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Administrative cooperation in the single market

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1. INTRODUCTION

1.1. Administrative cooperation in the single market

The single market has long proved its ability to create jobs, open up business opportunities and increase the purchasing power of consumers through lower prices. For the single market to work efficiently, its rules need to be correctly transposed, applied and enforced by authorities at national, regional and local level. The authorities need to administer rights and entitlements under single market law (for instance, by granting authorisations), to supervise compliance with rules (for instance, through market surveillance), and to cooperate closely with each other while doing so. Single market legislation increasingly requires the competent authorities to be in contact with one another on a cross-border basis to exchange information (e.g. in the areas of recognition of professional qualifications or provision of services). The Commission Recommendation on measures to improve the functioning of the single market (hereafter "the Recommendation")¹ emphasises the importance of cross-border administrative cooperation for making the single market work in practice for all citizens and firms.

During the preparatory work for the Commission Communication "A single market for 21st century Europe" (hereafter "the Single Market Review")² and the joint fact-finding work with national authorities to prepare the Recommendation it became clear that there is a need to promote more awareness about the already existing networks for administrative cooperation.

1.2. Aim and scope of this document

This document draws up a non-exhaustive "map" of the main networks for administrative cooperation in the area of the single market, in order to provide more transparency on existing networks, especially for national administrations, businesses and citizens.

Transparency about and awareness of the existing networks are important for a number of reasons. First of all, such increased transparency and awareness should lead to more recognition for administrative cooperation among national, regional and local authorities. After all, it is thanks to these authorities that networks can be made operational on a daily basis. In some cases, existing networks could also help national authorities meet some new administrative cooperation needs, for which they would otherwise have to establish additional systems. Importantly, the more available and clearer the information about the existing networks, the easier it will also be for national competent authorities to identify and make contact with their counterparts in other Member States.

Secondly, increased transparency will offer more scope for mutual learning and exchange of good practices between different networks on the similar issues and challenges they face. Transparency may also be a first step towards further streamlining and rationalisation, although it should be borne in mind that networks fulfil many different needs and purposes, and that therefore there is probably no "one size fits all" solution.

Last but not least, transparency will benefit other interested parties, such as businesses and citizens, by providing an overview of the existing cooperation between national authorities and the Commission, thereby allowing them to use these networks to their advantage.

¹ C(2009)4728.

² COM(2007) 724 of 20.11.2007

This document focuses on networks between national authorities responsible for applying single market rules. Work to overview and streamline the provision of information, advice, assistance and problem-solving tools to beneficiaries of single market rules is already underway through the Single Market Assistance Services (SMAS) project³.

Furthermore, it focuses on networks that were made available through acts of Community institutions, rather than those created on the initiative of national authorities. The latter (e.g. the Public Procurement Network, or the European market surveillance system ICSMS and the Product Safety Enforcement Forum of Europe - ProSafe, that organise cooperation amongst market surveillance authorities in the goods sectors) are mentioned in the Annex to the Recommendation.

This document is part of a broader exercise to strengthen partnership between Member States and with the Commission to make the single market work better in practice. The Recommendation sets out recommendations for Member States as to how national authorities can support such networks through training, sufficient human resources and necessary budgetary resources. This document is an example of the work being carried out on the Commission's side; it provides a "snapshot" of the current situation and does not preclude possible further Commission initiatives in this area.

Section 2 contains a non-exhaustive overview of how individual networks are organised and how they work, and provides links to further information. It maps networks across the various single market policy areas in which they have been created. A distinction is made between:

- networks for co-operation in the area of services;
- networks for co-operation in the goods area;
- networks for cooperation in consumer policy;
- networks and tools for co-operation in the area of taxation and customs;
- networks in the social policy area – facilitating the free movement of workers, posting of workers, and the transferability of pension and social security rights;
- networks for cooperation between regulatory and supervisory authorities in regulated sectors;
- networks in the competition area (European Competition network); and
- Network Promoting Efficient European Public Administrations (EUPAN).

The Commission helps to make all of these networks operational. Sometimes its role is to set up the network and organise regular meetings, leaving the practical cooperation to national authorities. In other cases, the Commission plays a more active role and, for instance, coordinates the joint actions of a network, or acts as a quality control body. In some cases, the Commission plays a central role, e.g. in case of some networks, all information must first transit via the Commission before it is disseminated to the national authorities.

This Staff Working Document and a non-exhaustive list of networks with links and short descriptions is also available on the Commission website⁴.

³ Action plan on an integrated approach for providing Single Market Assistance services to citizens and business SEC(2008) 1882.

⁴ http://ec.europa.eu/internal_market/strategy/main_networks_en.htm.

2. OVERVIEW OF THE EXISTING NETWORKS IN THE AREA OF THE SINGLE MARKET

2.1. Networks for co-operation in the area of services

2.1.1. Internal Market Information (IMI) system

The Internal Market Information system (IMI)⁵ is a multilingual electronic information exchange network aimed at improving day-to-day cooperation between competent authorities (at national, regional or local level) in the application of internal market legislation. IMI supports competent authorities in the Member States by helping them overcome major practical barriers to communication, such as differences in administrative and working cultures, different languages and a lack of clearly identified partners in other Member States.

