



# EU Inc.:

# What's in it for SMEs?

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J. Scott Marcus

Associate Senior Research Fellow, CEPS; Professor (part-time), Centre for a Digital Society, EUI

With thanks to Apostolos Thomadakis and multiple CEPS and Ecorys co-authors

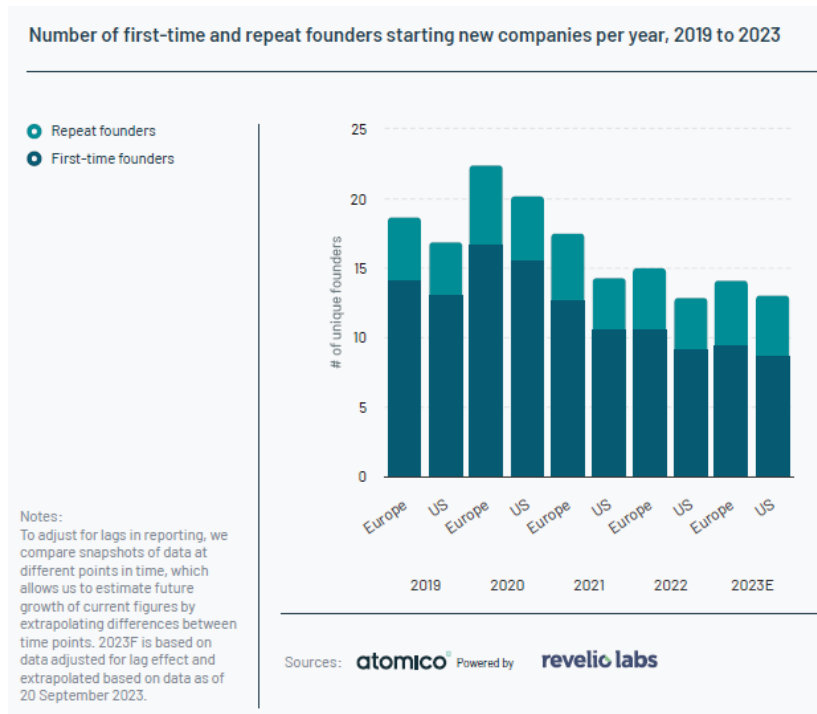


# Motivations for EU Inc.

- Despite decades of good faith efforts, many aspects of the EU single market are still not functioning effectively.
- Even though the EU now does a good job of launching new start-up firms, we do a poor job of growing them.
- Many past attempts either failed to be enacted or failed to deliver.
- In the evolving geopolitical environment, the negative impact on EU productivity and competitiveness is no longer sustainable.
- The gaps are prominent in the Letta Report, the Draghi Report, the Commission's *Competitiveness Compass*, and academic literature.



# The EU produces more start-ups per year than the US ...

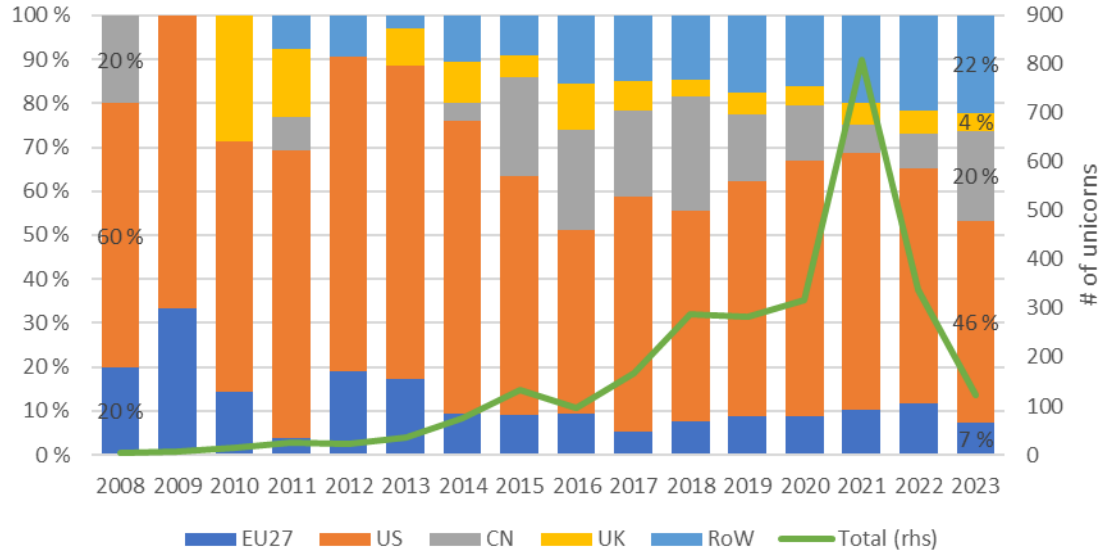


Source: Atomico et al. (2023), "State of European Tech 23"

