The abolishment of the minimum share capital requirement for private limited liability companies in Finland

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1. Introduction
Finland abolished the minimum share capital requirement of EUR 2,500 for private limited liability companies (LLCs) on July 1, 2019 as part of the government’s deregulation goals. Depending on the interpretation, at least 10 other European Union (EU) Member States have abolished the minimum share capital requirement for private LLCs or equivalent company forms, reducing the requirement to EUR 1 or its equivalent in the 21st century. Moreover, some European countries do not require a share capital upon registration but maintain an official share capital requirement. Sweden, Norway and Denmark have recently reduced their requirements of minimum share capital. Estonia has decided to abolish minimum share capital as of February 1, 2023. Altogether, the trend has been towards abandoning strict requirements concerning the minimum share capital for private LLCs.

During the legislative abolishment process the arguments presented to support abolishing or reducing the minimum share capital requirement have stressed the need to better facilitate entrepreneurship by removing barriers to market entry. The minimum share capital was no longer considered to offer significant protection for the creditors, and its low requirements in several countries were deemed insufficient to counteract irresponsible business practices. Sweden and Norway, which opted for reducing the required minimum share capital, had similar arguments but found a certain level of minimum share capital necessary to maintain a “threshold of seriousness”. In 2016, the Ministry of Justice published a memorandum concerning the need to amend the Finnish Limited Liability Companies Act (624/2006, later FCA). The proposal...
to abolish or reduce the minimum share capital requirement to EUR 1 was, even then, generally supported, and as a result the minimum share capital requirement for LLCs was abolished.

This article aims to observe the process and effects of abolishing the minimum share capital requirement in Finland in 2019. Firstly, the article examines the background and reasoning for abolishing the minimum share capital requirement. Secondly, the international aspect will be examined regarding the current regulation and recent changes of minimum share capital requirements in other EU Member States. Thirdly, effects originated in the reform will be socially and economically elaborated and evaluated. Also statistical data from the Finnish Trade Register before and after the abolishment of minimum share capital is utilized.

The first and second purposes are to be achieved through legal dogmatic analysis. The third is answered through a more complex combination of an economic analysis of transaction costs and bureaucratic burden. The core concept is that any bureaucratic demand or cost-inducing procedure is unnecessarily complicated and costly if its inclusion does not provide concrete and necessary protections to stakeholders. Legal comparative analysis is used to discover the ongoing trends regarding the minimum share capital requirement. This approach emphasises the significance of preparatory works as they contain the initial explanations of the system’s basic form and its rationale. Reaching an agreement on general principles of company law is relatively easy but reaching a consensus on the details, especially regarding whom the duties are owed, is difficult. The aim is to provide a sufficient description of current minimum share capital requirements in EU member states. Our legal comparison focuses on Denmark, Norway, Sweden and Iceland. To some extent, the changes in capital requirements of some other EU member states are also covered. The European model companies act (EMCA 2017) is used as a reference point when applicable.

Attracting and encouraging enterprise is beneficial for countries. Competitive and functional company law is one asset in this endeavour. The law must provide the necessary protections for stakeholders but should not include restrictions that serve no legitimate interests or are inefficient in serving those interests. Any norm should be placed under critical inspection if it does not answer a legitimate need for protection or if it cannot provide that protection. Total harmonisation of the creditor protection rules on the EU level is practically impossible as different systems of creditor protection in national laws exist; creditor protection deals with many areas of law.

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Nordic region is a long history of cooperation while drafting company legislation within the region. However, during the 2000s, the Nordic countries adopted an independent approach. Still, the top choices within company law remain similar across the Nordic region, but there are different views on minimum share capital requirement.

2. Background and reasoning for abolishing the minimum share capital requirement in Finland

2.1. Modernisation of creditor protection regime

Abolishing the minimum share capital requirement can be situated within a wider discussion on modernising creditor protection. Firstly, Finland abolished the concept of nominal value (par value) in implementation of the new Finnish Companies Act 2006 (FCA 2006). FCA allows the companies to choose real non-par value shares or continue to retain the traditional nominal value system. However, in most of the companies founded since 2006, the shares have no nominal value. In addition, a provision regarding the solvency test of profit distribution was added to the FCA 2006. Secondly, Finland abolished the minimum share capital requirement for private companies in 2019.

