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Dati Bendo and the European Commission



**Jörgen Holmquist**  
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2009 has been an eventful year.

After many years of debate and negotiations, the Lisbon Treaty came into force on 1 December 2009, facilitating decision-making in the EU institutions and making the functioning of the 27-member Union more efficient and democratic. President Barroso was confirmed for a second mandate and, in December, he presented his proposal for a new Commission, to take office early next year after the European Parliament's approval.

Some of this year's initiatives will have a big impact on the Single Market in years to come. Former Commissioner Mario Monti will present a report on the future of the Single Market early next year. Mr. Monti's assignment for this report is to address the growing tide of economic nationalism and outline measures to complete the EU's currently patchy Single Market.

The Single Market features high on the priority list of the next Commission. In his political guidelines, published earlier this year, Mr. Barroso announced a major review of the 'missing links' in the Single Market for its 20 year anniversary 2012. The aim is to identify 'new sources of growth and social cohesion.'

One important step towards delivering the full potential of the Single Market is the Services Directive. The Directive's three-year transposition period will be completed by the end of this year. This concludes an intensive implementation process, during which Member States have cooperated in an unprecedented manner with the Commission - and among themselves - to put into action a major modernisation and simplification package. Businesses and consumers across the EU will finally start feeling the benefits of a truly liberalised European Services Market.

Efforts will also need to be kept up to create a more reliable and safe financial system. The Commission has already presented a number of important legislative proposals in reaction to the financial crisis that should help improve the regulation and supervision of the sector. New rules for credit rating agencies and banks have already been agreed. Proposals how to improve the supervision of the financial sector and regulate hedge funds and private equity are being negotiated in Council and Parliament. Proposals on crisis management, regulation of derivatives trading, deposit guarantee schemes and bank capital are being prepared.

With a new Treaty in place and a new Commission that should take office at the beginning of next year, the EU will be well placed to continue facing all these challenges.

I would like to wish everyone a very happy festive season and a happy New Year.

A handwritten signature in black ink, appearing to read 'J. Holmquist'. The signature is written in a cursive, slightly slanted style.



## Barroso nominates Michel Barnier as Commissioner for Internal Market and Services

Michel Barnier has been nominated by President Barroso as Commissioner for Internal Market and Services. Barnier (born in 1951), a former Commissioner for Regional Development and Minister for Agriculture in France, will be responsible for a number of policy areas during his five-year term, including financial services, public procurement, industrial property and free movement of services. 'Financial services in Europe have a lot to do with the deepening of the internal market,' Mr Barroso told reporters, while announcing the full team that will take over early next year. He had asked Mr Barnier 'to deepen the internal market in all of its aspects,' adding that this would lead to further growth in Europe. Mr Barnier is expected to appear in front of a hearing by the European Parliament before his nomination can officially be approved.



## EURES: 15 years of matching people with jobs

The European network of employment services (EURES) celebrated its 15th anniversary in November. Since its inception, the network has helped hundreds and thousands of people finding a job in another European country. Today, EURES brings together public employment services from 31 European countries and offers direct online access to over 700,000 job vacancies every day. The network fits the EU's employment strategy for a more flexible and mobile labour market, particularly in the current economic climate. 'In times of crisis, the role of EURES is even more crucial,' stressed Employment Commissioner Spidla. 'With 2.8 million visitors every month, EURES is helping to tackle unemployment all around Europe.'

More information at: <http://ec.europa.eu/eures/>



## EU on track to meet Kyoto targets

The EU is on track for delivering its Kyoto protocol commitments to reduce or limit emissions of greenhouse gases. According to projections in the Commission's annual progress report on emissions, the EU15 will meet its 8% reduction target under Kyoto. Meanwhile, the 10 remaining Member States that have individual commitments are also well on track to reduce their emissions by 6 or 8% below base year levels. Malta and Cyprus do not have emission targets. The Commission bases its projections on past measures, such as the acquisition of allowances and credits in the EU Emission Trading Scheme, the purchasing of emission credits from projects in third countries, and forestry activities that absorb carbon from the atmosphere. According to Environment Commissioner Dimas, the projections further cement the EU's leadership in delivering its international commitments to combat climate change. In December, the EU participates in the UN climate change conference in Copenhagen to negotiate on a new global agreement to further cut carbon emissions.

## Citizen's Initiative: Commission asks for your input

With the Lisbon Treaty now into force, the Commission has launched a public consultation on one of the Treaty's key innovations – the launch of a Citizen's Initiative. Under the rules of the Treaty, it enables one million citizens to request the Commission to come forward with a particular policy proposal. The Commission welcomes all input. The consultation document is available on the following website:

[http://ec.europa.eu/dgs/secretariat\\_general/citizens\\_initiative](http://ec.europa.eu/dgs/secretariat_general/citizens_initiative)

Deadline for replies is 31 January, after which the Commission will put forward a proposal for a regulation containing practical arrangements. It will then be considered by the European Parliament and the Council of Ministers for adoption.

## Commission busts plastic additives cartel

On 11 November, the Commission imposed a total of €174 million in fines on 24 companies from 10 different undertakings, for participating in a cartel on tin and heat stabilisers. Tin and heat stabilisers are additives that are in (food) packaging, credit cards, bottles and other everyday plastic products. The combined markets for these stabilisers in the European Economic Area (EEA) were worth some €121 million at the time of the infringement. The cartel was active in the EEA between 1987 and 2000 and was composed of companies such as Akzo, Baerlocher, Ciba, Elementis, Elf Aquitaine (now Arkema France), GEA, Chemson, Faci, Reagens and AC Treuhand. For both products, the companies fixed prices, shared customers, allocated markets and exchanged commercially sensitive information.



## Commission urges protection of most vulnerable consumers

Basic services in the EU such as energy, water, transport, financial services, postal services and telecom should not only be more accessible to all, they should also become more affordable. In her speech at the forum on consumption and poverty organised by the European Economic and Social Forum in Brussels on 16 November, Consumer Commissioner Kuneva outlined concrete EU level actions that should be taken to ensure that large disadvantaged population groups are not left behind. Actions would include improving consumer information, to make it easier for consumers to make price comparisons and to switch providers; continued monitoring of uncompetitive markets and ensuring that consumer rights are better enforced on the ground. The year 2010 has been marked by the EU as the European Year for Combating Poverty and Social Exclusion. A recent EU survey showed that 80 million Europeans live below the poverty line and that a large proportion of middle-income households have difficulties saving after paying their bills.

## EU adopts ambitious telecom reform package

Members of the European Parliament and EU Ministers agreed on a substantial reform of the EU telecoms sector. The legislative package adopted, following a proposal from the European Commission in 2007, strengthens competition and consumer rights on the EU telecom markets. Particularly important is the new Internet freedom provision that will strengthen the rights of internet users. Under EU law, EU citizens are entitled to a fair procedure before Member States can take any action regarding their Internet access (e.g. the fight against software piracy). Information Society Commissioner Viviane Reding commented: 'Three-strikes-laws', which could cut off Internet access without a prior fair and impartial procedure or without effective and timely judicial review, will certainly not become part of European law.'



