enterprise transfer, mainly with the intention of ensuring continuity to many EU family firms which have a chance to survive on the market.

² “Timely” in “timely preparation” term is connected with the necessity of an enterprise owner retirement, however, due to employment policy which promotes professional activeness of people in the retirement age the Report uses a softer expression, which was clearly emphasized.

The Commission will continue to encourage the member states to implement recommendations on enterprise transfer and will increase efforts in raising the awareness of prospective entrepreneurs in the scope of enterprise transfer” (the European Commission, 2004a, p. 10). The indicated detailed actions within the framework of this key activity were as follows (the European Commission, 2004a, p. 10):

- publishing a new communication from the Commission on enterprise transfer, in which recommended actions will be specified, and assessing the implementation of recommendations of 1994 (the communication was initially planned for 2004, although in fact it was published only in 2006),
- providing appropriate framework for enterprise transfer market in the member states,
- analyzing causes for success and failure of the process of enterprise ownership transfer in Europe,
- making funds for financing enterprise transfer available within the framework of the Community financial instruments.

In the initial report on EAP implementation issued in 2005, the Commission’s efforts to implement three out of four actions indicated above were summed up, since the third action by rotation was cancelled due to a negative decision of Enterprise Programme Management Committee, EPMC) (the European Commission, 2004b, p. 7).

By the end of 2004, the Commission appointed another expert group on enterprise transfer within the framework of ”*Support for Establishing Transparent Market for Enterprise Ownership Transfer*” project (so-called MAP 2004 Project). The final report, entitled *Enterprise Exchange* was published in May 2006 (the European Commission, 2006a). The report presented nine models of enterprise exchanges functioning in 8 member states (Belgium³, Germany, France, Italy, Finland, Luxembourg, Holland, Austria). The report also discussed the situation occurring in the remaining 10 member states (Bulgaria, Check Republic, Greece, Spain, Hungary, Poland, Romania, Slovenia, Sweden, Great Britain, and Turkey as a candidate country). The essence of the report is the elaboration of the enterprise exchange with the indication to its desired features.

In March 2006, two months before the publication of the evaluation report, the Commission issued a communication entitled “*Transferring Enterprise Ownership – Continuity Through a New Beginning*”. On the basis of the conducted analysis of the implementation of 1994 recommendation, the Commission drew six recommendations for the

³ In Belgium, due to a federate political system two such stock exchanges function – a Flamand and a Walloon one.

future which reinforce the recommendations of 1994 in the areas in which progress is not sufficient, and they are an expression of changes in the economic environment marked during the last decade. The recommendations are as follows (the European Commission, 2006a, pp. 10-12):

- Focusing political attention both to the transfer of enterprise ownership and on the newly-set up enterprises.
- Providing proper financial conditions facilitating transfer of enterprise ownership.
- Raising the awareness, taking into account „soft” factors and promoting counseling in the scope of the transfer of enterprise ownership.
- Constituting a transparent market for the transfer of enterprise ownership.
- Providing taxation systems conducing the transfer of enterprise ownership.
- Creating appropriate structures in order to implement Community recommendations in the scope of the transfer of enterprise ownership on a great scale.

National Instruments of Support for the Succession of Enterprises

While analyzing the directions of evolution of the European Union Policy in the scope of the transfer of enterprise ownership, we may notice that from the beginning of 1990s to the end of 2008, not radical but only evolutionary changes took place in it. During these two decades, the assumptions and recommendations of 1994 were specified. The actions discussed in the elaboration undoubtedly contributed to conceptualization of the Community policy in this scope, which may be now systematically summed up (compare: Tab. 2).