IMI makes available to competent authorities in Member States a simple tool to find authorities in other Member States and address requests to them through structured sets of questions and answers, based on specific areas of Community legislation. The questions are pre-translated into all official languages, thus providing language support. In addition, IMI includes a facility for the automatic translation of free text based on the Commission's translation system (ECTM), and detailed information about the language capabilities of the partner authority.

For instance, thanks to IMI, it is possible to search for a competent authority in another Member State without prior knowledge of that Member State's administrative structure. Searching is made possible by using a combination of possible criteria; it is possible to search by economic or policy area using a keyword, or by restricting the search only to authorities which have national competence. Once the authority has been found, the users can see both its official title in the language of the country and an informal title in their own language.

The development of IMI is based on three key principles:

- It does not impose additional administrative obligations on Member States to cooperate beyond those already contained in the relevant internal market legislation;
- It provides the flexibility to respect the different administrative structures and cultures in Europe;
- It is a single system based on reusable building blocks. It is designed to be able to support many pieces of internal market legislation and will thus avoid a proliferation of information systems.

IMI is designed as a single information system to support administrative cooperation obligations under various Directives in the field on the internal market. Currently, it is being developed to support administrative cooperation under the Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications (hereafter "the Professional Qualifications Directive")⁶ and Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (hereafter "the Services Directive")⁷. The November 2008 progress report on the development of IMI⁸

⁵ http://ec.europa.eu/internal_market/imi-net/index_en.html

⁶ OJ L 255, 30.9.2005, p. 22.

⁷ OJ L 376, 27.12.2006, p. 36.

described the completion of a successful IMI pilot project and the transition to an operational system to exchange information on regulated professions, as set out in the Professional Qualifications Directive.

In January 2009, the Commission, together with all Member States, launched a pilot project in support of the Services Directive. The pilot will run until 28 December 2009, by which time the Services Directive has to be fully implemented by Member States. The aim of the pilot project is to pave the way for a fully operational IMI system, applicable to all service activities covered by the Services Directive, by the end of 2009.

The legal basis for using IMI can be found in the following legislation:

- Articles 8, 50 and 56 of the Professional Qualifications Directive set out a clear obligation for Member States to cooperate actively and to exchange information;
- The Services Directive (Articles 28-36) contains detailed provisions on administrative cooperation obliging Member States to cooperate with each other. Article 34 of this Directive provides that the Commission shall establish an electronic system for the exchange of information between Member States.

As IMI is used for the exchange of personal data, a high level of data protection is important, and the relevant data protection legislation applies fully to IMI⁹. Commission Decision 2008/49/EC concerning the implementation of the Internal Market Information System (IMI) as regards the protection of personal data¹⁰ set out the functions, rights and obligations of the IMI actors in relation to data protection and thus expressed the functioning of IMI in legal terms. Following an opinion of the European Data Protection Supervisor (EDPS), the Commission adopted Recommendation C(2009)2041 on data protection guidelines for the Internal Market Information System (IMI)¹¹. The Commission will assess the data protection situation in IMI as well as the content and timeliness of any future measures, including the possible adoption of a legal instrument.

The development of IMI was financed by the Community IDABC¹² programme, which promotes European eGovernment Services.

For further information see: http://ec.europa.eu/internal_market/imi-net/index_en.html

2.1.2. *The notification procedure laid down by Directive 98/34/EC as modified by Directive 98/48/EC*¹³

In the field of information society services, Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information

⁸ COM(2008) 703 of 11.2.2008

⁹ Directive 95/46/EC, OJ L 1995/281, p. 31; Regulation (EC) No 45/2001, OJ 2001/8, p. 1.

¹⁰ OJ L 13, p. 18 of 16.01.2008

¹¹ OJ L 100, p. 12 of 18.04.2009

¹² Interoperable Delivery of Pan-European eGovernment Services to Public Administrations, Business and Citizens, <http://ec.europa.eu/idabc/>.

¹³ Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations OJ L 217, p. 18-26 of 5.8.1998

in the field of technical standards and regulations¹⁴ obliges Member States to notify to the Commission and to other Member States their technical regulations (i.e. rules on information society services) at a draft stage. Contact points for the 98/34 procedure have been set up at national level (one in each Member State). Cooperation between these 98/34 contact points and the Commission in this area is ensured within the 98/34 Committee.

For further information see: <http://ec.europa.eu/enterprise/tris/>

2.1.3. Cooperation regarding passenger rights

In the domain of passenger rights, the National Enforcement Bodies are both competent to analyse individual passenger complaints and to enforce the relevant regulations, notably Regulation 261/2004/EC establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights¹⁵; Regulation 1107/2006/EC concerning the rights of disabled persons and persons with reduced mobility when travelling by air¹⁶ and Regulation 1371/2007/EC on rail passengers' rights and obligations¹⁷ through penalties to the air carriers whenever necessary. It is therefore essential for the transport internal market that the National Enforcement Bodies harmonise the way the implementation of these Regulations is enforced throughout the European Union. The Commission has set up expert groups which holds regular conferences and meetings between the Commission and the National Enforcement Bodies leading for example to consensus on improved national procedures and a common understanding on the applicable texts.