# Services Directive hits the finishing line



*The Services Directive is about to become a reality for businesses and consumers across the EU. Adopted by the European Parliament and the Council in December 2006, the Directive's three-year transposition period will expire end 2009. This concludes an intensive implementation process, during which Member States have cooperated in an unprecedented manner with the Commission - and among themselves - to put into action a major modernisation and simplification package. But the end of the transposition deadline will not mean an end to the efforts to improve the functioning of the Single Market for services. It marks the start of an innovative working method called 'mutual evaluation', aimed at assessing the results of implementation and the need for further initiatives in the Single Market for services.*

## Where do things stand today ?

Implementing the Services Directive has proved to be a particularly complex task for Member States. It not only involved changes in legislation, as is the case with all EU Directives, but also required Member States to manage several large practical projects simultaneously, demanding important coordination efforts throughout all levels of national administrations. One project was the setting-up of so-called 'Points of Single Contact'<sup>1</sup> - e-government portals through which businesses can complete all administrative formalities electronically. Another involved the modernisation of national rules relating to services. All EU countries were required to have a critical look at requirements and procedures in order to 'clean their house', and simplify or abolish those deemed excessive or unjustified.

Economic evidence consistently shows that proper implementation of the Services Directive should give a significant boost to the services sector, which represents around 70% of GDP and employment in the EU and is its main driver of growth and job creation. SMEs should benefit from simpler procedures and have less paperwork to deal with, whether they want to start or expand their business at home or abroad. Consumers should benefit from easier access to a larger range of services throughout the EU.

Will these benefits materialise in practice? To assess precisely this, the so-called 'mutual evaluation' process will be a central tool.

## Mutual evaluation in 2010: how will it work ?

Throughout 2010, the Commission and Member States will join forces to assess the outcome of Member States' efforts to lift barriers to the functioning of the Single Market. This exercise of mutual evaluation, set out in the Services Directive, will be based on Member States' reports concerning a screening of their legislation and subsequent changes made. During 2010, Member States will discuss and assess each other's reports.

The mutual evaluation process is both a challenge and a unique opportunity. It will involve 'digesting' and analysing a potentially huge amount of information that will be notified by the Member States. If managed successfully, it will provide an in-depth picture of the state of play and form the basis for a future policy for services in years to come. Mutual evaluation could be used in particular to establish benchmarking criteria and to create a higher degree of convergence between national legislation, hence leading to a more level playing field for services throughout the EU.

<sup>1</sup> See Single Market News 55: 'Points of Single Contact: Doing Business Made Easier'.



## Looking beyond the mutual evaluation process: learning the lessons

At the end of 2010, the Commission will present a report on the results of the mutual evaluation process to the Council and the European Parliament. In this report, the Commission will set out policy conclusions and assess the need for further initiatives to improve the functioning of the Single Market for services.

In 2010 and beyond, work will also need to continue in other areas of the Services Directive. By the end of 2009, a first generation of 'Points of Single Contact' will be in place in most Member States. It is clear that here there will be considerable scope for further improvements in the coming years, following technological progress. To keep up

with new developments and to coordinate work on the 'second' generation of Points of Single Contact, the Commission will continue to coordinate work with Member States in 2010.

Other important policy actions related to the Directive will also continue to be actively supported and developed, in particular in the areas of administrative cooperation and of non-discrimination and assistance to service recipients in general and consumers in particular.

## Visit the EU Single Market website

Our web site at [http://ec.europa.eu/internal\\_market/](http://ec.europa.eu/internal_market/) contains all the latest information on the EU Single Market. This "tag cloud" shows the many key issues that it deals with. The size of a particular word corresponds to how often it appears on the website.



— created with [www.wordle.net](http://www.wordle.net)

# Interview with Commissioner Charlie McCreevy



*After serving the EU as the Commissioner for Internal Market and Services for 5 years, Commissioner Charlie McCreevy's term has nearly come to an end. With a large experience as a politician in Ireland where he held three Ministerial posts, Charlie McCreevy was no newcomer to the European scene. He knew what to expect from the EU from the many Council meetings he had participated in as Ireland's Minister for Finance (1997-2004). Yet, during his term, many unexpected issues crossed his path: strong opposition against the Services Directive, also known as the 'Bolkestein Directive' after his predecessor, and finding himself in the middle of the biggest financial crisis Europe has faced for decades. In the countdown to a new Commission arriving, Single Market News meets Charlie McCreevy to talk about his impressions of Europe, his achievements as a Commissioner and the challenges he believes lie ahead for Europe's new leaders.*



**Rebuilding the economic competitiveness of the EU was your 'overriding objective' when you started as Commissioner. To what extent have you achieved your objective ?**

'In the meantime we've had the worst economic recession since the 1930s, preceded by a financial crisis which we have never witnessed before. These things all came during my time in the job. It looks like the EU economy is recovering and it looks like some major Member States have done pretty OK despite the economic downturn; some have even recovered a lot in export markets despite a very strong euro, which means their competitiveness must be better than it used to be. So hopefully, the Single Market has achieved its goal in that area. I think we've kept the Single Market open and I think that's been my main job in the last few years. We didn't anticipate that there was going to be this tsunami of joint financial crisis which inevitably led to an economic downturn as well. I didn't wish that to happen and if I had known that was going to happen I would have said 'God get me out of here, get me another job!' But that's what happened.'

**What do you consider are the main achievements for the Single Market over the past five years?**

'I knew I would have to answer a question like that all right! When I left politics in Ireland, I singularly always refused to start this legacy business of going back on what were the greatest achievements. I have always preferred to defend different actions, as an EU Commissioner and as an Irish politician.

I think that time moves on and people's judgments can be wrong; what they think today might be completely different in five years time; so let history be the judge. That's the line I've always taken.'

**'I singularly always refused to start this legacy business of going back on what were the greatest achievements.'**

**You have often said that it is not your habit to give advice to your successors. That being said, what would you see as the principal challenges facing the next College of Commissioners in general, and the next Internal Market Commissioner in particular ?**

'I think the Commission and Europe would be better employed, rather than spending an awful lot of time at getting at institutional issues, to get on with the business of deepening the Single Market. We spend an extraordinary amount of time with these very high political points and I think that the people are getting to be a little tired of that, the electorates are.

Why do I say that? If that if the Single Market is developed properly in a whole variety of areas with everything from free trade of goods and services to good public procurement with open competition, most Member States would see a considerable difference to their standards of living. In my view, a considerably greater number of people will be employed, the public finances of Member States will improve, because there will be more wealth, there will be more tax revenue and there would be all the benefits socially as well. If you then go back to Member States with newer institutional questions, then you'll be able to find out what we have achieved in that particular period of time.

The job of the next Commission, I believe would be to stand against those who, for a variety of political reasons, some of them may be ideological or philosophical, whatever they'd be, block the Single Market. To **not** allow the Single Market, the European markets to be interfered with.



I also think that the Commission would be far better off if there would be a kind of 'automaticity' to infringement proceedings. When the Commissioner or the DG deems that there are possible infringements, let's proceed in a very quick way getting that result. If we don't get results in dealings with the Member State, let's proceed to the next stage and get it out of the way, rather than having big debates whether we should go forward, having it all being consulted by the college etc. So what if we lose cases? We'd at least be clear about the law then.'