Table 2. The Assumption of Community Policy in the Scope of the Transfer of Enterprise Ownership to be Implemented on the Level of the Member States

Areas of policy	Actions
1. Legal means	1.1. Facilitations in transferring partnerships into companies and <i>vice versa</i> . 1.2. Introduction of simplified forms of companies. 1.3. Introducing companies wholly owned by sole traders 1.4. Ensuring legal continuity of partnerships, especially civil law companies 1.5. Introducing right of pre-emption of a business by an

	<p>owner/founder's family members in case of his death or illness.</p> <p>1.6. Facilitation of administrative formalities concerning the transfer of enterprise ownership.</p>
2. Taxation means	<p>2.1. Decreasing rates of tax on inheritance and donations in the scope of the transfer of enterprise ownership.</p> <p>2.2. Exemption or decreasing burdens in the scope of tax on capital transfer in the scope of the transfer of enterprise ownership for the benefit of third persons.</p> <p>2.3. Decreasing burdens in the scope of tax on capital transfer in the scope of the transfer of enterprise ownership by employees.</p> <p>2.3. Liquidation of all forms of taxation in the scope of business transformation.</p> <p>2.4. Introducing tax reliefs from funds gained from the transfer of enterprise ownership, which were then reinvested in other small and medium-sized enterprises.</p> <p>2.5. Introducing reliefs from funds obtained for the transfer of enterprise ownership, which have been invested in pension fund for the initial owner/founder of the business.</p> <p>2.6. Providing information concerning tax consequences in the scope of the transfer of enterprise ownership.</p> <p>2.7. Tax reforms should consider facilitations for the transfer of enterprise ownership.</p>
3. Supporting actions	<p>3.1. Raising awareness among entrepreneurs on the transfer of enterprise ownership. Organizing regular European seminars, meetings or forums on business transfer.</p> <p>3.2. Providing proper financing of enterprise ownership and beneficial loan strategy in this scope.</p> <p>3.3. Providing broadly understood counselling on the transfer of enterprise ownership, already at the preliminary stage of planning a succession. The development of alternative and additional tailor-made services on trainings and the management of the transfer of enterprise ownership process.</p> <p>3.4. Support for creating transparent market for the transfer of enterprise ownership (so-called enterprise exchange).</p> <p>3.5. Creating European database of sellers and buyers of enterprises, as well as the intensification of the existing national database and inducing the creation of such databases where they do not exist yet.</p> <p>3.6. Creating the European Centre for the Transfer of Enterprises, coordinating and facilitating activeness in this scope.</p> <p>3.7. Creating <i>one-stop-shops</i> for enterprise transfer or offering such services by the exiting shops of „one window” type.</p>
4. Best practice	<p>4.1. Promotion of best practice in the scope of planning the process of enterprise ownership transfer.</p> <p>4.2. Promotion of best practice in the scope of trainings on business transfer.</p> <p>4.3. Promotion of best practice in the scope of business valuation.</p> <p>4.4. Promotion of using experience of initial/former owners of passed businesses.</p>

Source: Authors' own study on the basis of source materials quoted in the study.

Table 3. Progress in the Implementation of the Recommendations of 1994 in the Scope of Transfer of Businesses by Member States till the End of 2005