For further information see: http://ec.europa.eu/transport/passengers/index_en.htm

2.1.4. Administrative Cooperation in the transport sector

- Tachonet: In the framework of the introduction of the digital tachograph, the Commission has developed an electronic network to exchange information between the Member States on the issue of personal smart cards for drivers. The competent national authority should be able to check the uniqueness of issue by its own administration of a card to a particular driver, but such a check should also take place with the authorities of the other Member States to avoid a driver holding cards from several Member States. The legal basis is provided in Decision of the European Parliament and of the Council 1719/1999/EC on a series of guidelines, including the identification of projects of common interest, for trans-European networks for the electronic interchange of data between administrations (IDA)¹⁸

For further information see: <http://ec.europa.eu/idabc/en/document/2283/5926>

- European Register for Road transport Undertakings (ERRU): In the framework of the proposals for new regulations on access to the market and profession for road transport¹⁹, the Commission is preparing an electronic Community network for the Member States to exchange information about transport managers who are declared unfit to manage the activities of a road transport undertaking and about serious infringements committed by road hauliers.

¹⁴ OJ L 204, p. 37 of 21.7.98

¹⁵ OJ L 46, p.1 of 17.2.2004

¹⁶ OJ L 204, p.1 of 26.07.2006

¹⁷ OJ L 315, p.14 of 3.12.2007

¹⁸ OJ L 203, p. 1-8 of 3.8.1999

¹⁹ http://ec.europa.eu/transport/road/access_en.htm

- RESPER: In the framework of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences²⁰, the Commission is preparing an electronic Community network for the Member States to exchange information on the issue, exchange, replacement, renewal and a revocation of driving licences.

For further information see: <http://ec.europa.eu/idabc/en/document/3989/5637>

2.2. Networks for co-operation in the goods area

2.2.1. Existing tools / networks

- The New Approach Directives²¹ impose an obligation on Member States to carry out market surveillance, i.e. to check whether products comply with Community rules and to take action against non-compliant or unsafe products. At present, co-ordination between national surveillance authorities is not organised in a systematic manner at Community level. Cooperation between national authorities mainly takes place in working groups (i.e. traditional committee structures i.e. Administrative cooperation groups, so called ADCOs) created under specific Directives²². While the main aim of these working groups is to discuss issues of interpretation, questions relating to market surveillance are also dealt with. The Group of Senior Officials for Standardisation and Conformity Assessment Policy (SOGS) is a horizontal committee in charge of discussing the general principles governing the technical harmonisation of industrial products in the so-called 'regulated area' and the implementation and enforcement of the Old and New Approach Directives, now under the 'New Legislative Framework'.

Having said this, in specific areas, the following systems for cooperation have been set up:

2.2.1.1. Rapid alert systems

Rapid alert systems enable a rapid exchange of information amongst national authorities about dangerous products (or other events involving risks). At present, there are many rapid alert systems, responding to specific risks and involving specific national authorities. Rapid alert systems are created pursuant to a particular Community Regulation or Directive. In addition, specific guidelines that set out procedural rules for such systems are often adopted. Whilst there are procedural differences between the various rapid alert systems, the national authorities that are linked up through such systems are usually required to notify the Commission about dangerous products or risks that have been found. In many rapid alert systems, the communication is first channelled through the Commission and the Commission checks the information, for example whether it is in line with the applicable legislation and whether it is of the required quality. Positively verified information is then sent through the system to all other national authorities. The Commission may also undertake translations.

Thus, the purpose of rapid alert systems is to warn and inform national authorities. They do not, however, provide a platform for joint or coordinated action by these authorities against dangerous products.

²⁰ OJ L 403, 30.12.2006, p. 18.

²¹ <http://ec.europa.eu/enterprise/newapproach/standardization/harmstds/reflist.html>.

²² ADCOs exist for the majority of sectoral Directives; for example, there are separate committees for low voltage equipment, machinery, electromagnetic equipment etc.

In some cases, Member States may be obliged to take action following a specific Commission decision. For instance, under Article 13 of the Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (hereafter "GPSD") the Commission, after consulting the Member States and at the request of at least one of them, may adopt a decision requiring Member States to take preventive or restrictive measures with regard to dangerous consumer products.

- One of the most widely used rapid alert systems is the Rapid Alert System for non-food consumer products (RAPEX); this is a system for exchanging information across the Community about dangerous consumer products (with the exception of food and feed, pharmaceuticals and medical devices). RAPEX was created pursuant to the GPSD. It allows the rapid exchange of information between Member States - via national central contact points - and the Commission on measures (ordered by national authorities or voluntarily taken by producers or distributors) to prevent or restrict the marketing or use of products posing a serious risk to the health and safety of consumers. The central contact points are usually located in national ministries for consumer affairs and economic affairs. "RAPEX seminars" are regularly organised in Member States for the national market surveillance and customs authorities to discuss various aspects of product safety, including the application of the RAPEX system. So far, a total of 23 Member States have hosted such seminars and over one thousand inspectors have been trained. For further information, see <http://www.ec.europa.eu/rapex>.
- Regulation 765/2008/EC of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation 339/93/EEC²³ has enlarged the RAPEX system to consumers and professional use products.
- Other rapid alert systems managed by the Commission, dealing with other products and risks for consumers, include the Rapid Alert System for Food and Feed (RASFF)²⁴, the Rapid Alert System for Biological and Chemical Agent Attacks (RAS BICHAT) and the Rapid Alert System for Chemical Agents (RAS CHEM), of which the latter two enable rapid notification of attacks and events involving biological, chemical and radio-nuclear agents²⁵.
- Rapid alert systems have also been created outside the consumer area – again to deal with hazards created by specific, dangerous products, for instance in the area of animal nutrition²⁶ and with regard to potatoes²⁷.