**The Commission was criticised in some quarters on how it handled the financial crisis. What is your point of view?**

'I could say it is grossly unfair, but was it unexpected criticism? No! I have been a politician for over thirty years – the one rule in politics is to blame somebody else. So therefore, when the Commission, president Barroso or myself were unfairly criticised, I don't take it too personally. It was an easy target to pick out the Commission.'

We do not have competences regarding the economic or financial policies of Member States. There are many people in this town that believe two things: A: that we should and B: that we are a government. We are not a government and we don't have competences in these particular matters, they rest with Member States.

We did what was available to us. We pretty successfully coordinated the actions of the Member States regarding the stimulus packages etc., but we do not have competences as some Member States pointed out forcefully and rightly so, when we talked about the stimulus package. Some of the Member States said 'no, we're not going to do a stimulus package'; for a whole lot of reasons, one of them money. Yet, we were an easy target for criticism when the regulatory and supervisory system in some countries broke down or were somewhat lacking. The reflex was: 'we'd be better off blaming somebody else, so we find the lads over in Brussels to blame!'

**You have worked as a Minister at the national level for over nine years and as a European Commissioner for the past five years. How would you characterise the challenges associated with each of these two roles?**

'I was an Irish politician elected in June 1977, and stayed a politician for over 30 years. I was a minister for over 10 years. There are a lot of similarities in working at national and European level. The College of Ministers is very like a cabinet, like in all Member States, decisions are made at that particular level. You have departments as you have DG's here.

The biggest difference of course is getting things done. In a Member State, if you're a minister or a member of cabinet, if you want to act quickly on major national issues of importance, you can do it very quickly; you bring it forward to the government; you get their approval, you bring it into the parliament; you could have a two day process and have it that night. It has been done like that in emergencies! Because you have your parliamentary inbuilt majority; after all the government of which you're a member will be supported entirely by its party powers.

Here in Europe it's very different, it takes a long time, no matter how quick you go, because even when you get it through the Commission, it then becomes the property of either the Parliament or the Council, so it will take a long time. You also don't have the interaction with your own party – you are not the government. At home, you bring it into the 'House', your party will support you and that's it. Sometimes parties rebel and all that, but leaving those issues aside... Here it's not like that, which makes things slower and that's the biggest difference.'

**'So what if we lose cases? We'd at least be clear about the law then.'**



### Any regrets in your time as Commissioner ?

'Many things have happened during my term as Commissioner. Some of them I hadn't planned for, like the financial crisis. There was a plus to that and there was a disadvantage. When I was preparing for the hearings, there was a whole variety of topics I wasn't that familiar with. Due to the financial crisis, in the latter half of my term, financial services have come to dominate nearly 80% of my time. On the one hand I liked it because that was the area I had most knowledge of before I came here. But the other areas, which I wasn't familiar with, like patents and intellectual property got hanging off the side, I regret that.'

### What about the Services Directive ?

'President Barroso added the title 'And Services' to my title as Commissioner for the Internal Market. When I came here first, the biggest area was the Services Directive. It had just been published or initiated by my predecessor Frits Bolkestein. It had become a major issue at the European elections of 2004- not in my country, I don't think it was even mentioned- but here in Belgium and in France and in other countries as well, services were the big issue from the start. We could have left the Services Directive on the shelf. If I had stuck with the original proposal, it would definitely still be up there, we would have had no chance. By the end of December 2009, the Services Directive is supposed to be completed. I came in with the Services Directive and I finish with it, so it's kind of symmetrical between the beginning and the end of my career here.'



### So were slow procedures the biggest challenge for a pragmatic politician like you ?

'No! I wasn't challenged by it. I was coming out here as minister of finance for seven and a half years, so once a month. So I was very familiar with the European concept although admittedly it is a different experience if you're part of it, rather than coming over from a Member State, let that be clear. I wasn't put off by the slowness of things or worked up about it, but I had to get used to it all right!'

### Did you find the civil service very different ?

'Yes! I can see the merits of institutions, but I am not one of its biggest fans. In the Irish and British systems, which are very similar for historical reasons, all civil servants of the relevant departments work for the minister – they're career civil servants. If I ceased to be minister of finance and was replaced by another government and let's say a very dyed in the wool socialist came, I can guarantee you that the civil servant would support this minister in exactly the same way as they would support me.

They would say to themselves: 'that's his policy- that's government policy – that's what we're going to do'. They might argue with you, but they would never ever let it be known that there are differences of point of view, never ever. It's totally different here and I don't think it's a good thing.

**'As I have pointed out in many speeches about the Services Directive, 70 % of the EU's GDP is in the services area.'**

### **Do you expect that the Services Directive will give a big boost to the economy ?**

'I do – I honestly do. I don't think it's going to be a perfect construction from day one. Some countries will implement it better than others – that's inevitable, but I think over a period of time with the in-built peer reviews that we have planned ('mutual evaluation' see page ?? ed.), it will have a long lasting effect. So we made some compromises, the EP did so too with the Member States and it got through.

With the implementation, it will develop over time. As I have pointed out in many speeches about the Services Directive, 70 % of the EU's GDP is in the services area. But you must remember the battle the whole time, will be for those who genuinely believe in liberalised markets against those that don't believe in at all and a whole clatter of policy makers in the middle. I'm in the camp – even before I came to this particular job- of free markets, liberal policies, less interference by the state, but that's not the universal thinking in Europe or even in the Member States that I know best.

### **How did you find living in Brussels ?**

'Well it's the first time I've ever worked outside of Ireland. So in that it was a great experience for me. Brussels is very easy to live in, you can go anywhere. I have become a big fan of living near the job. For all of my life before, I commuted 60 or 70 kilometres. Here

I live four minutes away. Plus the facilities here and the restaurants are absolutely fantastic, better than anywhere else. Mind you they are world leaders in bureaucracy and their service leaves a bit to be desired sometimes!'

### **What will you do after you have stepped down as Commissioner ?**

'Well, I made it quite clear when I was appointed that I would come out for one term and one term only. I have always said that it is my last political event. Whatever I'm going to do, it's not going to be in politics. So I know what I'm not going to do, I want to do some different things. I've always had other interests. People say you'll never be able to change – I believe I can and I came to do so and I am thinking of a few other things. I happen to be a chartered accountant by profession, not that I would necessarily go back to chartered accountancy. I could do a few other things – business things...there's plenty of other things to be doing out there.'

**'I wasn't put off by the slowness of things or worked up about it, but I had to get used to it all right !'**



# First Single Market Award goes to a Portuguese citizen



*At the informal meeting of competitiveness ministers in Umeå on 14 October, the Swedish minister for Trade Dr Ewa Björling and Mr Jörgen Holmquist, Director General for Internal Market and Services at the European Commission, presented Ms Aurora de Freitas as the first-ever winner of the Single Market Award.*

The initiative to establish a prize to reward people taking action to improve the functioning of the Internal Market was taken by the Swedish Presidency and the Commission. It is aimed at highlighting the importance of the Internal Market and raising awareness of the opportunities associated with the free movement of people, goods, services and capital within the EU.