Thirdly, Finland has further investigated the functionality of the creditor protection system in 2020. A recent study found that some areas of creditor protection are outdated and no longer serve the modern company field. For example, Finnish creditor protection procedure as such has been deemed “unnecessarily long, complicated and over encompassing”. Significant reforms have been proposed to the process to simplify company mergers, de-mergers, and dissolutions. Many of the instruments originally intended to protect company creditors are no longer actively used by the creditors or produce unnecessary costs and loss of efficiency for the companies. No legislative action has yet been taken on these 2020 reform needs.

2.2. History of minimum share capital requirement


The FCA did not require a minimum share capital until 1978. The Limited Liability Companies Act of 1978 (734/1978) required the minimum share capital of approximately EUR 2,500 for new incorporated private companies. Internationally, the minimum share capital requirement was considered relatively low and was estimated to cover start-up expenses of small private companies. The requirement was justified based on the share capital re-
quirements applied in other states and the view that no business should be exercised and companies with no real assets incorporated without personal liability. However, sparse capital and the lack of the minimum share capital requirement of the Act of 1978 favoured setting the minimum amount lower than elsewhere.14

Finnish companies were divided into private and public LLCs during the FCA 1978’s comprehensive partial reform in 1997. The minimum share capital requirement for private companies was increased due to the change in the currency’s value and the acknowledgement of the new minimum share capital requirement for public LLCs. Thusly, minimum share capital requirements were enacted separately for private and public companies to meet EU requirements. For private companies, the minimum share capital requirement was set at EUR 8.400 (for public companies, EUR 80.000).15 In the FCA’s general reform in 2006 (New FCA 2006), the minimum share capital requirement for private companies was reduced to EUR 2 500, corresponding with the share capital requirement of nominal value in the 1978 Act.16 The reasoning was to facilitate incorporating an LLC.17 However, reducing the minimum share capital requirement for public companies was not part of the reform.18

2.3. Renewal process of abolishing minimum share capital requirement for private companies
In spring 2016, the Ministry of Justice published a memorandum concerning the need to amend the FCA and requested comments on the amendments highlighted in the memo. The memorandum published in 2016 suggested, inter alia, that the minimum share capital requirement for private companies should be abolished or reduced to EUR 1. Most respondents favoured abolishing the minimum share capital requirement for private companies. Those favouring amending the minimum share capital requirement reasoned that the minimum share capital requirement for private companies is unnecessary and insignificant since EUR 2.500 does not protect creditors, even theoretically. The creditor protection procedure in the FCA is strongly based on the balance sheet test combined with maintaining companies’ solvency. In developing electronic registry services, the minimum share capital requirement and its payment control create an administrative burden and an unnecessary hindrance, especially concerning a company’s incorporation phase. The amendments in question were held to align with the government’s goal of lightening regulation and general international regulatory developments since many EU and EEA states have abolished or reduced the minimum share capital requirement for private LLCs or other LLCs to EUR 1.19 However, the proposed amendments were also criticised. Critics expressed their concern that abolishing the minimum share capital requirement would give a company’s founders the wrong type of signal as they could interpret the amendment so that another entity, such as a creditor or taxpayers, would bear the business risk. This signal was considered in contradiction with the market economy’s basic...
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principles. The minimum share capital requirement as an important guarantee of reliability was also noted. Fundamentally, from a creditor’s perspective, the requirement was considered essential as it is linked to the obligation to file a notification concerning the loss of share capital. Only the Tax Administration’s Grey Economy Information Unit explicitly opposed the proposal because shadow economy companies inevitably have an almost light balance sheet structure. Although many of the proposed amendments were considered essential and supported unanimously after the comments round in 2016, there was no progress regarding the legislative amendment project per se.

2.3. Renewal process of share capital requirement in 2018

The draft proposal regarding abolishing minimum share capital requirement for private companies was finally issued in 2018. According to this proposal approximately 85 % of private companies were incorporated with the minimum capital of EUR 2,500. Most respondents supported abolishing the minimum share capital requirement for private companies.