In addition, there is a procedure in place that enables the Commission to contact by telephone and text messages the veterinary authorities in the Member States, to give an immediate warning of suspicion and confirmation of serious diseases. This is not a "rapid alert system" as such, but rather an informal procedure to enable urgent actions by those concerned. This is supported by the animal disease notification system, ADNS, which is a management system

²³ OJ L 218, 13.8.2008, p. 30.

²⁴ http://ec.europa.eu/food/food/rapidalert/index_en.htm.

²⁵ http://ec.europa.eu/health/ph_threats/com/preparedness/rapid_alert_en.htm.

²⁶ http://ec.europa.eu/food/food/animalnutrition/inspections/index_en.htm.

²⁷ http://ec.europa.eu/food/plant/organisms/emergency/index_en.htm.

for certain important animal diseases according to Council Directive 82/894/EEC of 21 December 1982 on the notification of animal diseases within the Community²⁸.

Meanwhile, Article 32 of the Services Directive calls for the creation of an 'alert mechanism', under which a Member State, upon becoming aware of serious specific acts or circumstances relating to a service activity that could cause serious damage to the health or safety of persons or the environment, would be required to inform other Member States and the Commission as quickly as possible. This alert mechanism for dangerous services will be implemented using the IMI.

2.2.1.2. Vigilance system for medical devices

To deal with risks posed by medical devices, a comprehensive monitoring system has been set up (Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices²⁹; Council Directive 93/42/EEC concerning medical devices³⁰; Directive 98/79/EC of the European Parliament and of the Council on in vitro diagnostic medical devices,³¹). Under that system, manufacturers of medical devices are required to report all incidents causing death or injury to patients or users. The manufacturer's notification is followed by an assessment carried out by the relevant surveillance authority, which must also inform the Commission and the other Member States in case of serious adverse incidents and of measures taken or contemplated.

For further information, see: www.ec.europa.eu/enterprise/medical_devices/.

2.2.1.3. Systems being developed in the area of intellectual property rights

There are also plans to develop a rapid information system in the area of intellectual property rights - on counterfeiting and piracy. The aim would be to ensure synergies with the other existing rapid systems, such as RAPEX and RASFF and the Customs systems. The project is at an initial stage of development, i.e. an application has been submitted to IDABC for the financing of a preparatory study on such a system.

The network of national correspondents for Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights³² (hereafter "Enforcement Directive") – which brings together representatives from the Ministries of Culture, Ministries of Justice, Ministries of Trade, or Patent Offices or Intellectual Property Offices, depending on the Member State concerned - is also currently being developed. Cooperation within this network will involve meetings organised by the Commission and sharing of information on the implementation of the Enforcement Directive.

2.2.1.4. Other systems

- In the field of products, the same obligations are imposed on Member States and the cooperation between 98/34 contact points is organised in the same way as in the field of information society services described above.

²⁸ OJ L 378, 31.12.1982, p. 58.

²⁹ OJ L 189, 20.7.1990, p. 17–36.

³⁰ OJ L 169, 12.7.1993, p. 1–43.

³¹ OJ L 331, 7.12.1998, p. 1–37.

³² OJ L 157, 30.4.2004, p. 45–86.

- For the implementation of the single market, was deemed compulsory. The TRAdE Control and Expert System (TRACES) was introduced by Commission Decision 2004/292/EC on the introduction of the Traces system and amending Decision 92/486/EEC³³ to notify the exchanges of live animals, semen/embryos and a few products of animal origin and to allow control at destination without preventing free circulation for traded goods. TRACES system allows for issuing of the relevant certification, provision of notification and registering of all the controls performed at the place of destination and en route. In case of animal diseases, TRACES allows a rapid trace back and forth of all movements of commodities within the Community and imported into the Community.

For further information see: http://ec.europa.eu/food/animal/diseases/animo/index_en.htm

2.2.2. *The impact of the Goods Package*

The overall aim of the Goods Package adopted in 2008 is to improve the functioning of the single market for goods by establishing accreditation and market surveillance frameworks and by clarifying and strengthening the application and enforcement of the existing rules.

One of the tools promoted in this context is better administrative cooperation:

- The new Regulation 764/2008/EC of the European Parliament and of the Council laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State³⁴ obliges Member States to set up 'Product Contact Points', that will provide information to businesses and authorities – for example, to enable them to identify the competent authorities of the receiving Member State. To facilitate contacts and the exchange of information between the various Product Contact Points across the Community, this Regulation provides for the possibility of setting up a 'telematic' network;
- The new Regulation 765/2008/EC of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products³⁵ establishes a market surveillance framework, including:
- Minimum rules relating to the organisation of market surveillance authorities (obligation for Member States to provide market surveillance authorities with necessary competencies and resources, to perform checks on products, and to perform their duties independently, impartially and without bias);
- Rules relating to cooperation between such authorities – both within Member States and across borders.