The winner is a 65-year-old Portuguese citizen, who has been living in France since 1968. She worked as a dressmaker and stylist for many years. Now that she is retired, she devotes her life to helping others to assert their rights in the EU's Internal Market by finding practical solutions to problems and by taking action to remove obstacles. For example, since 2004, Ms de Freitas has been lobbying French administrations to make it easier for Portuguese citizens to be granted residence permits in France. She is an example of what one single person can accomplish in the best interests of the EU. The two other front runners were the Slovakian Ministry of Health, Division of Healthcare Education, and the EU Coordination Unit, Austrian Federal Economic Chamber (Wirtschaftskammer Österreich) Enterprise Europe.

The SOLVIT centres, with good insight into the actors operating in the Internal Market, were consulted in the nomination process and nominations ranged from companies to public bodies and NGO's to universities. Two separate jury groups from the Commission and the Swedish Presidency evaluated the nominations using three criteria: the complexity of the problem, the originality of the solution and the solution's effect.

The intention of the Single Market Award is to become well known as a means to communicate to citizens that their efforts are important for the future of Europe. Hopefully, the award will become an annual event at the informal meeting of the ministers for competitiveness. It will be up to the Commission and future incoming presidencies to promote the continuity of this tradition and to make the prize representative of the different flavours in Europe!

You can view a short interview with Ms de Freitas on DG MARKT's website, at:

[http://ec.europa.eu/internal\\_market/video-channel/sma\\_2009.htm](http://ec.europa.eu/internal_market/video-channel/sma_2009.htm)

Swedish Presidency of the EU

<http://www.se2009.eu/>



*Pictures: Gunnar Seibold/ Regeringskansliet*

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# Derivatives: What are we dealing with ?



*The financial crisis has put **derivatives** in the spotlight, a class of financial instruments that can play a beneficial role for the economy but could also entail significant risks to financial stability.*

*Future policy measures to enhance the safety of derivative markets were therefore outlined in a Commission Communication on 20 October 2009 as a response to President Barroso's call for 'ambitious legislation on the regulation of derivatives in 2010'. These measures follow a stakeholder consultation in July and a public hearing in September.*

## What are derivatives ?

Derivatives are financial contracts, whose value is 'derived' from an 'underlying', which can be a financial instrument, a commodity, a market price, like the interest or an exchange rate, or a credit risk. These contracts are concluded between two parties in order to trade risks inherent to an economic activity. Economic agents who are not willing to bear risks sign them over to those who are. 'Trading away a risk' is usually called 'hedging'. Conversely, 'taking on risk' is often referred to as 'speculation'. Derivatives are zero-sum contracts: The gain to one party equals the loss of the counterparty.

## How can derivative contracts threaten financial stability ?

There are three ingredients to this: leverage, lack of transparency and interconnectedness. Derivatives allow for increasing leverage: Few own funds are sufficient to take up a large position in the market – and magnify possible gains and losses. Currently, most derivatives are traded over-the-counter (OTC). Contracts are concluded bilaterally, but currently neither the public nor the supervisors have much available knowledge about the market. The spectacular growth of the derivatives market over the last decades has therefore created an opaque web of mutual dependence, where huge uncertainty exists when a participant is in distress.



## Commission proposal: safety first

The Commission believes that a paradigm shift must take place, away from the traditional view that derivatives are financial instruments for professional use towards an approach that puts the safety of the financial system first. Europe cannot afford another situation where financial sector risks are ultimately borne by the taxpayer.

The market for derivatives is global. To ensure an ambitious and convergent international regulatory outcome, the Commission proposals are in line with the objectives agreed at the G20 meeting of 25 September 2009. Technical details will be further developed in cooperation with the G20 partners to ensure a coherent implementation of these policies across the globe. Cooperation with the US, who are also in the process of designing a new approach to derivatives markets, will continue to be very close.

## Reducing counterparty risk

The first set of the Commission's proposals focuses on reducing counterparty risk, i.e. the risk that a counterparty will default on its obligations. Currently, this risk is high in OTC markets, where organisations using derivatives are exposed to many different counterparties. The Commission proposes to change this by requiring the use of so-called central counterparties (CCPs) – a central market infrastructure that interposes itself between buyers and sellers, thereby becoming the single counterparty to all market participants – for those OTC derivatives that are sufficiently standardised. The Commission will therefore propose legislation on CCPs to ensure that they are safe and sound.

Not all derivatives are suitable for central clearing. For those derivative trades that remain outside CCPs, stricter collateral requirements should apply. In addition, to better reflect the risk when not using CCPs, the Commission will also propose to increase the capital that credit institutions will have to set aside for such derivative trades.

## Increasing transparency

A second set of proposals focuses on increasing transparency. A key problem during the financial crisis was that supervisors did not have sufficient information about what was happening in OTC derivatives markets. To correct that, market participants are currently setting up so-called trade repositories, where they will report all transactions they engage in and which supervisors can access. The Commission will propose legislation on repositories to ensure that all transactions are indeed reported and to ensure that they are well-managed. Trading derivatives on organised venues increases the transparency of prices and positions to the market.

The Commission will propose mandating trading of standardised derivatives on exchanges and other organised trading venues, as pre- and post-trade transparency will be part of the upcoming review of the Markets in Financial Instruments Directive (MiFID) for all derivatives.

The Commission has started the process of working out these proposals and drafting impact assessments, in order to come forward with ambitious legislation to regulate derivatives in 2010.

[Info](#)

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**EUROPE DIRECT Contact Centre is the Commission's information service which answers citizens' questions about the EU in all official languages. Citizens can call EUROPE DIRECT free of charge from anywhere in the EU or send an email via [europa.eu/europedirect/](http://europa.eu/europedirect/)**

# Seconded National Experts in DG MARKT: real assets part 2



How do Seconded National Experts (SNEs) fare in DG MARKT? Meet another 4 SNEs from DG Markt<sup>1</sup>:

**Name: Dr. Kristin Hentschel**  
**Works in: Postal Services (E4)**  
**Arrived in DG MARKT in: October 2008**  
**Seconded from: German regulator, the Bundesnetzagentur**



**What is your background and expertise and what is your responsibility in DG MARKT ?**

I am a lawyer. I used to work for the Bundesnetzagentur in Bonn, which is the regulatory body for all network industries in Germany; I was a deputy head of unit in the railway department. The Bundesnetzagentur coordinates with other European regulators and the Commission on market opening and the implementation of the EU regulatory framework. I have also worked as a researcher in the Centre for European Integration Studies.

In DG MARKT, I am involved in the implementation of the Third Postal Services Directive in the Member States. One of the main issues is assisting the Member States in transposing the law, to prepare for full

market opening. Before, I was involved in law transposition procedures in Germany, so I have valuable experience to bring from the 'other side'. I also work with a couple of Member States on continuous active market monitoring. I on this.

**What knowledge and experience gained will you take back home ?**

A better knowledge of the substance of the law. How the Commission cooperates with each Member State, how standards are defined and how it consolidates knowledge resulting from many cultures and market players working together. Where to find external expertise and how to tap into networks for info. Against this background, I expect to have an important link function between Germany and the Commission when I get back.

