



EUROPEAN COMMISSION

High Level Group of Independent Stakeholders on Administrative Burdens

OPINION OF THE HIGH LEVEL GROUP

Subject: Stakeholders' suggestions ('offline-consultation')

I. Background

- (1) The High Level Group of Independent Stakeholders on Administrative Burdens (HLG) was set up to *inter alia* advise the Commission on suggestions for administrative burdens reduction measures. In addition to the suggestions by consultants, via the online consultation or on the occasion of local workshops with businesses in Member States, the HLG members and the Commission receive occasional reports or letters by external stakeholders suggesting reduction ideas. These ideas have been labelled "offline suggestions".
- (2) Mr. Linschoten was appointed coordinating reporting member for these offline suggestions. The HLG works on these suggestions in the following way: at first the secretariat assesses the incoming proposals with the help of those Directorates-General of the Commission that are competent in the subject matter. At the same time suggestions are filtered out which do not concern European legislation at all. Secondly, the group's reporting members look at suggestions in their respective priority area for which first reactions from Commission services are available. The result of this process is an opinion of the group addressed to the Commission.
- (3) The HLG wishes to recall in this context that the mandate of the Commission as well as that of the European Parliament will soon come to an end in the second half of 2009. Legislative proposals will therefore have to be introduced as soon as possible in order to make their adoption within this legislature technically feasible.
- (4) The HLG calls upon the college of Commissioners and Commission services to take all necessary steps to ensure that legislative proposals are introduced in time. The HLG wishes to underline that achieving the aim of a reduction of administrative burden by 25 % by 2012 will only be feasible with as many concrete reduction measures as possible.

II. General comments

- (5) So far the HLG has received around 350 ideas from stakeholders. The HLG has adopted two opinions on the offline consultation in its meetings of 18 September 2008¹ and 20 January 2009.²

III. Suggestions by Priority Area

- (6) *Recognition of professional qualifications.* Suggestion 1 refers to directive 2005/36/EC on the recognition of professional qualifications. The variety of educational systems and national particularities within the EU is considered by stakeholders to be a burden for the free movement of persons, services, capital and goods. In order to improve its competitiveness, the EU created in 2008 the fifth freedom – free movement of knowledge. An additional burden is also language, as procedures in each member state of EU are in their national language. They propose for instance the introduction of a single contact point in each member state, the essential shortening of procedure of recognition of qualification or education and uniform procedures and formalities for recognition of professional qualifications. The implementation of instruments of professional recognition is of great benefit to our citizens because these instruments simplify considerably the recognition procedures making recognition in many cases automatic. An evaluation of the economic or administrative impact of the directives in question, essentially Directive 2005/36/EC on the recognition of professional qualifications, has not yet been carried out. In fact, 12 Member States are still late in fully implementing Directive 2005/36/EC which was to be transposed by 20.10.2007 at the latest. According to the little data available, the number of demands for the recognition of professional qualifications is not as high as one could expect as to have a significant impact on the administrative burden of public administration (authorities competent for the recognition procedures). Directive 2006/123/EC (services directive) sets an example By this directive service providers will be able to obtain information and complete administrative formalities through single contact points in any Member State for certain services, thus simplifying, accelerating and reducing the cost of the authorisation process and obviating the need to deal with different levels of authorities. *The HLG believes that Small and Medium Sized Enterprises can benefit from easy recognition procedures when recruiting professionals from abroad, in particular from the automatic recognition based on professional experience in many professions of the craft, commerce and industry sector. Therefore, the HLG urges the Commission to report by the end of the year on the state of play of the implementation of Directive 2005/36/EC on the recognition of professional qualifications by the Member States. The HLG advises the Commission, when reviewing the services directive, to look explicitly at the effects of the single contact points and to extend their legal basis, if the review is positive on this point, to all enterprises, which are in scope of directive 2005/36/EC on the recognition of professional qualifications by the Member States.*
- (7) *Distance contract directive.* Suggestion Nr. 2 refers to Directive 97/7/EC on the protection of consumers in respect of distance contracts. According to Art. 4 of the directive the consumer shall - prior to the conclusion of any distance contract - be

¹Link:<http://europa.eu.staging.entrc.ec.eu.int/enterprise/admin-burdens-reduction/docs/OpinionOfflineSuggestions080918RevAfterMeeting.pdf>

² Link: http://ec.europa.eu/enterprise/admin-burdens-reduction/docs/090114_finver_hlg.pdf

provided with certain information listed in this Article, based on the existence of a right of withdrawal. Stakeholders claim that varying legal situations in Member States and complex terminology represent heavy burdens for cross-border trade over the Internet. There is no definition of “durable medium” in the Directive, so that this term could be understood in different ways in different Member States. These national divergences create additional problems for businesses concluding cross-border distance contracts. They suggest clarifying the article and concept to prevent divergent interpretations. According to the Commission the review of the directive is part of the ongoing consumer acquis review hence simplification potential will be looked at as part of this exercise. *The HLG stresses the need for a common definition of “durable medium” and urges for more transparency and coherence between Member States.*