The cooperation and networks required by the Goods Package will be built on the basis of the administrative cooperation groups (ADCOs) established horizontally and under the sectoral Directives.

- The exchange of information in the case of obstacles to the free movement of goods

³³ OJ L 94, 31.3.2004, p. 63–64.

³⁴ OJ L 218, p. 21 of 13.8.2008

³⁵ OJ L218, p. 30 of 13.08.2008

Council Regulation 2679/98/EC on the functioning of the internal market in relation to the free movement of goods among the Member States³⁶ provides for the exchange of information among the Member States and between them and the Commission when an obstacle to the free movement of goods among Member States occurs. This may constitute a breach of Articles 28 to 30 of the EC Treaty and (a) lead to serious disruption of the free movement of goods by physically or otherwise preventing, delaying or diverting their import into, export from or transport across a Member State, (b) cause serious loss to the individuals affected, and (c) require immediate action in order to prevent any continuation, increase or intensification of the disruption or loss in question.

2.3. Networks for cooperation in consumer policy

2.3.1. Cooperation between consumer protection authorities

Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (hereafter "CPC-Regulation")³⁷ establishes a framework for cooperation amongst national enforcement bodies, with a view to ensuring effective enforcement of consumer protection law across Europe. As more and more rogue traders operate on a cross-border basis (often exploiting opportunities offered by new technologies), it has become critical to find ways to stop these activities and this requires cooperation between national enforcement authorities.

The CPC-Regulation establishes a Consumer Protection Cooperation network of competent authorities - for which it defines minimum investigative and enforcement powers (e.g. powers to conduct on-site inspections, impose fines and order companies to cease illegal practices) and lays down obligations of 'mutual assistance'. National authorities are using a secure IT-system (the Consumer Protection Cooperation System, CPC-S), developed and maintained by the Commission, to facilitate the exchange of information in this context. The new system started operation at the end of 2006.

The scope for protection of consumer interests is defined by the CPC-Regulation in the form of a list of (currently) 16 legal acts that cover a variety of areas ranging from unfair commercial practices to timeshare, guarantees, consumer credit, e-commerce, etc. The CPC-Regulation covers collective consumer interests, and not individual complaints.

The type of information exchanged in the network of authorities ranges from simple requests for information, in order to ascertain whether an intra-Community infringement has occurred or is reasonably suspected, to requests for (joint/coordinated) enforcement measures to stop confirmed dishonest transactions. Crucially, the CPC-Regulation does not simply set up an information exchange system – it establishes the basis for effective joint investigation and enforcement actions.

In the latter case, the Commission coordinates joint market surveillance and enforcement actions by the network, so called "sweeps", in which enforcement authorities check websites for compliance with legal requirements and, in a second stage, follow up on detected irregularities. A first example of such 'joint action' (or rather coordinated action) concerned the joint investigation into online sales of airline tickets in 2007. As a result of this investigation, national regulatory authorities started follow-up actions on confirmed

³⁶ OJ L 237 of 12.12.1998, pp. 8 – 9.

³⁷ OJ L 364, of 9.12.2004, p. 1.

infringements detected in the websites – which achieved a 96% success rate by May 2009. Infringements committed on a cross-border basis have proved more difficult to resolve for a variety of reasons which include the increased complexity of cases, divergences in the interpretation of the applicable legislation as well as resources constraints. Another example included a "sweep" on sites offering ring tones for mobile phones in 2008. This second Community-wide investigation confirmed the importance of this type of exercises, since it found that 80% of the sites checked needed to be further investigated. Regulatory authorities are currently carrying out their investigative and enforcement work.

Further forms of cooperation provided for in the CPC-Regulation include the exchange of enforcement officials. The officials concerned will be able to play an active part in actions undertaken by the host authority. The CPC-Regulation also provides for the possibility of extending this type of assistance to third countries by concluding international agreements, although no such agreement has yet been signed.

The Commission is assisted in the implementation of the CPC-Regulation by a Regulatory Committee of Member States. The Committee plays an active role in the development of common standards, methodologies and guidelines for consumer protection, but also in certain cases of disagreement between the authorities in the network.

For further information, see:

http://ec.europa.eu/consumers/prot_rules/admin_coop/index_en.htm.

2.4. Networks and tools for co-operation in the area of taxation and customs

The main tools for supporting administrative cooperation in the area of taxation and customs are the programmes Fiscalis 2013³⁸ and Customs 2013³⁹. Their overall objective is to support and improve the efficient functioning of the internal market by increasing co-operation between Member States' customs and tax administrations. Moreover, these programmes are also open to the administrations of four non-European Union countries: Croatia, Turkey, Former Yugoslav Republic of Macedonia and Serbia.

Both programmes include a number of important activities in support of administrative cooperation in the internal market, such as

- development, maintenance and improvement of Trans-European IT systems and networks;
- joint actions consisting of meetings, seminars, workshops, project groups, working visits for the benefit of tax and customs officials;
- setting up of common training tools such as e-learning modules.