**Name: Sander van Sluis**  
**Works in: Horizontal Policy Development Unit (B1)**  
**Arrived in DG MARKT in: April 2007**  
**Seconded from: The Netherlands, Ministry of Economic Affairs**

**What is your background and expertise and what is your responsibility in DG MARKT ?**

Before I came here, I worked in the ministry of Economic affairs in the competition directorate, which did for the Netherlands what DG MARKT is doing for Europe. I have always been involved in public procurement policy, for which I did negotiations in the Council Working Party on behalf of the Netherlands. After, I helped to transpose the new legislation into Dutch law.

Now I work in the coordination Unit of DG MARKT. I work on the 'Partnership recommendation', which is now in the

implementation phase. I prepare briefings for the Commissioner and for the DG and I coordinate inter-service consultations with other DGs for anything to do with Services, Public Procurement, Intellectual Property and Copyright.

**What knowledge and experience gained will you take back home ?**

The experience of working with people from different nationalities made me realise that Europe is more than just the sum of its participants. I also take home the knowledge of how it works here and how to find my way around the Commission.



<sup>1</sup> Directive 94/19/EC on deposit guarantee schemes (amended by Directive 2009/14/EC).

**Name: Dr. Konrad Szelag**  
**Works in: Banking and Financial Conglomerates (H1)**  
**Arrived in DG MARKT in: May 2009**  
**Seconded from Poland, Ministry of Finance**

**What is your background and expertise and what is your responsibility in DG MARKT ?**

Before I came to DG MARKT I worked in the Ministry of Finance as Advisor to the Minister and before that in the National Bank of Poland as Head of the European Integration Unit. For the past five years, I was a member of the European Banking Committee and various Commission and Council working groups (on capital requirements for banks (CRD), deposit protection, etc.).

Also, my experience as a Fulbright scholar in the United States is very relevant for my current work at the Commission, notably my internships at the Federal Reserve Bank of Boston and Federal Deposit Insurance Corporation (FDIC) in Washington DC.

In DG MARKT, I work on 'Deposit Guarantee Schemes' (DGS) and some supervisory issues. Currently, I participate in the preparation of the complex reform on DGS in the EU. The DGS Directive (aimed at ensuring the safety

of depositors' money in case of bank failures) was adopted in 1994 and not changed until the aggravation of the financial crisis in autumn 2008<sup>3</sup>. But it was only a 'quick-fix' as a response to the crisis and, therefore, a comprehensive DGS reform is still needed in the EU – as the crisis highlighted serious drawbacks of the Directive undermining depositors' confidence in the banking sector and threatening financial stability.

**What will have been the advantages for Poland and for you when you go back ?**

I will bring back a European perspective on my areas of expertise, i.e. deposit protection and banking supervision (the Minister of Finance in Poland oversees the Bank Guarantee Fund and has its representative in the Polish Financial Supervision Authority). It will also be useful to know some particular solutions in individual Member States. Last but not least, professional contacts at the Commission and some international organisations will be an asset as well.



**Name: Lee Foulger**  
**Works in: Financial Services Policy Unit (G1)**  
**Arrived in DG MARKT in: May 2009**  
**Seconded from the UK, Ministry of Finance**



**What is your background and expertise and what is your responsibility in DG MARKT ?**

I have been working in the UK Ministry of Finance for the last 7 years. I have also spent some time in the banking sector. Most recently, in the Treasury I have been working on reforms to banking regulation and responding to the financial market turbulence from the UK's perspective. In DG MARKT, I am working on the reforms to the EU supervisory architecture.

**How do you think you can add value to the Commission following the financial crisis ?**

I can bring the perspective of a policy maker from a National finance ministry to policy making at the EU level. National finance ministries often have a different perspective and have experienced the financial crisis in a different way to the Commission. They

have had to deal with urgent problems involving financial institutions on an almost daily basis. While a lot of this work is done in close cooperation with the Commission, the focus at the EU level will be to implement the necessary reforms, building on the experiences of Member States and produce a cohesive, stronger Single Market at the end of it.

**What knowledge and experience gained will you take back home ?**

Bringing back an understanding of the way the Commission and other institutions see things is useful for my work in the Treasury and for the UK Government more generally. We are also going to have to implement all the reforms that the Commission is currently working on, so someone with some knowledge about what the reforms are intended to do might add some value in the implementation!

# What is Europe's answer to Google Books ?



*In October the Commission published a Communication on 'Copyright in the Knowledge Economy'. The 'knowledge economy' and its relationship to copyright have become topical as more and more information is digitised and made 'searchable' on the internet. But this freedom comes at a price. Those who earn their living from writing or composing may lose out. It is in these circumstances that the Communication makes a variety of suggestions on how copyright-protected material can be legally made available to the widest audience possible.*

The Communication takes a clear view in favour of a 'Fifth Freedom' - the open circulation of knowledge in the Single Market. The Communication is one of the first policy papers preparing the broader intellectual property strategy that President Barroso announced under the banner of 'the Digital Agenda'.

## A Pan-European Digital Library

One of the big themes addressed in the Communication is how the respect for digital copyright can be reconciled with the speedy roll-out of digital libraries. Innovative solutions are needed so that Europe can develop its digital libraries on a par with what Google has already accomplished in America.

That is why the Communication announces a practical and forward-looking legislative work programme fostering the digitisation of library stock in full respect of copyright rules. The EU's rule-based approach will make it possible for several digitisation initiatives to co-exist on a level playing field. The absence of competition in the creation of digital libraries is one of the pitfalls inherent in the Google Books Settlement. This U.S. arrangement is only beneficial to Google, while excluding competing digitisation initiatives.

One of the main challenges holding up the creation of digital libraries is the issue of orphan books. Orphan books are mostly still in-copyright but it is difficult or impossible to identify or locate the owners. While orphan books are mostly older books, their cultural value should not be underestimated. But without a known or locatable right-holder, the necessary permissions to include the book in an online library cannot be obtained. The Communication announces several options to alleviate the orphan works problem, such as a statutory exception for such works or appropriate licensing schemes. All of these options are based on a central principle: before the orphan work can be used, a diligent search to find the owner has to be carried out.

Another issue is that of digital dissemination of 'out-of-print' books. These books, while still protected, are no longer published or available in bookstores. Here the Communication proposes simple licensing approaches to be worked out in Commission-facilitated negotiations between the collecting societies and the digitisation initiatives.

## Persons with disabilities

A point often overlooked in the debate on the 'knowledge economy' is inclusiveness. Persons with disabilities, notably the visually impaired, want to enjoy the benefits of new technologies to access Europe's collective knowledge on the same basis as everyone else. Yet, they continue to experience problems - e.g. only around 5% of European publications are available in accessible formats (such as Braille, audio or large-letter books). In addition, restrictions on cross-border distribution exist, even between countries sharing a language. To remedy this state of affairs, the Commission will set up a stakeholder forum to increase the number of works published in accessible formats for persons with disabilities and to encourage the unrestricted cross-border transfer of these works.

The recent debate on the Google Books Settlement has amply demonstrated that Europe needs to step up its own efforts in the pursuit of a realistic knowledge economy. The work announced in the Communication goes some way in addressing this challenge.