The government proposal was issued in November 2018 and proposed abolishing the minimum share capital requirement of EUR 2,500 for private companies. The proposal stated its purpose was to simplify exercising a profession and other micro and small business activities without personal liability. The proposal facilitates using a private company form, particularly regarding incorporating a new micro-enterprise, strengthening the preconditions for business activities, and aligning with the government’s goal of lightening regulation. Moreover, the proposed acts will simplify digitally filing notifications and automating registration.

Most who commented on the minimum share capital requirement for public companies favoured lowering the share capital requirement from EUR 80,000 to EUR 50,000 or EUR 25,000. The most common reasoning was European practice. As stipulated in Article 45 of the EU directive, the minimum share capital for public companies is EUR 25,000. The minimum share capital requirement for public companies was not changed.

3. Minimum share capital requirement – An international aspect

3.1. Development

Abolishing the minimum share capital requirement for private LLCs is considered in line with the international development of the 21st century. The Netherlands, Belgium, France, Italy, Germany, Croatia, Poland,

20. OM 48/2016, pp. 16-17.
22. The purpose of the Government draft proposal was to amend the FCA by rectifying a specific, although fundamentally important, issue. See Vahterent, Veikko: Ehdotus osakeyhtiön vähimmäispääomavaatimuksen poistamiseksi kannatettava – oman pääoman menettämisen rekisteröinnistä luopuminen heikentäisi velkojensuojaa ja edistäisi epäterveitä yritystoimintaa. Edilex 2019, pp. 5-6.
30. Giudici, Paolo – Agstner, Peter: Startups and Company Law: The Competitive Pressure of
Latvia,\textsuperscript{34} the Czech Republic\textsuperscript{35} and Slovakia\textsuperscript{36} have abolished the minimum share capital requirement for private LLC (or equivalent company form) or reduced the requirement to EUR 1 or equivalent amount. The three Scandinavian countries – Sweden,\textsuperscript{37} Denmark\textsuperscript{38} and Norway\textsuperscript{39} – have reduced their requirements of minimum share capital in the last 11 years.

Reducing or abolishing the minimum share capital requirement has been a trend in Europe in the 21\textsuperscript{st} century. Two principal reasons can be offered to explain this development.

Firstly, three landmark rulings from the European Court of Justice (later: ECJ) in 1999, 2002 and 2003 consolidated the right of companies in the European Union (EU) to establish business entities in any EU member state regardless of their official places of residence,\textsuperscript{40} enabling, in particular, the easily incorporated private LLCs from the United Kingdom to operate more freely in the Central European markets, which was considered a threat in Germany and other EU member states.\textsuperscript{41} Secondly, the minimum share capital has been recognised as not offering significant protection to the company’s creditors and can be an obstacle to starting a business.\textsuperscript{42} The reforms to reduce or abolish the minimum share capital requirement have been attested to lead to higher numbers of established LLCs.\textsuperscript{43}

Two roads for reforming the minimum share capital requirement can be distinguished among the European countries.\textsuperscript{44} For this study, 16 countries were examined, detecting that especially Western European and Scandinavian countries opted to reduce or abolish the minimum share capital requirement within the existing private LLC forms. Sweden, Norway and Denmark have reduced their minimum share capital requirements in the last 11 years, while France, the Netherlands and Belgium abolished the minimum share capital requirement in these countries.

40. C-212/97 Centros Ltd v Erhvervs- og Selskabsstyrelsen, European Court Reports [1999] I, 1459; C-208/00 Überseering BV v Nordic Construction Company Baumanagement GmbH (NCC), European Court Reports [2002] I, 9919; and C-167/01 Kamer van Koophandel en Fabrieken voor Amsterdam v Inspire Art Ltd, European Court Reports [2003] I, 10155.


42. See Neville – Sørensen 2014 and Herbet 2019, pp. 118-119.


44. Lilja 2019, pp. 4-5.
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capital requirement altogether in 2003, 2012 and 2019, respectively. Spain has abolished the requirement de facto since the minimum share capital of EUR 3,000 does not have to be paid upon formation. Consequently, a company established with a share capital lower than EUR 3,000 faces certain restrictions until the capital is deposited.