Country	Awareness raising	Financial environment	Change of legal firm	Tax neutral restructuring	Simplification SMEs/PLCs	PLC with one member	Legal principle of continuity	Unanimity not required	Reduced inheritance tax	Deferring inheritance tax	Retirement tax relief	Re-investment tax relief	Sale to employees tax relief	TOTAL + and (+)
B	+	+	+	+	+	0	+	0	+	(+)	+	+	(+)	11
CZ	-	-	+	(+)	+	0	(+)	0	(+)	(+)	+	+	0	8
DK	-	+	(+)	+	+	+	+	-	+	0	+	0	+	9
D	+	+	+	+	+	+	+	0	+	+	+	+	0	11
EE	0	0	+	-	-	+	-	-	+	+	0	0	0	4
EL	-	-	-	-	-	-	-	-	(+)		-	-	-	2
E	(+)	-	+	-	+	+	(+)	-	+	0	-	+	+	9
F	+	+	+	+	-	+	-	-	+	+	+	+	+	9
IRL	(+)	(+)	0	+	+	0	(+)	-	+	+	+	Φ!	+	9
I	+	(+)	+	0	0	+	+	+	+	+	0	0	0	8
CY	(+)	0	+	-	+	(+)	(+)	-	+	+	0	0	0	7
LV	-	0	(+)	(+)	0	+	+	+	-	-	-	-	-	5
LT	(+)	-	+	+	+	+	+	0	+	+	0	0	0	8
L	+	+	+	-	(+)	+	+	0	-	(+)	0	0	0	7
HU	0	0	+	+	0	+	+	+	(+)	-	+	+	+	8
MT	0	0	(+)	+	+	0	(+)	0	+	+	0	0	0	6
NL	+	-	+	+	+	+	+	-	+	+	Φ!	0	0	8
A	+	+	(+)	+	+	+	(+)		+	(+)		0	0	12
PL	-	(+)	+	+	0	+	(+)	0	+	-	0	0	0	6
P	(+)	-	+	-	-	0	+	-	0	0	0	0	0	3
SI	0	0	(+)	+	+	+	(+)	-	-	(+)	0	0	0	6
SK	0	0	(+)	0	0	+	-	0	+	-	0	0	0	3
FIN	+	+	(+)	+	+	+	+	0	+	+	0	0	0	9
S	(+)	-	(+)	+	-	+	0	0	+	+		-	0	6
UK	(+)	-	+	-	-	+	-	0	+	+	Φ!			7
EU	15	10	23	16	14	19	19	4	41	18	8	6	8	181

The table show in which areas measures have been reported by the Member States but does NOT reflect an assessment of measures.

Notes:

- + Recommendation implemented
- (+) Partial or planned implementation
- 0 Recommendation not implemented
- Φ! Former implementation revoked
- no information

Source: (European Commission, 2006a, p. 11).

In the communication from the Commission of 2006, the information was passed that the level of the implementation of 1994 recommendations in EU-25 countries amounted only

to 65% (although there were significant differences in the recommendation implementation between member states), and the results of this indicator were regarded as insufficient (compare: Table 3). The most advanced in the implementation of the recommendations were three countries: Belgium, Austria and Germany, whereas the least advanced were Greece, Portugal, and Slovakia. Poland, with the result 6 is placed below the Union's average which is 7.24 (the lowest result is 2, and the highest is 12).

Conclusions

On the basis of gathered and presented material let's draw a conclusion that the Community policy in the scope of the transfer of the ownership of businesses boils down to the Commission's recommendations, and it is not developed and "equipped" enough. In spite of this, implementation and improvement of these recommendations will certainly improve the support for the continuity of European enterprises, especially small and medium-sized family businesses. We should add that actions of individual member states are insufficient. The implementation of the recommendations indicated above could contribute to the improvement of transfer of businesses process, that is it could increase the survival rate of European enterprises, especially family ones. Everything lies in the competence of national governments of individual member states because policy in the scope of the transfer of the ownership of businesses is based only on recommendations issued by Community bodies, which however are known not to be binding.

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Within his research and teaching activities he specializes in broadly understood entrepreneurship, especially the functioning of small and medium-sized enterprises on European markets. The consultant and adviser in the field of doing business in the European Union. Trainer of management and entrepreneurship during numerous courses and workshops for entrepreneurs, bankers and public administration workers including European Employment Service (EURES) advisers as well as teachers. The expert of University of Targu-Mures in the field of entrepreneurship education within the project CNCSIS/EDARO financed by the Romanian Government (2007-2008). The coordinator of CEEPUS project on entrepreneurship education (2003-2004). As a teacher he promotes active methods of teaching including *blended e-learning* (in his field He was a tutor within „iCOLL” project realized within Socrates-Minerva program and fully financed by the European Commission (2006-2007). For over 2 years he ran his own consulting firm, thus in his research and teaching work he links his rich practical experience and theoretical background.

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