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# ... but cannot grow them

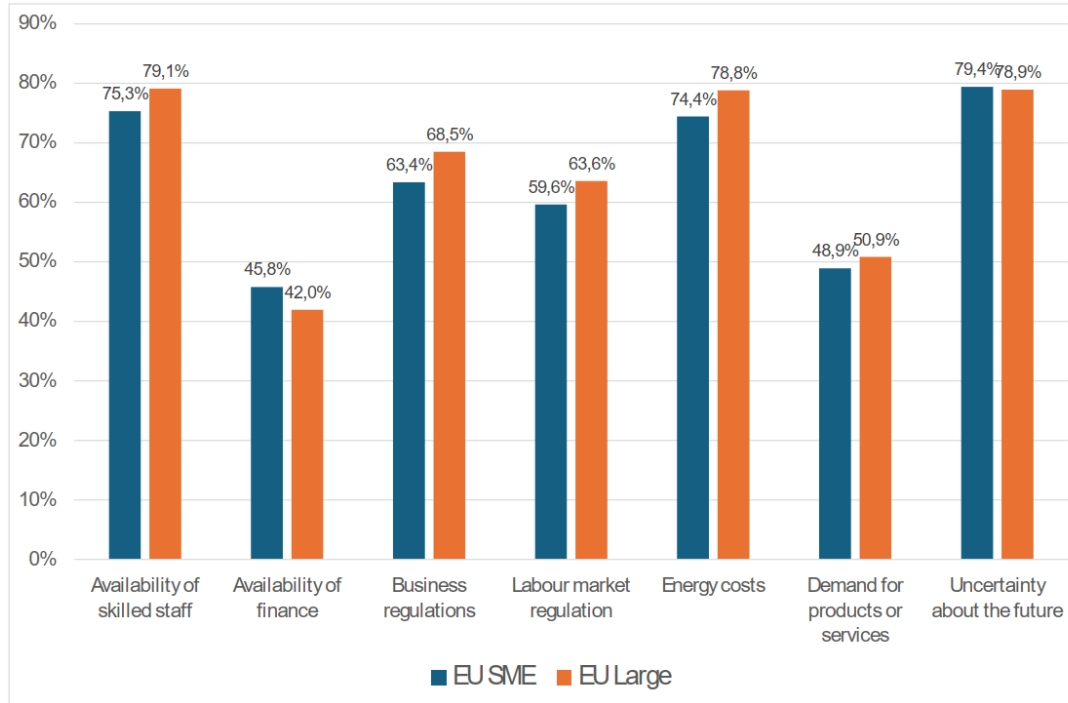
Share of the global number of unicorns, 2008-2023



Source: Thomadakis et al. (2024) based on data from Dealroom.co.