An alternative path, primarily led by Germany, has been introducing a new company form or subtype to the private LLC. In 2008, Germany introduced a new version of the Gesellschaft mit beschränkter Haftung (GmbH, Private Limited Liability Company): Unternehmergesellschaft (UG, Entrepreneurial Company). The UG requires only EUR 1 of share capital but is designed to eventually lead to forming a GmbH. Italy followed suit in 2012 by establishing a new form of the società a responsabilità limitata (LLC), effectively removing the minimum share capital requirement. Croatia established a simple LLC in 2012, inspired by the German UG. And Slovakia introduced fairly similar models of a simple joint stock company without a required minimum share capital. Interestingly, Denmark and Belgium chose this second path initially and established their own LLC subtypes but ultimately abandoned these forms in 2019.

Instead of following one of these two approaches, some countries opted to do nothing concerning the minimum capital share requirement. Austria, for instance, has not lowered its 35,000 EUR minimum share capital requirement for private LLCs.

Although Finland’s abolition of the minimum share capital requirement follows the European trend of simplifying the company formation process, in the Nordic context, Finland has introduced the boldest reform so far. The most recent parallel is the Swedish reduction of the minimum share capital requirement from SEK 50,000 to 25,000 (approximately EUR 2,500) starting from 1 January 2020. The reform was argued to simplify establishing a company, making it easier for entrepreneurs without a significant need for capital. However, maintaining some level of required minimum share capital to restrain careless business ventures was considered important.

Norway reduced the required minimum share capital for private LLCs from NOK 100,000 to 30,000 (approximately EUR 3,000) in 2012. In 2016, a group of experts appointed by the Norwegian government proposed that the minimum share capital requirement be low-

Table 1. Approaches to reforming the minimum share capital requirement for private LLCs in certain European countries.

<table>
<thead>
<tr>
<th>Minimum share capital requirement abolished or reduced</th>
<th>A new company subtype without a minimum share capital requirement</th>
<th>No changes introduced to the minimum share capital requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium, Denmark, Estonia (Feb 2023), Finland, France, The Netherlands, Norway, Spain, Sweden</td>
<td>Croatia, Germany, Italy, Poland, Slovakia</td>
<td>Austria, Iceland, Slovenia</td>
</tr>
</tbody>
</table>

45. See Ley De Sociedades De Capital (Corporate Enterprises Act), Art. 4.
47. Giudici – Agstner 2019, p. 613.
50. Vačkovicová 2018.
ered to NOK 1. However, the government decided not to proceed with the proposal and the minimum share capital requirement of NOK 30,000 was maintained. Despite agreeing with the expert group on many of the benefits of a further reduction, the government did not consider these positive effects sufficient to support the reform. Like the Swedish lawmakers, the Norwegian government found that a minimum share capital requirement of NOK 30,000 was necessary to “impede undesirable establishments of LLCs.”

Denmark first had a trial with an Entrepreneur Company, iværksætterselskab (IVS), modelled after the German UG. The IVS was introduced in 2014 with a required minimum share capital of DKK 1, succeeding among practitioners. Nevertheless, the IVS received very negative public attention, leading to its abolition in April 2019. In connection with the dissolution of the IVS, the minimum share capital requirement of DKK 50,000 (approx. EUR 6,700) for the private LLC (ApS) was lowered to DKK 40,000 (approx. EUR 5,400).

Iceland is the only Nordic country with no recent changes to the minimum share capital requirement for private LLCs. Act No. 138/1994 on Private Limited Companies sets the minimum share capital requirement for private LLCs at ISK 500,000 (approx. EUR 3,340); later amendments to the act have not changed the regulations of minimum share capital. Most recently, Estonia has decided to abolish minimum share capital as of February 1, 2023. Under the new law, the minimum share capital amount of private limited company can be 1 euro cent (EUR 0,01).

