



MINUTES OF THE MEETING OF THE HLG ON 24 JANUARY 2011

Venue: Brussels, 24 January, from 10.00 to 17.00

Present: See presence list

Excused: Ms Fritsch, Ms Jongerius, Mr Berger, Mr Dell'Alba, Mr Pesonen

1) **Agenda and minutes of the last meeting**

The agenda and the minutes of the last meeting are adopted unanimously, the latter subject to a modification suggested by Mr Hontelez.

The chair refers to his contacts with the Hungarian Presidency in relation to micro-entities. Commissioner Ciolo• will come to one of the next meetings of the HLG. The chair was furthermore asked by the German Bundestag to present the work of the HLG to its economic committee.

2) **Public meeting in Amsterdam - Update**

The chair reminds members of the intention to hold a public meeting in Amsterdam on 10 March and refers to the draft agenda that members received.

Mr Meyer (SG) updates members on the logistical side of the meeting and informs them that Bertelsmann Stiftung and the Government of the Netherlands welcome all members to participate in the IRRC 2011 into which the HLG meeting is integrated.

3) **Tackling administrative burdens ex ante and facilitating culture change inside the Commission: presentation of the Administrative Burden Helpdesk and Administrative Burden Calculator**

Ms Pons and Ms Bacconnier (both SG) present the two tools that are at the disposal of services when they prepare impact assessments or administrative reduction measures. The helpdesk can be contacted on any issue related to administrative burdens. Services have started to do so. The calculator can be used to calculate administrative burden impacts of Commission initiatives. This is a useful tool for the preparation of impact assessments but also beyond (members have been provided with a copy of the presentation).

Mr Mollerup finds the presentation very useful and suggests changing the helpdesk's name to Administrative Burden Reduction Helpdesk.

Mr Gibbons agrees with Mr Mollerup and hopes that these tools will be used widely.

Ms Krzysztozek suggests that the calculator be made available to Member States. She finds the tool very useful; it should be used as widely as possible.

4) **Best Practice Report – project plan and state of play**

The chair refers to the meeting that the reporting members had with the secretariat. Members have received a very comprehensive project plan. He thanks both reporting members for this paper.

Mr Mollerup states that it was very interesting to prepare the project plan. He thanks Mr Ludewig and his staff as well as the secretariat for the support. The project plan is not supposed to be adopted but should be discussed today. He undertakes to report to members in each meeting till November 2011. He presents the project plan in detail. He underlines that the attempt is not to necessarily have an equal number of best practices per Member States.

The chair makes clear that he sees this report as the most important task of the HLG for this year. It will also be important to distinguish between administrative burden that originates in Europe and burdens for which Member States are responsible.

Mr Hontelez thanks for this presentation. He is grateful for the clarification in relation to the 28% of administrative burdens that stem – according to the Commission - from inefficient transposition by Member States. Reducing this would be a good idea and also fairly ambitious. Regarding a risk-based approach to inspections he is of the view that this could also mean that verifications would have to be intensified in areas where the risk is high.

Mr Mollerup agrees with Mr Hontelez' views but underlines that a risk-based approach also means dealing with perceptions. He quotes a Danish example of a web-based sickness leave registration system. It was argued that using the internet would increase fraud whilst this turned out not to be true. It is therefore important to also deal with perceptions such as the view that e-invoicing opens the way to more fraud which is actually not true at all.

Mr Teli•ka shares the view that the report is the crucial part of the HLG work, at least for this year. He underlines that the report needs visibility to achieve the goals. Not every Member State will be pleased but he pleads to accept the result. All HLG members need to help with this report, be it in their respective priority areas or beyond that. He suggests liaising with the Polish and Danish presidencies to see how the report could be promoted.

The chair agrees with Mr Teli•ka about contacts with the Presidencies. He will take care of this himself. He is certain that the report will be discussed widely.

Mr Gibbons agrees that the project plan is excellent. He finds it important that institutional issues are going to be part of the report. He informs members that the UK government has decided to refrain in the future from adding any legislative measure on top of the necessary transposition of EU law.