The programmes are important instruments for DG Taxation and Customs Union to enhance co-operation with and between the national customs and tax administrations and to provide support at an operational level for policy and legal initiatives. As such, the Customs 2013 programme provides a suitable forum for further elaborating the most recent and important initiatives in the areas of Safety & Security, eCustoms, Modernised Customs Code (MCC) implementation and Future of Customs. Moreover, Fiscalis 2013 enables the setting up of various human and IT networks which allow good implementation of the legislation on

³⁸ http://ec.europa.eu/taxation_customs/taxation/tax_cooperation/fiscalis_programme/index_en.htm.

³⁹ http://ec.europa.eu/taxation_customs/customs/cooperation_programmes/customs_2007/index_en.htm.

administrative cooperation and mutual assistance, and therefore effectively contributes to the fight against fraud. Both programmes contribute to the setting up of networks of national experts to exchange experience and identify best practices in their areas of work.

Up to 75% of the programmes' budgets (amounting to €23, 8 million for Customs 2013 and €156, and 9 million for Fiscalis 2013) is spent on IT systems to support administrative cooperation in the areas of customs and taxation.

Most of these systems are trans-European and are amongst the biggest and most critical managed by the Commission. They have an extremely large user population in the national administrations, in the trader Community and in society as a whole. Their smooth functioning is vital for the internal market and its external border, as they deliver high business values to both Member State administrations and economic operators. They allow for sharing of information between the Commission and national authorities (e.g. in the area of tariff quotas, classification decisions, relief authorisations), exchanging of risk information between national risk analysis centres and customs offices, and for undertaking of customs controls.

In the area of taxation and customs the following are examples of numerous IT systems facilitating administrative cooperation in the internal market:

- Community Risk Management System (CRMS) enabling the exchange of information on risk consignments and the management of Common Risk Criteria (CRC). At present, more than 450 customs offices and 70 national risk analysis centres from the Member States are connected to the system;
- Economic Operator System for the registration of economic operators interacting with customs along with their customs authorisations;
- Export and Import Control Systems allowing for an electronic exchange of information about imported and exported goods;
- VAT Information Exchange System (VIES) allowing the exchange of data between national administrations to let them verify whether their traders have declared intra-Community acquisitions;
- Taxation on Savings Exchange System allowing electronic exchange of information between national administrations on interest payments by paying agents established in their territories to individuals residing in other Member States;
- Excise Movement Control System is under development to better monitor movements of excise goods for which excise duties have not been paid yet – replacing the current system based on a paper form. In the meantime, the Early Warning system for Excise (EWSE), the Movement Verification System (MVS) and the System for Exchange of Excise data (SEED) are operational and contribute to administrative cooperation.

For further information see: http://ec.europa.eu/taxation_customs/index_en.htm

2.5. Networks in the social policy area – facilitating the free movement of workers, posting of workers and the transferability of pension and social security rights

2.5.1. General

There is also a long-standing tradition of networks facilitating the implementation of legislation to promote the free movement of workers, retired people and beneficiaries of social security entitlements (such as patients moving abroad).

In most networks in the social area, cooperation essentially takes place in committees of national officials, which exchange best practice and establish joint interpretations of pieces of Community legislation, leading to the development of joint Community forms, such as the EU health insurance card, which in practice have greatly facilitated the free movement of patients.

At the same time direct contacts between competent authorities with IT-based networks are being developed between national social security institutions and direct links between competent (supervisory) authorities in the field of posting of workers have been established.

2.5.2. Co-operation to ensure social security coverage of mobile workers / citizens

Regulation 1408/71/EEC on the application of social security schemes to employed persons and to self-employed persons and to members of their families moving within the Community (hereafter "Regulation 1408/71/EEC")⁴⁰ has created a so-called 'Administrative Commission', i.e. a committee of national officials issuing, amongst others, 'interpretations' of the Community social security rules, as well as establishing common forms (e.g. E-101; the health insurance card). The Court of Justice of the European Communities obliged national administrative authorities to recognise as valid the forms that were developed by the Administrative Commission and issued by other Member States.⁴¹ The European Commission is represented in an advisory capacity in this body and provides its secretariat.

This administrative cooperation mainly concerns the Commission and the Administrative Commission itself:

(i) Where problems arise in practice, the usual contact point is the Commission, which then brings the case before the relevant members of the Administrative Commission.

(ii) The Regulation 1408/71/EEC does not require specific structured tools for exchanging information. In practice, Member States have established 'liaison offices', which are responsible for connecting the competent authorities of the different Member States over social security issues. These authorities are in contact on the basis of a regularly updated address book listing competent authorities throughout the Community (although they are not linked through an IT network). Individuals who have questions about social security matters usually direct them to the social security institutions of their place of residence, which then generally contact their counterparts in other Member States via the liaison offices. The cases which prove to be most difficult to solve are usually ultimately addressed to the Commission. The Commission also provides partial funding to enable Member States to have translations made where there is a need for it.

⁴⁰ OJ L 149, 5.7.1971, pp. 2–50.

⁴¹ E.g., Case C-178/97, *Barry Banks v° Théâtre national de la Monnaie*, Judgment of 30 March 2000.