### 3.2. Why has minimum share capital been abolished or reduced in Europe?

According to several international academic papers and government proposals regarding abolishing or reducing the minimum share capital requirement, several recurring topics were discovered:

<table>
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<tr>
<th>Table 2. Reasons stated for abolishing or reducing minimum share capital requirement for private LLCs</th>
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<tbody>
<tr>
<td>Regulatory competition</td>
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<td>European Court of Justice case law</td>
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<td>German law reform as a driver or as a response</td>
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<tr>
<td>Entrepreneurship and start-ups</td>
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<tr>
<td>Prevention of neglectful establishments</td>
</tr>
</tbody>
</table>

Firstly, regulatory competition is frequently mentioned as an underlying cause for the company law modernisation trend in Europe. The regulatory competition also occurs among different actors and entities, with some articles focusing on the distinction between the Continental and Anglo-American company law traditions on creditor protection and others concentrating on the competition among individ-

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55. ibid. p. 58.
57. ibid.
62. Ten academic papers and two government proposals were reviewed for the chart.
63. See Bachmann 2008 and Lilja 2019.
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Ital European countries. This was not, however, explicitly mentioned in the Finnish government proposal.

One main reason for the regulatory competition is often argued as stemming from three landmark rulings from the European Court of Justice: Centros (1999), Überseering (2002) and Inspire Art (2003). These rulings protect the freedom of establishing a European company in any other EU/EEA Member State independent of their actual seat. The rulings enabled English private LLCs without a minimum share capital requirement to be established in any other EU/EEA Member State, resulting in an increased number of English companies being founded, especially in Germany, with German citizens as shareholders. Continental company law and creditor protection models were compared to the English private LLC in this context, which were discovered to be outdated and less attractive to entrepreneurs. This discovery led to numerous company law reforms reducing the minimum share capital requirement in many European countries in the 2000s. Gelter argues that the competition the rulings spurred has been “defensive,” meaning aiming to prevent companies from leaving the country rather than trying to attract companies from abroad.

A 2008 German law reform, MoMiG, is often mentioned as a response to the ECJ rulings since the rulings posed the most significant threat to the German company law structures. Less frequently, Germany is regarded as the sole driver of the regulatory competition in the minimum share capital reform wave. Thus, Germany’s crucial role in the European company law paradigm is undeniable, but its legal reforms cannot be viewed independently from Europe’s overall legal development. However, Germany has influenced the direction of the Continental company law reforms by introducing the UG, Entrepreneurial Company, as a subtype of the private LLC. Many European countries chose this option instead of simply reducing or abolishing the minimum share capital requirement.

Capital requirement reforms are not only encouraged by regulatory competition. The emergence of start-ups has changed the business culture, and the existing company law structures have not responded to the need for quick, easy, and inexpensive incorporation. Fostering entrepreneurial activity by simplifying incorporation is frequently referenced as a driver of company law reform alongside regulatory competition.

64. See Braun et al. 2013 and Giudici – Agstner 2019.
65. RP 238/2018 rd.
68. Gesetz zur Modernisierung des GmbH-Rechts und zur Bekämpfung von Missbräuchen (Law for the Modernization of the GmbH and to Stop its Misuse), German Bundestag 2008.
69. See Bachmann 2008; Giudici – Agstner 2019; Neville – Sørensen 2014; Schmidt 2008; and Lilja 2019.
Other recurring issues are the “threshold of seriousness,” “prevention of abuse” or “undercapitalisation” of companies. These concerns about the quality of establishments are almost without exception presented as an opposing argument to reducing or abolishing the minimum share capital requirement or as a reminder of the risks of such reforms. In the Swedish legal proposition for reducing the minimum share capital requirement, the minimum capital is considered an important indication of seriousness, even when a reduction is proposed. Norwegian lawmakers declined the proposition to reduce the required minimum share capital to NOK 1 because the minimum capital was considered essential to prevent “undesirable establishments.” Although this argument is recognised, it is pointed out that the capital requirement has lost its de facto value as an indication of seriousness for the LLC since the requirement does not offer the company creditors significant protection.

4. Effects of abolishing the minimum share capital requirement

4.1. Statistics

Finland abolished the minimum share capital requirement of EUR 2,500 for private LLCs on July 1, 2019. According to statistical data from the Finnish Trade Register, the abolition seems to directly affect the establishment of private LLCs. The number of established companies almost doubled compared to the previous year’s period. The number of established companies has remained high, despite the coronavirus pandemic. Abolishing the minimum share capital requirement is the single explanatory factor.