Ms Pons is of the view that it is first up to the HLG to give the report the publicity it wants to give it. Afterwards it will be up to the Commission to deal with the report once it has been presented to the President. She is certain that the report will receive all the publicity it deserves also from the side of the Commission. She informs members of the various contacts with the upcoming Presidencies.

The chair thanks for this information and underlines his intention to come to one of the next meetings of the HLG Better Regulation.

Mr Mollerup would like it to be clear that there is no limit on the number of best practice examples; the number three is rather the minimum than the maximum. Publication and publicity issues will have to be discussed at a later stage.

The chair thanks all involved and finds the professional approach of the work noteworthy.

5) **Distribution of areas and tasks among members - Finalisation**

The chair refers to the list of areas and tasks and lists the areas where more involvement from members is sought.

Ms Krzysztozek, Mr Teli•ka and Mr Potdevin offer their help for a number of areas.

The chair thanks for this commitment and asks the secretariat to update and communicate the list.

Mr Gibbons suggests that the secretariat asks Mr Dell'Alba whether he would like to join Regional Policy. He reminds members that one of the important reasons for this list is to see which member looks at the roadmaps of which area.

Mr Ludewig agrees that all members should feel responsible for their areas in all aspects of the work of the HLG.

The chair invites Mr Mollerup to present examples for roadmaps he found worth considering for further discussions when screening roadmaps.

Mr Mollerup mentions the review of the Small Business Act (SBA), the common consolidated corporate taxation base, the MIFID review and the review of all accounting directives. The HLG should follow these projects as well as the Animal Health Law proposal and the review of the rules on financing official controls.

The chair thanks for this quick overview. He deems the SBA to be of particular importance and suggests coming back to the roadmaps in the April meeting.

Ms Krzysztozek underlines that the SBA merits a very close and detailed look, given that it contains quite a number of measures.

6) **Administrative Burdens for citizens - Presentation by Mr CIOBANU-DORDEA, Director Fundamental Rights and Citizenship, DG JUST**

The chair welcomes Mr Ciobanu-Dordea and asks for his presentation.

Mr Ciobanu-Dordea presents the activities of DG JUST that aim at reducing administrative burdens for citizens (members have been provided with a copy of the presentation).

The chair thanks for the presentation and finds the activities of DG JUST very encouraging. He agrees with Mr Ciobanu-Dordea that more communication, in particular towards the citizen, would be of help. The chair asks for information about future projects.

Mr Ciobanu-Dordea mentions simplification of all processes in relation to documents regarding the civil status of an individual. A second priority concerns improving the administrative cooperation and reducing the administrative burdens concerning the free movement of persons.

7) **Regular exchange with the chair of the IAB**

The chair welcomes Ms Klingbeil and congratulates her on her nomination as Deputy Secretary General. He expresses his hope that Ms Klingbeil would continue to attend HLG meetings and wishes her all the best for her new job.

Ms Klingbeil reassures the chair that she will continue to come to the HLG meetings as far as time permits. She explains that the Annual Report of the IAB is not yet available, but should be ready for the meeting in Amsterdam. Ms Klingbeil presents a number of important initiatives of the Commission (members have been provided with a copy of the presentation).

Upon request by the chair Ms Klingbeil indicates that the IAB report does not have to be adopted by the Commission because of the board's status.

The chair thanks Ms Klingbeil for her report.

8) **AOB**

Mr Murray sees a lack of balance regarding the speakers at the IRRC 2011 into which the HLG meeting in Amsterdam is integrated. He furthermore asks the secretariat to inform members about studies that tried to find out how much burden has been reduced by introducing European legislation that replaced 27 national legislations. He makes clear that this is not a request for a new study to be undertaken but only to look for existing information.

The chair agrees with this request and repeats his view that the European level is not communicating the positive effects of harmonised regulation enough.

Mr Ludewig points out that this would not be a problem in Germany. The baseline measurement would allow finding out how much burden a new directive reduced.