# EU firms large and small face challenges

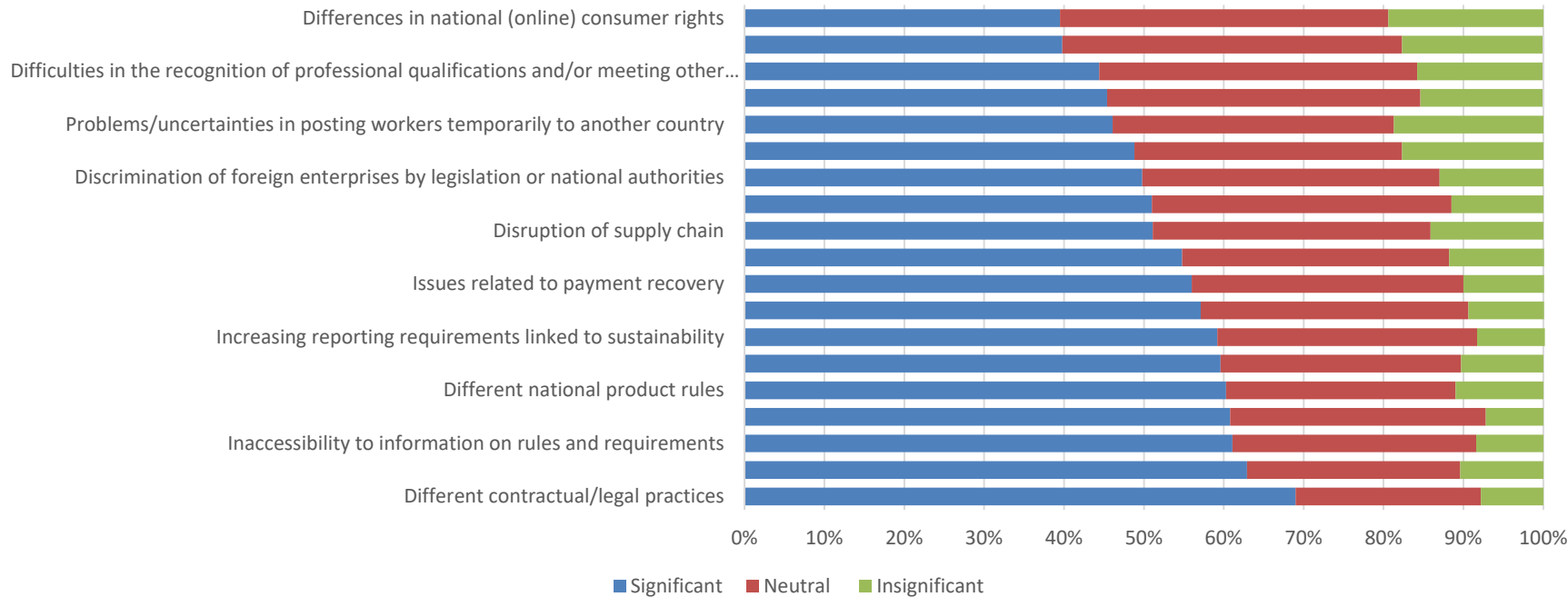
## Obstacles to investment as perceived by businesses (2024)



Source: Authors' elaboration, EIB Investment Survey (<https://data.eib.org/eibis/graph>)



# Merchants perceive many cross-border problems



Source: 2024 Eurochambres Single Market Survey



# Obvious shortcomings

- **Corporate law:** Delay in forming new firms, often by means of old-fashioned systems; limits to mobility across EU borders; divergent reporting obligations; capital requirements.
- **Insolvency and restructuring:** Inconsistent debtor protections, discharge periods and procedural timelines. This inhibits cross-border investment and prudent entrepreneurial risk-taking.
- **Labour law:** Fragmented labour rules limit mobility and flexibility of cross-border teams, especially in digital and tech sectors.
- **Tax compliance and reporting:** Divergent tax reporting systems, especially for corporate income tax and VAT, pose a substantial obstacle for cross-border activity.



# Scant progress to date

- No political will in Member States to cede powers to the Union.
- Fear of undermining employee rights, including co-determination.
- Fear of increased tax competition among the Member States.
- Complex linkages among different areas of Member State law.
- Measures put in place did not meet the real needs.
  - Societas Europaea (SE) is fine for Airbus, but not for innovative SMEs.
  - PEPP does not provide sufficient incentives – there is hardly any take-up.
- EU Inc. tries to do an end-run by creating an optional new corporate form with its own EU-wide rules in parallel but otherwise leaving Member State rules in place.



# What EU Inc. does and does not attempt

- The EU's Competitiveness Compass speaks of uneven burdens in “corporate law, insolvency, labour and tax law”.
- These have all proven to be hard or intractable problems over many years, and the Union has a weak mandate under the Treaties.
  - Taxation is fundamental to Member State sovereignty.
  - Labour law is mainly Member State competence, and politically delicate.
- Non-bank insolvency has been intractable for many years because it is intertwined with many other aspects of Member State law.
- The EU Inc. proposal takes on not only corporate law, but also non-bank insolvency, thus tackling one of the truly hard problems, but largely ignoring taxation and labour law.



# Open to whom?

- Prior to the legislative proposal, it was not clear whether a 28<sup>th</sup> Regime should be available
  - to all EU firms, or
  - only to innovative EU start-up firms, however defined.
- At a JURI Committee meeting on 5 June 2025, Anne Sanders made a compelling argument for opening the new regime to all firms, but including features specifically tailored to the needs of small, innovative firms.
- The legislative proposal follows this logic.