Establishing a company electronically is only possible if the share capital is 0 euros, the subscription price of the shares is 0 euros, and the standard articles of association are sufficient for the company.74 The share of electronic incorporation notifications is 2018: 60.6%; 2019: 72.9%; 2020: 78.3%; and 2021: 79.8%. It can be concluded that a significant part of the companies was founded without share capital since the minimum share capital was abolished. There is also no obstacle to establishing a limited company in writing (not electronically) without share capital, so the number of companies founded without share capital is probably between 80 and 90%.

4.2. Economic and social effects
The abolishment of the minimum share capital requirement has made exercising a profession and other micro and small business activities without personal liability easier. Shareholders now have more responsibility in determining the right amount of share capital, which leads to more flexible company formation procedures. The abolishment has simplified using an LLC form, especially regarding incorporating new micro-enterprises, strengthened operational preconditions for business activities and aligned with the Finnish government’s goal of lightening regulation. In practice, the abolishment of the minimum share capital requirement has concerned approximately 85% of newly incorporated private LLCs, i.e., approximately 11 400 companies annually.

In Finland, the effects of the abolishment of minimum share capital have not yet been comprehensively studied statistically. However, the economic effects can be grouped as follows:

Advantages

1. International regulatory framework favours low share capital requirements
2. Easier for small businesses to choose an LLC form
3. Streamlines the quick establishment of corporate structures (joint ventures)
4. Creditor protection not significantly weakened

Disadvantages

1. Might promote incorporation of nonoperating companies (negative public attention)
2. Might promote the shadow economy
3. Might lead to immediate payment difficulties

Total harmonisation of the creditor protection rules on the EU level is practically impossible as there are various different systems of creditor protection in national laws.75 EU countries are encouraged to adopt legislation that matches or exceeds the competitiveness other countries have in order to lure business to their region.76 It has been logical for Finland to

74. There are also some further requirements concerning the nationality of board of directors and auditors. See https://ytj.fi/en/index/notifications/start-upnotifications/limitedliabilitycompanies.html.

75. Siems et al. 2011, p. 150, 172.
76. This could be called a race to the top, a race to the bottom or a race to stability depending on personal attitudes. The idea is that companies move their business where they can get the best deal. Countries are thus capable of competing for business’ attention and the tax revenue they bring. Bebchuk, Lucian: Federalism and the corporation: the desirable limits on state competition in corporate law. Harvard Law Review, 105(7)/1992, pp. 1443-1510. See also Meisel, Nicolas: Governance Culture and Development: A Different Perspective on Corporate Governance. OECD Development Centre 2004, p. 41.
follow the pan-European legislative developments and to abolish minimum share capital. Currently, Finland is the only Nordic country that has removed the minimum share capital requirement for private limited liability companies. This may have improved Finland’s position in regulatory competition, which has been an implicit driving force behind many similar reforms in Europe.

The abolishment lowers the threshold for choosing an LLC form rather than acting as a private entrepreneur. On average, over 17,000 private entrepreneurs are registered each year to the Trade Register in Finland, totaling 237,564 registered entrepreneurs in Finland. The time required to complete the incorporation process has shortened. This has enabled quick establishment of corporate structures for the purposes of acquisitions and joint ventures.

The minimum share capital requirement has lost its de facto value as an indication of solvency for the LLC since a low minimum share capital requirement does not really offer creditors any real form of protection. The fact that money was available during company’s registration does not mean that it has remained in the company beyond that date. In practice, the previously required minimum share capital of EUR 2,500 did not prevent criminal activity, because it was possible to borrow the money from the company immediately after its establishment. Overall, the abolishment of minimum share capital in Finland since 2019 has not weakened the position of creditors almost at all, and at the same time administrative costs of LLCs are lowered. In addition, it should be noted that the company’s creditor still has the option to demand that the company has sufficient share capital before granting credit. Nowadays creditor protection is based more strongly than before on ensuring the solvency of the LLC.