Ms Pons (SG) points out that, although there is no complete measurement for all European legislative acts, there is a baseline measurement for those directives that form part of the action programme.

Mr Ludewig explains that according to the German measurement administrative burden represent a cost of 50 billion EUR of which approximately 50% stem from European legislation. Germany has measured everything based on German law but the measurement is incomplete because the impact of EU regulations has not been measured. This is a weak point because Germany could not answer the question of the amount of overall administrative burden. He confirms that the EU and German figures are not too far away from each other and can serve as an order of magnitude.

9) **Discussion with Commissioner Oettinger**

The chair welcomes Commissioner Oettinger and asks him for his presentation.

Commissioner Oettinger is of the view that the European Union should rather take care of few important issues in a more detail than of everything on the surface. Energy policy on the European level is relatively recent. Energy policy was so far rather national but since a few years and in particular since the Lisbon Treaty a European energy policy is in the making. He points out that energy efficiency and energy saving depends on good statistics. In order to see by how much the energy consumption went down, it is necessary to know how much energy is consumed at a given moment. It is in addition necessary to invest into research projects such as ITER. Another important element of energy policy relates to infrastructure. Building a European energy infrastructure is necessary in order to overcome the problems of national infrastructures. He underlines the need for transparency in the market. Mr Oettinger invites members to contact his staff and DG ENER concerning issues related to energy policy and administrative burden reduction. He would be interested in a continuous exchange of views over the next two years.

The chair thanks for this report and for the offer of an exchange of views. He invites Mr Gibbons as reporting member for Energy to comment.

Mr Gibbons congratulates Mr Oettinger for his intervention. He corroborates Mr Oettinger's remarks about the investment needed for a European grid. He is grateful for to offer for further contact with Mr Oettinger's services.

Mr Ludewig agrees with the Commissioner that less regulation would sometimes be better. He doubts however that it is possible to decide deliberately not to regulate in certain areas. As regards the infrastructure needs he reminds members that every infrastructure project of a certain size requires lengthy procedures.

The chair would like to know whether there is information about the administrative cost of the energy policy elements of the Europe 2020 strategy.

Mr Teli•ka appreciates the fresh look at issues and welcomes the invitation to look, together with the Commissioner's staff, at upcoming proposals. Doing fewer things better could really contribute to the European competitiveness.

Mr Hontelez mentions a conflict with the participation of the public in the evaluation of projects. What is seen by one side as an administrative burden can be a fundamental right for the other side. He sees the real challenge not in doing less as suggested by Commissioner Oettinger because the energy sector is in need of regulation. It is much more important that Member States are convinced to use only the European rules and not their traditional national rules. It is important to replace 27 different sets of rules with one European set if we really want to see a European energy policy.

Commission Oettinger informs members that he has instructed DG ENER to present each proposal together with information regarding personnel and other cost as well as cost for third parties, i.e. citizens and the industry. He agrees that there is generally agreement about the need for European infrastructure projects but rarely at the place where the infrastructure would have to be built. He hopes that it will not be necessary to have a black out to convince people of the need for new infrastructure. Important European questions are for example how to access resources in the Caspian area for our gas needs. Another important subject is making sure that countries such as Latvia are not only dependent on Russian gas.

The chair thanks the Commissioner for the participation in the meeting.

10) **Update on administrative burden related activities in the European Parliament and discussion, MEP Lehne**

The chair welcomes Mr Lehne.