- (8) *Retention of data, provision of publicly available electronic communications services.* Suggestion 3 refers to Directive 2006/24 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks. In the view of stakeholders it has become clear that the directive takes insufficiently into account that providers of electronic communications networks and services to business hardly have any data that is useful for detection and investigation. The data that can be used to trace back individuals can be found in the internal business networks who work with their own servers. Stakeholders are of the opinion that the investments in data retention obligations are disproportionate. The Commission is of the opinion that the issue could be addressed in the context of the evaluation which will be conducted on the application of Directive 2006/24/EC no later than September 2010. *The HLG advises the Commission to assess in this evaluation whether the effects of the directive on data retention are proportionate to the burdens the stakeholders perceive. The HLG urges the Commission to take into account possible measures to reduce unnecessary data retention obligations.*
- (9) *Food Safety, Animal transport and related operations* Suggestion Nr. 4 refers to Council Regulation (EC) No 1/2005 on the protection of animals during transport. According to this Regulation, anyone transporting animals further than 65km in connection with an economic activity requires authorisation from the authorities. The same applies to road vehicles transporting livestock on journeys longer than 8 hours. Moreover, since the beginning of 2008, drivers and attendants of animal transports have required certificates of competence issued after attending training and successfully passing an examination. Exceptions apply to transports in the context of seasonal transhumance and for the transport of one’s own animals in one’s own vehicle for distances of less than 50km. While the previous regulation (No 1255/97) restricted itself to “commercial transports”, the new Regulation extends the scope of application to include all transports “in connection with an economic activity”. This affects farmers; in particular as the exemptions provided for in the Regulation do not really alleviate the situation for them. For example, farmers often transport animals to help neighbouring farmers, not just their own animals. They also often lend their vehicles to other farmers, so their animals are not always transported in their own vehicles. Moreover, markets for breeding animals are held only in a few places, which mean that the 50 km limit is too low. Farmers, who have always transported animals in connection with their agricultural work, cannot understand the point of these rules. Feedback from the Commission was positive on that issue. *The HLG understands the particular role and problems of farmers. The HLG asks the Commission to reconsider if farming transports fall within the term of "transports with an economic activity" and*

whether farmers which act within a limited range of distance to their farm and which do not exceed the common activity of small and middle sized farmers can be excluded from the obligations mentioned above. At least, the HLG calls upon the Commission to raise the distance applicable for exemptions to 150km.

- (10) *Accounting, Auditing for small and middle-sized enterprises.* Suggestion Nr. 5 refers to Directive 78/660/EEC on the annual account of certain types of companies. The EU Commission envisages launching a public consultation on the adoption of the International Standards on Auditing (ISA), as foreseen by Art. 26 of the revised Audit Directive. *The High Level Group explicitly welcomes such a public consultation and holds the view that the consultation should, in particular, aim at reaching a common understanding among all relevant stakeholders, including audit oversight authorities, that ISAs, as principles-based standards, are universally applicable to all statutory audits and can be tailored to the specific circumstances of the individual audit engagement without excessive documentation. The Group asks the EU Commission to ensure that the supervision of ISAs-compliant audits does not lead to disproportionate bureaucratic burdens for enterprises, SMEs, and their auditors.*

IV. Conclusions

- (11) *The HLG takes note of the suggestions made by stakeholders and encourages the Commission to take a proactive approach, as specified in the HLG's conclusions on the suggestions above.*
- (12) *The HLG stresses the importance of common efforts to reduce administrative burden for businesses. These efforts must be extended and intensified both on the European and the national level, in order to reach the target of reducing red tape in a sustainable manner.*
- (13) *The HLG welcomes the active involvement of stakeholders. The HLG is of the opinion that many suggestions reviewed by the HLG prove that stakeholders have a vital role to play in the process of making European legislation less burdensome for business. The suggestions made by stakeholders should be taken as an incentive for new initiatives as well as an opportunity for the Commission to broaden existing initiatives to reduce red tape. The HLG would appreciate to be informed about the results of the Commission review of certain legislative acts mentioned above in due time.*
- (14) *The HLG signals that most of the dealt with stakeholder suggestions in this opinion fall outside the scope of the Action Programme. Sometimes proposals refer to administrative burdens in legislation that is not measured, or refers to other costs that are not included in the definition of administrative burdens. In view of the HLG Better Regulation requires a mindset where all these efforts of stakeholders are seriously taken into consideration, and it asks the Commission to ensure an adequate follow-up.*
- (15) *The HLG is aware that for meeting the reduction target of 25 % it is crucial to keep the process going. Therefore, the HLG would appreciate more information from the Commission on the further proceedings of the stakeholders' suggestions including the selected suggestions and the HLG conclusions on these.*

Brussels, 16 April 2009

Annex A: Overview of the suggestions