It is possible to argue that the absence of a minimum share capital encourages the establishment of non-performing LLCs, which weakens the reliability of trade register data. If non-performing LLCs are considered a problem (shadow economy), efforts should be made to combat this threat by means other than causing costs to primarily legally operating LLCs. However, there has been no discussion on the subject in Finland.

It is more uncertain how the abolishment of the minimum share capital requirement has affected the quality of business in LLCs. It has been speculated that lower costs of regulation attracts ‘necessity entrepreneurs’ who wish to escape unemployment by starting a company. Necessity-based entrepreneurs are generally not as well networked or financed as ‘opportunity entrepreneurs’, which could subject them to an increased risk of market failure. Although lower incorporation costs may boost employment, necessity-based entrepreneurship has been discovered not to lead to any significant technological development. The company field may therefore become more stagnant. Necessity entrepreneurs may also be

77. RP 238/2018 rd, pp. 11-12.
78. The number of businesses was verified on October 25, 2022, on the Finnish Patent and Registration Office’s website at www.prh.fi/en/kauppakeisteri/tilastot/lkm.html.
79. EMCA 2017, section 2.07.
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insufficiently prepared for accounting and financial reporting that are required for an LLC.

It has also been claimed that abolishment of minimum share capital has led some companies to immediate financial difficulties as these can be caused even by small expenses. For example, Finnish Tax Administration was in the opinion that the minimum share capital requirement of EUR 2,500 could not be considered too high. Although the minimum capital requirement was in practice modest in terms of creditor protection, it still had a principled importance.84 For instance, it might be considered that the requirement to raise a specified amount of finance emphasizes business risks associated with the venture, and may in many cases add to the effort of convincing a third party of the viability of the project.

Social impacts are perceived to be achieved by lowering the threshold for choosing the LLC form. However, the practical significance seems to depend heavily on how easily an entrepreneur can fulfil an LLC’s administrative requirements. These requirements are stricter compared to private traders’ obligations. Particularly, accounting and financial reporting are considered decisive issues. In this case, a need for entrepreneurial advisory might occur, especially when choosing a company form, which can increase the volume of advisory services. However, digitalising financial management services may reduce the costs of these issues. This has also been considered in the government proposal, and advisory services for a company’s founders are meant to be strengthened in the private sector.85

It must be admitted that some negative effects have occurred – and will occur – due to the abolishment of the minimum share capital. However, overall, the economic advantages clearly outweigh the disadvantages as share capital would in any case have little practical significance. The statistics clearly show that most of the founders of LLCs have found it reasonable to establish their companies without share capital. This demonstrates that the abolishment of share capital has not been insignificant. It has also reduced the administrative costs of companies and the trade register.

4.3. Effects on the activities of public authorities

The abolishment of the minimum share capital requirement has improved the reliability of small share capital data as companies and entrepreneurs are not obliged to demonstrate by different arrangements that the share capital is formally paid. The abolishment of share capital has also enabled the simplification of the electronic registration process for companies. Conversely, abolishing the minimum share capital requirement has, to some extent, increased the number of nonoperating companies.

However, this is restricted by a high registration fee at the European level,86 continuous requirements to draw up financial statements and annual reports and submit them to the Trade Register as well as the requirement of filing tax returns, inter alia. Matters such as credit status activities, monitoring bank and other accounts, and domestic and international obligations to provide information also diminish the possible adverse side effects of simplifying the incorporation of new LLCs. Current authority-initiated deregistration pro-

84. See e.g. EMCA 2017, section 2.07. “[I]t might be considered that the requirement to raise a specified amount of finance may focus the minds of the subscribers on the business risks associated with their venture and in many cases put them to the effort of convincing a third party as to the viability of the project.”


cedures might also impact the quality of trade register information.87

A private LLC may continue to have share capital subject to the provisions of the FCA and the Articles of Association. Under chapter 8, section 1 of the Act, the possible share capital of a company is restricted equity. However, the minimum share capital requirement for a private company is no longer enacted as mandatory. Thus, a private company may be incorporated entirely without equity or by crediting the entire amount of the subscribed shares to the invested unrestricted equity as long as the Articles of Association do not prescribe a nominal value of a share. In that case, the amount to be credited to the share capital for each share at incorporation shall be at least equal to the nominal value under chapter 3, section 5, subsection 3 of the Act. A private LLC incorporated before the entry into force of the new Act may reduce the share capital below the previous minimum capital requirement as provided in the Act.88