Mr Lehne thanks the chair for adjusting the dates of the HLG meetings to the agenda of the Parliament. This will allow him to be present more often. He informs members that the EP tries to push the so-called micro-entities proposal that is currently on the table of the Council. The situation regarding e-invoicing is insofar different as this issue had been dealt with in the consultation procedure. The EP had however clearly supported this initiative and went even further in some aspects. Suggestions made by the HLG are generally supported by the EP; this is however different in the Council. He informs members that the EP is not content with the way how the Commission deals with impact assessments. The main criticisms are that not all legislative proposals are subject to an impact assessment and that the IAB was not really independent. The EP even suggested a common entity that would look at the impact assessments for all three institutions. He regrets that the discussions about the inter-institutional agreement did not lead to changes as regards impact assessments (IA). The EP has therefore decided to find a new base for IA. This report is being prepared by Ms Niebler, MEP. The most likely result will be that there will be a committee for IA and control of IA at the EP, in parallel to the Commission. He thinks of a foundation that would be financed by means that are already foreseen in the budget. This body would verify the Commission's IA and produce own IA concerning modifications that the EP is making to legislative texts. He informs members that there is a German-British initiative to create a similar entity inside the Council Secretariat. The EP has furthermore since recently the possibility to produce more implementation reports about existing legislation; this is however not yet used. He would find it useful if these reports would also look at cases of gold-plating.

The chair thanks for this very interesting information. He underlines the importance of a continuous exchange of views between the EP and the HLG.

Mr Mollerup finds the presentation very interesting. He is of the view that significant improvements have been made both in the Commission and in Parliament. He is however worried about the Council.

Mr Lehne is of the view that the Council has to be lobbied intensively on a case-by-case basis. It would be good if the Council Secretariat would have a small group of people that would be able to produce expert reports, i.e. small impact assessments, on short notice.

Mr Gibbons welcomes the information given by Mr Lehne. He asks the secretariat to provide members with the current version of the report prepared by MEP Niebler. He states that there is international evidence that the single most important element to increase quality of legislation is to require independent scrutiny. He asks Mr Lehne for information on the likely follow-up to this report.

According to Mr Lehne it is likely that the report will be adopted around April or May. The EP would afterwards have to decide on the exact set-up and free the financial resources needed. The latter would be rather simple because the budget foresees money for studies. He thinks that the infrastructure for IA for the Parliament could be ready at mid-term.

Mr Teli•ka shares the positive views of the other members. He is sceptical whether IA would work in the Council. Having in the future two or three entities for IA reminds him of the multiple discussions between the Legal Services of the Commission, the Council and the Parliament. He wonders whether it would be possible that the Commission would present, with the help of the IAB, a view on major amendments made. Like that Member States would at least be confronted with that. A common entity would however be best. In this context he also refers to the best practice report to be prepared by November 2011 which would include an overview on the institutional set-up of the better regulation activities in Member States.

Mr Murray wonders whether there would not be institutional issues that might even require a change of the Treaty on the European Union if the Commission would be subject to an outside impact assessment before it even adopted its own proposal. He further asks whether the proposals for outside impact assessments are not part of a wider political agenda to shift power from the EU to Member States.

Mr Ludewig does not see institutional concerns. This is simply a question of how to organise the work. He deems these questions not to be the concern of the HLG. He has the impression that the legislative work in the EP is not taking too much notice of the impact that modifications introduced during the parliamentary work might have.

The chair underlines again how important the issue of burden reduction is. Legislative work in Europe equals a permanent search for the compromise. Unnecessary burdens are often added during this process because compromises were more important to those involved than the eventual collateral damage.

Mr Lehne shares this view. Cultural change takes a lot of time and is difficult to achieve. He is of the view that with a simpler structure IA will be asked for more often. The ideal construction would be for him that Commission services prepare IA which would then be verified by an inter-institutional entity. He rejects that there are institutional concerns at stake if such an entity were established. This entity would provide advice which could be followed or not; this would apply to the Commission, but also to Council and Parliament. All institutions would always be able to make the political decision to adopt a certain legislative proposal irrespective of the advice given. In his view having two different bodies might even be detrimental to the Commission because the Commission's IA would be scrutinised and put in question. He does not think that such an entity in the Council would alter the balance between the institutions. The Parliament would certainly not let the Council do so.

The chair wraps up the discussion. He does not see a need to re-open the issue of the involvement of the HLG in the ex-ante process. The HLG can involve itself at an early stage via the roadmaps and discuss these with members of the Commission and their services like it happened today. He underlines that the Commission has struck a new path by setting up the HLG and supports the work of the group wholeheartedly.

Adopted by the HLG in Amsterdam on 10 March 2011.