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# Getting better access to business information

*In November, the Commission adopted a green paper and launched a public consultation on possible ways to enhance cooperation between business registers. Improving access to business information and increasing legal certainty surrounding cross-border operations could bring important contributions to the Single Market.*

Business registers play an essential role in ensuring transparency in markets: their function is to register, examine and store official information on companies, such as information on a company's legal form, its seat, its capital and its legal representatives. This information is made available to the public.

The progress report on the existing interconnection between business registers, attached to the green paper, shows that while all Member States have established electronic registers, cross-border access to the information stored is often hindered by technical or language barriers. The existing co-operation mechanisms, such as the European Business Register, are voluntary and have not proved to be sufficient in involving all Member States.

The green paper explores ways to ensure that the network of business registers covers the entire EU. It also proposes options that would facilitate direct communication between the registries of different Member States in cross-border procedures such as mergers or foreign branch registrations.

The consultation runs until 31 January 2010. The objective is to get the views of Member States and other interested parties on the next steps.



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[http://ec.europa.eu/internal\\_market/company/business\\_registers/index\\_en.htm](http://ec.europa.eu/internal_market/company/business_registers/index_en.htm)

# John Monks visits DG MARKT



*John Monks, the Secretary General of the European Trade Union Confederation (ETUC), came to the DG MARKT building on 18 November to dialogue with over 80 colleagues from the various Directorates of the DG. The subject of Mr Monks' remarks was 'The Single Market: what do European workers expect?'*

DG MARKT Director General Jörgen Holmquist, who chaired the session, welcomed the significant deepening of the relationship between ETUC and DG MARKT in recent years. ETUC's vision for the Single Market is for a 'social market economy'; in other words, for market opening to be accompanied by a strong social dimension. In this respect, it is interesting to recall that the Treaty of Lisbon introduced a new overall EU objective of a 'highly competitive social market economy' (Article 3 of the EU Treaty).

Describing himself as a pro-European integrationist, Mr Monks' remarks concentrated mostly on free movement of workers, free movement of services and free movement of capital. Mr Monks' overall view of the Single Market is that it is an essential part of the European project. However, the financial and economic crisis has significantly added to trade unions' concerns related to the Single Market.

Even if - in his view - markets are essential to democracy, it is clear that markets have failed over the past two years. Mr Monks also addressed the fallout on free movement of workers from the so-called 'Laval' ECJ judgement. Separately, he looked forward to the imminent full application of the Services Directive in the 27 Member States, recalling the fundamental role ETUC had played in its passage through the institutions in 2005 and 2006.

You can view a short interview with John Monks on DG MARKT's website, at:

[http://ec.europa.eu/internal\\_market/video-channel/interview\\_john\\_monks.htm](http://ec.europa.eu/internal_market/video-channel/interview_john_monks.htm)



## Banks will help you switch bank accounts



Are you thinking of switching your current account to another bank? From now on, your bank will help you throughout the switching process, free of charge.

This new service, aimed at making life easier for consumers, was agreed by the European Banking Industry Committee (EBIC) in November 2008, when it adopted the 'Common Principles for Bank Account Switching'. National banking associations in all Member States should have had these principles implemented by 1 November 2009. However, there are slight delays in Romania, Portugal and Poland.

Following these 'Common Principles', if you wish to change banks in your own Member State, your new bank will act as your main contact point. It will deal with your old bank, ensuring that your recurrent payments, such as direct debits and standing orders, are transferred smoothly and rapidly. Your new bank will also assist you in closing your old account and transferring the remaining balance to your new account.



# Setting end-dates for Single Euro Payments Area (SEPA)

*SEPA, the Single Euro Payments Area, is one of the largest payment initiatives ever undertaken. It aims to create an integrated market for non-cash euro payments so that businesses and consumers can make euro payments throughout the whole of the EU as rapidly, reliably and cheaply as they can do today in the Member States with the most developed payments markets.*

This autumn has been a particularly busy time for the development of SEPA. On 1 November, the Payments Services Directive (PSD) and the new Regulation on Cross-Border Payments (CBP) entered into force. The PSD provides the legal framework for the SEPA Direct Debit (SDD), which was launched by industry on 2 November, while the CBP Regulation extends the principle of equal pricing for corresponding domestic and cross-border euro payments to direct debits.

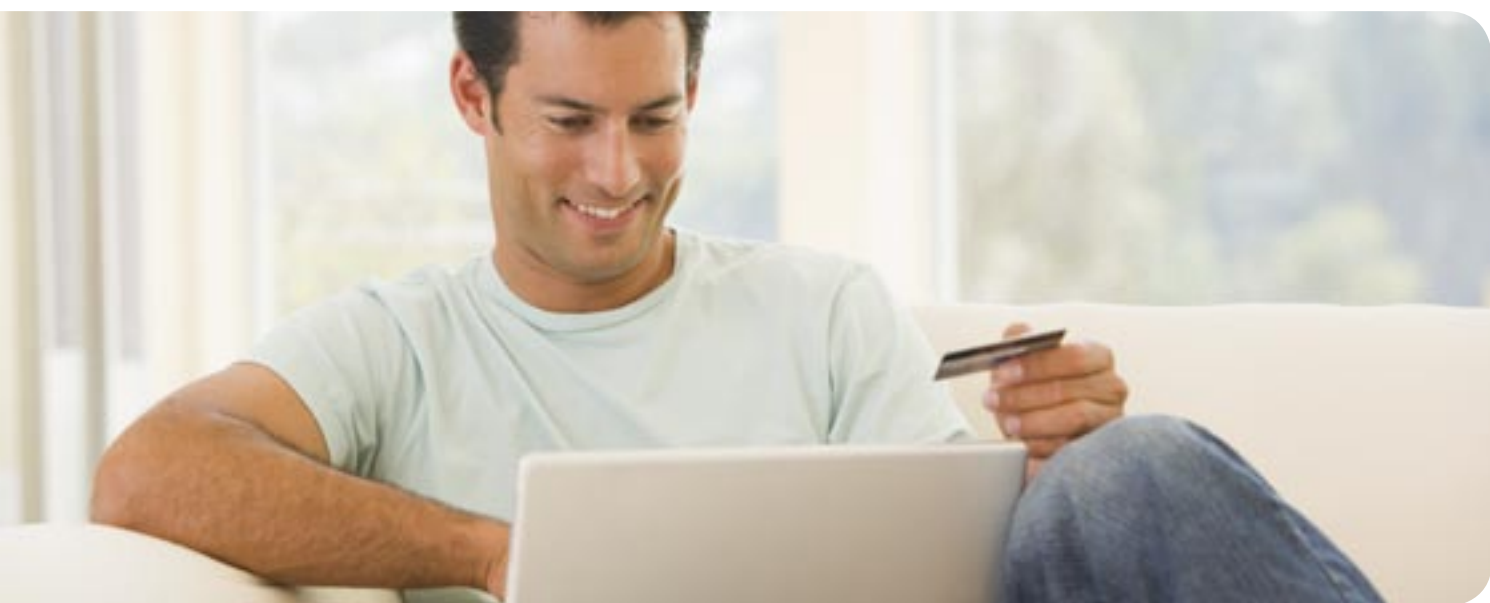
However, although the SEPA project has been making good progress on the legal and technical fronts. The financial crisis and the general economic downturn has given expression to fears that enthusiasm for the project may be waning and that the Commission needs to become more involved. At the same time, there have been calls in the market place that a formal end-date for SEPA migration needs to be established by legal means.