This Administrative Committee structure will be further developed in line with the new Regulation 883/2004/EC of the European Parliament and of the Council on the coordination of social security systems⁴² (hereafter Regulation "883/2004/EC"), one of the aims of which is to improve administrative cooperation (see Articles 71 ff.). It also introduces the principle of good administration, according to which the national social security institutions must respond to all queries within a reasonable period of time and must provide the persons concerned with any information required for exercising the rights conferred on them by Regulation 883/2004/EC. According to this Regulation, the following bodies are to be set up:

- an Administrative Commission, responsible for handling any questions of interpretation arising from the provisions of the Regulation;
- a Technical Commission within the Administrative Commission, responsible for assembling technical documents, studies and associated activities;
- an Audit Board which collects the necessary data and carries out the calculations required in order to draw up the annual statement of claims of each Member State and provide the Administrative Commission with periodic accounts;
- an Advisory Committee composed of representatives of the Member States and the social partners responsible for examining general issues arising from the implementation of the Regulation and formulating opinions on such matters for the Administrative Commission, as well as proposals for any revision of Regulation 883/2004/EC.

In addition, Regulation 883/2004/EC requires the national social security institutions to transmit any data between themselves by electronic means via a common secure network.

The Commission's proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation 883/2004/EC on the coordination of social security systems⁴³ sets out in greater detail how closer and more efficient co-operation between national social security institutions could be achieved. This could be done, for instance, by:

- generalisation of electronic exchanges of data between national social security institutions, supported by a new IT-based tool - Electronic Exchange of Social Security Information (EESSI)⁴⁴, which is currently being developed and is expected to be fully operational by December 2010. The objective is to ensure that all the information exchanges currently taking place through multiple paper E (European) forms will be undertaken by electronic means, thereby modernising and speeding up the information exchanges between the social security institutions of Member States (and of Norway, Iceland, Liechtenstein and Switzerland). The exchanges would take place in all branches of social security, including: unemployment, accidents at work and occupational diseases, family benefits, pre-retirement benefits, maternity and paternity benefits.
- In practice, there is already some exchange of information via electronic means, albeit limited, via the Mutual Information System on Social Protection (MISSOC)⁴⁵, which also covers all European Economic Area and EFTA countries. It provides information on social protection legislation, benefits and financing, and is based on cooperation between the Commission and the network of official representatives from participating countries.

⁴² OJ L 166 of 30.4.2004, p. 1.

⁴³ COM(2006) 16 of 31.1.2006

⁴⁴ <http://ec.europa.eu/idabc/en/document/7189/5966>

⁴⁵ http://ec.europa.eu/employment_social/spsi/missoc_en.htm.

- creation of e-forms, enabling a more structured exchange of information;
- establishment of a public data base containing details of the various national social security bodies; and
- strengthening of certain administrative procedures, including through the introduction of deadlines.

It is expected that the Regulation 883/2004/EC, along with its 'implementing Regulation', which is currently under negotiation in the Council and European Parliament, will be in force by March 2010.

2.5.3. *Free movement of workers*

Regulation 1612/68 EC on freedom of movement for workers within the Community⁴⁶ created a European Coordination Office within the Commission. The Office assists the national employment services in their task of promoting vacancy clearance and it analyses the movements of workers resulting from this clearance activity. It contributes to these objectives by implementing joint methods of action. It can also become involved in the clearance of vacancies itself, and can organise training for specialist staff in the Member States.

Further to this Regulation, the EURES network has been created. EURES links up national employment agencies, and its aims are to:

- (1) create placement services for jobseekers, including customised services, match services for workers and employers, and provide support services for employers wishing to recruit staff in another European country;
- (2) disseminate up-to-date information on living and working conditions and trends in the labour market;
- (3) develop cooperation between employment services and social services, the social partners and other institutions concerned at the level of Member States, cross-border regions and various employment sectors;
- (4) survey and evaluate obstacles to mobility, including differences in legislation and administrative procedures, surpluses and shortages of skilled labour and migration flows.

See the 'EURES charter' at:

http://europa.eu/eur-lex/pri/en/oj/dat/2003/c_106/c_10620030503en00030010.pdf

To assist the work of the European Commission, Regulation 1612/68 EC has also set up Advisory and Technical Committees, specifying their tasks and composition as well as their working methods and appointment procedure. The purpose of the Technical Committee is to strengthen co-operation between the public authorities in the Member States and it has recently been closely involved in the monitoring of the application of transitional arrangements. The Advisory Committee assists the Commission in analysing questions arising from the implementation of the free movement of workers principle. Both Committees are chaired by the Commission. The Advisory Committee is made up of representatives of

⁴⁶ OJ L 257, 19.10.1968, p. 2–12.

governments and trade unions, while the Technical Committee consists of representatives of governments only.

For further information, see: <http://europa.eu/scadplus/leg/en/lvb/l23013a.htm>

However, the above-mentioned Committees are less involved in problem-solving, and the Commission takes a more pro-active role in addressing the problems related to the practical implementation of free movement of workers.

2.5.4. *Posting of workers*

On 3 April 2008, the Commission adopted a Recommendation on enhanced administrative cooperation in the context of the posting of workers in the framework of the provision of services⁴⁷, which follows up on the Commission Communication on posting of workers in the framework of the provision of services: maximising its benefits and potential while guaranteeing the protection of workers⁴⁸. The latter concluded that more administrative cooperation was needed, in order to make the effective posting of workers throughout the Community a reality, as provided for under the Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services (hereafter "Posting of Workers Directive")⁴⁹. Too often, Member States were relying solely on their own national measures and instruments to control service providers, which, moreover did not always appear to comply with prevailing Community law.