# Main provisions

- Simplified corporate formation, structure, and reporting
  - Procedures are designed to be fully online, digital and once-only
  - “Fast-track” formation within 48 hours for no more than €100
  - Optional use of standard model articles of association (EU templates)
  - No separate application for EUID, tax identification number (TIN) and the VAT identification number
  - No capital requirements
  - Common general rules for shares
  - Recognised in all EU Member States
- Employee Stock Option Plans
  - Portable among the Member States
  - Recognised for taxation only when shares are disposed of



# Main provisions

- Non-bank insolvency
  - Fast track liquidation for firms that fail quickly and cleanly (no assets, no debts, no unhappy creditors)
  - A simplified winding-up proceeding for failed innovative start-ups.
  - Avoids tying up staff and assets for years, as is often the case today.
  - Facilitates cross-border investment and appropriate risk-taking.
- Largely not addressed
  - Employee participation is based on laws of the country of registration.
  - Except as noted, taxation is still a Member State matter.



## Lessons from previous EU initiatives

- The European Union has implemented several “28th regime” approaches over the past decades – legal frameworks that operate alongside national regimes and offer a voluntary, harmonised alternative for cross-border activity.
- **Pensions:** Pan-European Personal Pension Product (PEPP)
- **Investment funds:** Undertakings for Collective Investment in Transferable Securities (UCITS)
- **Company law:** Societas Europaea (SE)
- **Intellectual property:** Unitary Patent
  
- The Common European Sales Law (CESL), Societas Privata Europaea (SPE) and Societas Unius Personae (SUP) were never enacted.



## Lessons from previous EU initiatives: Success factors

- **Clear value proposition:** Tangible benefits (e.g. lower costs, easier market access, legal certainty) drive uptake.
- **Voluntary and complementary:** Regimes must coexist with national laws and be non-mandatory to gain political traction.
- **Uniform core rules:** Harmonised rulebooks (e.g. UCITS, Unitary Patent) reduce compliance complexity and legal uncertainty.
- **Pragmatic legal design:** Use of enhanced cooperation, flexible legal instruments, and existing institutions (e.g. EPO, ESMA) supports adoption.
- **Broad stakeholder alignment:** Early and sustained support from industry, consumers and Member States is essential.
- **SME accessibility:** Proportionality in design (e.g. simplified registration, tiered obligations) broadens participation.



## Lessons from previous EU initiatives: Common pitfalls

- **Weak fiscal coordination:** Absence of tax alignment (e.g. PEPP) undermines usability and incentives.
- **Legal and political resistance:** Subsidiarity concerns, sovereignty sensitivities (labour, tax, contract law) block proposals.
- **Complexity:** Hybrid or layered legal designs (e.g. CESL, PEPP sub-accounts) deter users and raise legal uncertainty.
- **No stakeholder consensus:** Lack of cross-sector support (e.g. CESL, SPE) leads to political deadlock or withdrawal.
- **SMEs left behind:** High entry burdens or compliance costs reduce uptake among smaller firms.
- **Unclear legal basis:** Overreach on internal market competence (e.g. CESL under Art. 114 TFEU) invites legal challenge.



# Specific risks and challenges with EU Inc.

- Some Member States are likely to resist the implicit transfer of power to the Union.
- A potential race to the bottom
  - Taxation competition based on corporate taxation rates and VAT
  - Employee rights, including co-determination
- EU Inc may make it easier to centralise operations in a small number of jurisdictions or cities (e.g. Berlin, Paris, Amsterdam), exacerbating regional imbalances.

- Apostolos Thomadakis and J. Scott Marcus (2025) “Identification of hurdles that companies, especially innovative start-ups, face in the EU justifying the need for a 28th Regime”, study for the JURI Committee of the European Parliament, [https://cdn.ceps.eu/2025/07/IUST\\_STU2025775947\\_EN.pdf](https://cdn.ceps.eu/2025/07/IUST_STU2025775947_EN.pdf).
- Apostolos Thomadakis, Judith Arnal, Pol Diestre, José Salcedo Jimenez, J. Scott Marcus (2025), “Establishing the 28<sup>th</sup> Regime in Europe: A Unified Legal Framework to Support Growth and Business”, EESC, <https://www.ceps.eu/ceps-publications/establishing-the-28th-regime-in-europe/>.