## The Commission's SEPA Roadmap

Therefore, in order to inject some new momentum and commitment into the SEPA project, on 10 September the Commission adopted a Communication<sup>1</sup> on 'Completing SEPA: a Roadmap for 2009-2012'. The Roadmap, which was prepared in close consultation with the European Central Bank (ECB), provides a framework for action to achieve the full benefits of SEPA. To do this, the Roadmap identifies

a series of clear actions with concrete deadlines to be undertaken by industry and users, as well as by EU and national authorities, over the next three years focussing on six priority areas. These are:

- (1) **Fostering migration:** Rapid migration from existing national payment instruments to the new SEPA products is crucial to reduce the costs of running legacy and SEPA systems in parallel. Public authorities should be early adopters of SEPA products and setting an end-date could significantly boost migration.
- (2) **Increasing SEPA awareness and promote SEPA products:** There is a need for tailor-made information and communication initiatives by the banking industry, payment providers and national authorities which should be complemented at EU level.
- (3) **Designing a sound legal environment and strengthening SEPA compliance:** Clarity on the regulatory framework and how SEPA compliance works in a self-regulatory context is required.
- (4) **Promoting innovation:** SEPA should be a driver for developing internet and mobile payments as well as environmentally friendly e-invoicing solutions.
- (5) **Ensuring necessary standardisation, interoperability and security:** Standards and the standard-setting process are of crucial importance in a network business like payments.
- (6) **Clarify and improve SEPA governance:** There is a need for greater user involvement and a clear strategic vision for SEPA, monitoring and supporting SEPA migration while ensuring transparency and accountability.



<sup>1</sup> [http://ec.europa.eu/internal\\_market/payments/docs/sepa/com\\_2009\\_471\\_en.pdf](http://ec.europa.eu/internal_market/payments/docs/sepa/com_2009_471_en.pdf)

## Consultation shows general support for a SEPA migration end-date

Although the SEPA Credit Transfer (SCT) was successfully launched in January 2008, the market uptake has been relatively slow. According to the latest ECB figures<sup>2</sup>, actual SCT usage is still below 5% of all euro credit transfers. Increasing SEPA migration by public authorities and the launch of the SEPA Direct Debit now will be a welcome shot in the arm for SEPA migration, but even so, many consider that a legally mandated end date to SEPA migration is needed to provide market certainty and to unlock necessary SEPA investment.

Therefore to acquire a clear picture of stakeholder views, the Commission carried out last summer an extensive public consultation on whether and how deadlines should be set for the migration of existing national credit transfers and direct debits to the new SEPA instruments.

The results<sup>3</sup> showed that a large majority of respondents supported the idea of setting end-dates to stimulate SEPA migration. However, many users stressed that any end-date needed to be linked

to reassurance on the quality of SEPA products, a satisfactory governance framework and sufficient time for users to become familiar with the new products. A large majority also considered that separate end-dates should be set for SCT and SDD and that the end-date(s) should be set at European level, but with national flexibility to set earlier end-dates.

Both the European Parliament and the European Central Bank favour establishing an end-date. More recently, on 2 December, Member States adopted Council Conclusions<sup>4</sup> on SEPA which recognised the advantages of establishing definitive end-dates for SCT and SDD migration. They invited the Commission, in collaboration with the ECB, to carry out a thorough assessment of whether legislation is needed. The Commission has therefore now started this assessment with a view to making a possible legislative proposal.

<sup>2</sup> <http://www.ecb.int/paym/sepa/timeline/use/html/index.en.html>

<sup>3</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1372&format=HTML&aged=0&language=EN&guiLanguage=en>

<sup>4</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ecofin/111670.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/111670.pdf)

### Info

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## What is the EBTP?

### European Business Test Panel



Help us to design the right policies for you

The European Business Test Panel (EBTP) is a unique tool allowing the European Commission to obtain direct feedback from businesses on Commission legislative proposals or initiatives likely to have an impact on businesses, follow the link to learn more.

[http://ec.europa.eu/yourvoice/ebtp/index\\_en.htm](http://ec.europa.eu/yourvoice/ebtp/index_en.htm)

# Simplified procedures for claiming cross-border withholding tax relief



On 19 October 2009, the Commission adopted a **Recommendation on withholding tax relief procedures**<sup>1</sup>. It calls upon Member States to develop simpler and cheaper procedures, so that it becomes easier for an investor residing in one EU Member State to claim withholding tax relief on dividends received from another Member State.

## Withholding tax

When companies (or banks on their behalf) pay dividends to their investors, they have to hand out a percentage of these dividends, between 10 – 25%, to national tax authorities. In many cases foreign investors are entitled to claim back part or all of this so-called 'withholding tax'. A recent Commission study, however, revealed that foreign investors often fall victim to long procedures and in some cases miss out on reimbursement altogether. The costs related to current reclaim procedures, which can be lengthy and cumbersome, are estimated at € 1.09 billion annually, whereas the amount of unclaimed tax relief is estimated at € 5.47 billion annually.

To address this issue, the Commission recommends that 'withholding tax relief' should be granted at source, i.e. immediately. Where the other approach – the refund approach – is unavoidable, for instance in cases where not all the investors' data are available, the Commission recommends Member States to apply quick and standardised refund procedures, and lists various possibilities.

The Recommendation encourages Member States to switch to accepting electronic rather than paper information. It also suggests measures to eliminate tax barriers that face financial institutions in their securities investment activities while ensuring that tax revenues are protected against errors or fraud. The Recommendation is designed to provide guidance to Member States on how to ensure that procedures to verify entitlement to tax relief do not hinder the functioning of the Single Market.

## Background

The Recommendation is based on a large variety of sources: The (2006-2007) reports of the Clearing and Settlement Fiscal Compliance Experts Group (FISCO); experience from Member States and extensive consultation with industry, tax administrations and the Organisation for Economic Co-operation and Development (OECD). The OECD works on this issue in parallel, with the aim of achieving a result at global level.

## Work in progress

It is the first time in nine years that the Commission has issued a Recommendation in the tax area. It is not a legally binding document, but it gives clear guidance on how withholding tax relief procedures could be modernised and developed further. Its purpose is to stimulate debate and to provide a forum for further discussion.

### Info

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<sup>1</sup> The Recommendation, the underlying study on 'The Economic Impact of the Commission Recommendation on Withholding Tax Relief Procedures and the FISCO Proposals' and other background documents are available at: [http://ec.europa.eu/internal\\_market/financial-markets](http://ec.europa.eu/internal_market/financial-markets)



## 11 – 19 January: European Parliament to hear designate Commissioners

Following the unveiling of the new European Commission line up on 27 November, each Commissioner designate is to face a three-hour Q & A session with Members of the European Parliament. The purpose is for the Parliament to assess if each Commissioner-designate is generally competent, independent and committed to the European interest. Parliament will also evaluate his or her knowledge of their portfolio and communication skills. Hearings will take place from 11 to 19 January, following receipt of written answers from each designate. A final parliamentary vote is expected on 26 January. The Commission cannot take office before it has been approved by the European Parliament.