The abolishment of the minimum share capital requirement has facilitated company formation, as there is no obligation to submit a statement concerning the payment of shares if the company is formed as such. A company’s share capital submitted to the registration authority shall be EUR 0. Regarding new company creation, abolishing or reducing the minimum share capital requirement and reducing registration costs has been found to boost, at least somewhat, the incorporations of private LLCs and raise the total number of new firms.89 Nevertheless, investing in a company at the incorporation phase is possible. Shareholders can freely invest in the reserve for restricted equity if they wish. Deciding how to invest assets in a private LLC is left to shareholders.

Effectively, Finnish companies no longer have shares with nominal value. However, under chapter 3, section 5, subsection 2-3 of the Act, if the Articles of Association of a new company define a share’s nominal value, the company shall be required to have a share capital at the time of incorporation, meaning at least the nominal amount of a share must be credited to the share capital.90 Thus, a private LLC using the nominal value system is required to have a share capital. However, after July 1, 2019, the share capital can be less than the previous minimum share capital requirement of EUR 2,500.

5. Conclusion

The abolishment of minimum share capital requirement is situated within a broader discussion on modernising creditor protection. Legislation on specific aspects of company law and creditor protection has been recognised as outdated and no longer serves the modern company field.91 Abolishment of the minimum share capital requirement in 2019 also aligns with the Finnish government’s goal of lightening regulation, facilitating exercising a profession and other micro and small business activities as a private LLC. The amendment has strengthened the operational preconditions for business activities. The amendment was reasoned by stating that many EU and EEA states have abolished or reduced the minimum share capital requirement for private LLCs or other LLCs to EUR 1. Therefore, it aligns with international regulative development. The amendment also occurred because a relatively small amount of share capital as a minimum requirement was not considered relevant or significant to creditor protection. According to statistical data from the Finnish Trade Register, the

88. RP 238/2018 rd, p. 16.
90. RP 238/2018 rd, p. 16.
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abolition seems to directly affect establishing private LLCs as the number of established companies has risen significantly since the requirement was abolished in July 2019.

The minimum share capital requirement for private companies is of no true value since EUR 2,500 does not protect creditors, even theoretically. Maintaining somewhat inoperative regulation does not serve the wider purpose – of modernising company law, especially creditor protection in this matter – by facilitating the incorporation of new private companies.

Incorporating a new LLC without share capital makes the registration notification totally electronic, reducing the company’s administrative burden. Moreover, automating the processing of registry notifications expedites and enhances incorporation. By lowering the administrative burden of newly established companies in the registration phase and investing in automation for the whole process, modernising company law in general and in practice can be achieved, at least during incorporation.

More important and significant for creditor protection, compared to the minimum share capital requirement, is the company’s current financial information, the liability of the management and the FCA’s regulation of asset distribution, i.e., the company’s solvency and ability to maintain it. The company’s liabilities and obligations have not changed, but ineffective regulation is dismantled. By dismantling ineffective regulation, starting and conducting a business is facilitated, competitiveness is improved and market access and digitalisation are promoted. Abolition’s effect of the minimum share capital requirement on facilitating incorporation supports the aforementioned goals.

The possibility of lowering the minimum share capital requirement for public LLCs should also be considered. The minimum share capital requirement for public companies in Finland is EUR 80,000 – the highest in Europe. The capital requirement of EUR 80,000 exceeds the EU directive’s minimum requirement of EUR 25,000.92 Lowering the requirement was already considered in the memorandum by the Ministry of Justice in 2016. Based on the comments therein, the amount of EUR 80,000 of share capital can be considered unnecessary additional regulation since it exceeds the EU directive’s minimum requirement multiple times and is higher than in other EU states. Removing additional regulation would align with the government’s goal of lightening regulation.93 The matter’s practical significance and the amendment’s potential benefits can be seen as relatively insignificant since there are only approximately 250 public LLCs in Finland and a relatively small number of newly public companies are registered annually.94