More information at: [http://ec.europa.eu/commission\\_designate\\_2009-2014/index\\_en.htm](http://ec.europa.eu/commission_designate_2009-2014/index_en.htm)

## 21 January: Launch of the European year for combating poverty and social exclusion

The Spanish Presidency of the EU will host the opening conference of the European year for combating poverty and social exclusion in Madrid. 80 million Europeans now live below the poverty line, a figure that is estimated to increase dramatically due to the consequences of the economic crisis. In 2010, the EU and its Member States will renew their commitment to social inclusion and a more cohesive society through a variety of initiatives.

More information at:  
<http://ec.europa.eu/social/main.jsp?langId=en&catId=637>

## 8 February: Conference on International Developments in Accounting and Auditing

The European Commission is to host a conference on international developments in Accounting and Auditing in Brussels. It will bring together policy makers, regulators and businesses. Topics to be discussed are the implementation of International Financial Reporting Standards (IFRS) as well as the challenges encountered in moving towards global standards on auditing.

More information at: [http://ec.europa.eu/internal\\_market/accounting/conference\\_20100208\\_en.htm](http://ec.europa.eu/internal_market/accounting/conference_20100208_en.htm)

## 15 – 18 March: e-Health Ministerial Conference and e-Health week

The European Commission and the Spanish EU Presidency are to hold the annual EU conference on electronic health services - known as 'e-Health' - in Barcelona. This year's theme, 'e-Health for Sustainable Healthcare Delivery: global challenges through local actions', acknowledges pressing issues related to a rapidly ageing European society. Longer life expectancy and the consequent increase of chronic diseases are posing serious challenges to the sustainability of global national health systems. The conference will present how and why e-Health can make the difference in facing such a global challenge.

More information at:  
<http://www.ehealthweek2010.org/ehealth-ministerial-conference>

### Info

To find out more on these and other EU-events, please consult the EU calendar on <http://europa.eu/eucalendar/>



# Infringements related to the Single Market

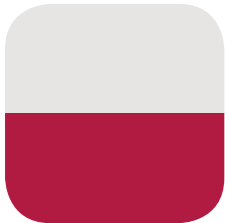


*As the guardian of the EC Treaty, the Commission has the option of commencing infringement proceedings, against a Member State, which in the eyes of the Commission infringes Community law.*

*When an infringement proceeding is pursued, the Commission sends the Member State concerned an initial legal assessment through a letter of formal notice, and invites the Member State to present its views regarding the facts.*

*If no reply to that letter of formal notice is received, or if the Member State's observations in reply cannot be considered satisfactory, the Commission will issue a reasoned opinion expressing its view that an infringement exists and asks the Member State to remove it within a specified time limit.*

*If no reply to the reasoned opinion is received from the Member State or if the reply is unsatisfactory, the Commission may then refer the case to the Court of Justice. Member States are required to take the necessary measures to comply with a judgement of the Court of Justice establishing an infringement.*



## **Special rights granted to the State in certain companies: Poland**

The Commission has decided to refer Poland to the European Court of Justice with respect to its 'Act on Special Powers of the Treasury'. This Act grants powers to the Polish State to intervene in companies of special importance for public order or public security and grants the State special rights, such as the right to veto certain key management decisions and the right to appoint observers. Currently thirteen national companies are subject to this Act. These companies operate in several sectors including: copper ore mining, media/audiovisual, railway infrastructure, electricity, gas and petroleum, motor spirits and diesel oil. In the Commission's view, this Act and the powers it grants to the State infringe rules on the free movement of capital and the freedom of establishment and is in violation of the EC Treaty (Article 56 and 43 respectively).

## **Waste disposal service contracts in Rostock: Germany**

The Commission has decided to refer Germany to the European Court of Justice over contract awards or modifications that have been carried out without the execution of tender procedures. The case concerns the conclusion of a waste disposal service contract in 1998 with a contract period of 25 years and a contract value of approximately 150 million euro between the city of Rostock and a mixed undertaking, and the amendment of that contract in 2004. Furthermore, it also concerns the conclusion of an agreement in 2007 with a mixed undertaking concerning the provision of waste collection, treatment, recycling and street cleaning services with an annual contract value of 10.8 million euro per year.

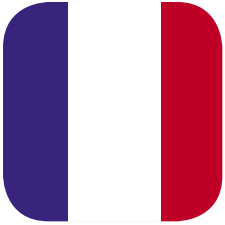
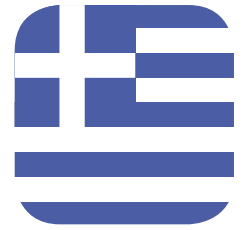


## **Modification of contracts after award: Spain**

The Commission has decided to refer Spain to the European Court of Justice over a series of provisions of the new Spanish public procurement law (Ley 30/2007 de contratos del sector público – LCSP) governing modification of contracts. In this instance, the Commission considers that the regime of modifications of contracts after award, as governed in LCSP, is not in line with the principles of equal treatment, non discrimination and transparency. The LCSP gives contracting authorities a wide power to modify essential terms of public contracts after award, without the conditions of modification having been provided for in the contract documents in a clear, precise and unequivocal manner.

### Urban planning contracts and medical devices: Greece

The Commission has decided to formally request Greece to review contracts for cadastral mapping and urban planning services awarded by the municipalities of Vasilika, Kassandra, Egnatia and Arethousa. The Commission has also decided, under Article 228 of the EC Treaty, to send Greece a letter of formal notice requesting full information on compliance with the 2009 judgement of the European Court of Justice concerning the supply of medical devices.



### Closure of case on direct award of concessions to public bodies: France

The Commission has decided to close an infringement procedure that it had initiated against France relating to a provision of Law No 93-122 of 29 January 1993 (known as the 'Sapin Law') which allowed public entities to award concession contracts to public bodies without prior publicity or competitive tendering. These concession contracts (referred to as 'public service delegation agreements' in French law) relate to a wide range of areas of activity including, for example, water and electricity distribution, waste collection, management of public amenities such as sports fields and swimming pools, and the construction and operation of motorways.

### Supplementary health insurance provided by private sickness funds: Belgium

The Commission has decided to refer Belgium to the European Court of Justice over its national rules on supplementary health insurance provided by private sickness funds. The Commission wants to ensure that these private sickness funds (mutualités/ziekenfondsen) comply with the EU insurance directives when they offer supplementary health insurance cover outside the scope of obligatory social security.



More information on infringement proceedings relating to the Single Market is available at:

[http://ec.europa.eu/internal\\_market/infringements/index\\_en.htm](http://ec.europa.eu/internal_market/infringements/index_en.htm)

The latest information on infringement proceedings concerning all Member States is available at:

[http://ec.europa.eu/community\\_law/index\\_en.htm](http://ec.europa.eu/community_law/index_en.htm)



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