To strengthen administrative cooperation, this Recommendation:

- encourages the establishment of an electronic system for the exchange of information, and, in particular the development of a specific application to support the administrative cooperation necessary to improve the practical implementation of the Posting of Workers Directive;
- asks the Member States to enhance access to information on rules applying to posted workers;
- encourages exchanges of good practice and experiences.

The main points of this Recommendation were endorsed by the Employment, Social Policy, Health and Consumer Affairs Council on 9 June 2008, which invited the Commission to institutionalise the informal group of posting of workers and set up a committee of experts. Based on this invitation, the Commission on 19 December 2008 adopted Commission Decision 2009/17/EC setting up the Committee of Experts on Posting of Workers, which identifies the composition and the tasks of the expert group⁵⁰.

The envisaged role of the Committee is to inter alia, support and assist Member States in identifying and exchanging experience and good practice, promote the exchange of relevant information, examine any questions and difficulties which might arise in the practical application of the posting of workers legislation, as well as its enforcement in practice, and closely follow the progress achieved in improving both access to information and administrative cooperation, including the development of a possible electronic information exchange system, such as the Internal Market Information (IMI) system.

⁴⁷ OJ C 85 of 4.4.2008, p. 1 See also corrigendum OJ C89, p. 18 of 10/04/2008.

⁴⁸ COM(2007) 304 of 13.6.2007

⁴⁹ OJ L 18 of 21.01.1997, p. 1.

⁵⁰ OJ L 8, 13.1.2009, p. 26–28

The Expert Committee met for the first time on 25 March 2009. At this meeting a subgroup on the development of an information exchange system has been set up. It will in particular identify the information to be exchanged, as well as the competent authorities involved, and it will examine the issue of adequate safeguards for the protection of personal data exchanged.

2.5.5. *Health and safety at work*

The Committee of Senior Labour Inspectors (SLIC) was set up through Commission Decision 95/319/EC setting up a Committee of Senior Labour Inspectors (hereafter "Decision 95/319/EC")⁵¹.

One mechanism used by the SLIC is the rapid exchange of inspection related problems and solutions amongst the EU-27 Member States and EFTA countries. In 2008, the Committee developed further its use of the Commission's CIRCA extranet as a practical information exchange system. The Committee may expand its use to support discrete topics such as chemical substances and machinery; in the latter case, in order to enhance its work on market surveillance and share experience on compliance and enforcement about issues identified at the national level with Directive 98/37/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to machinery⁵² and on the use of machinery.

SLIC also conducts European inspection campaigns, which contribute to promoting the effective and equivalent respect by all the Member States of national legislation transposing Directives in the field of health and safety at work.

In accordance with Decision 95/319/EC, the Commission is particularly keen to promote greater involvement of labour inspectors in encouraging effective and equivalent enforcement of Community law. Therefore, the Commission co-funds annual exchanges of labour inspectors of the Member States.

2.5.6. *Equal opportunities*

Commission Decision 82/43/EEC relating to the setting up of an Advisory Committee on Equal Opportunities for Women and Men⁵³ created an Advisory Committee, which mandate is to help the Commission formulate and implement Community measures aimed at promoting equal opportunities for women and men, and to encourage the continuous exchange of information on experience gained and policies undertaken in the field of equal opportunities between the Member States and the various actors involved.

For further information, see: <http://europa.eu/scadplus/leg/en/cha/c10919.htm>.

In addition, Equinet, the European network of Equality Bodies, develops co-operation and facilitates information exchange between Equality Bodies across Europe to support the uniform implementation of Community anti-discrimination law and the levelling-up of legal protection for victims of discrimination. It brings together 30 organisations from 23 European countries, including two observer Equality Bodies and the Migration Policy Group (MPG), which is the international partner. The lead organisation is the Dutch Equal Treatment Commission. Funding is provided by the European Commission under the European

⁵¹ OJ L 188, 09/08/1995, p. 11.

⁵² OJ L 207, 23.7.1998, p. 1-46

⁵³ OJ L 020 of 28.01.1982, p. 35-37.

Community Action Programme to combat discrimination. In addition to being a partner organisation, MPG acts as Equinet's Secretariat.

For further information, see: <http://www.migpolgroup.com/topics/2078.html>.

2.6. Networks for cooperation between regulatory and supervisory authorities in regulated sectors

In various regulated sectors, particularly in network industries, strong, independent and adequately resourced regulators are necessary in order to effectively ensure an open and competitive single market.

As regulatory supervision mainly takes place at the national level – whilst the industry itself operates on a pan-Community (even global) basis – there is a need for strong cooperation between regulators. In response to these needs, networks for co-operation have developed in various fields, each with its own particular features.

2.6.1. Financial services sector

In the financial sector, the Lamfalussy method calls upon national supervisors (grouped into so-called 'level 3' committees) to contribute to the consistent and convergent implementation of Community Directives by cooperating with each other and ensuring convergence of supervisory practices on a voluntary basis. In the 2007 Communication on the Review of the Lamfalussy process⁵⁴ the Commission identified some areas where there is scope for achieving greater convergence of regulatory and supervisory solutions across Member States, and it put forward practical improvements relating to the functioning of the Level 3 committees.

Following from this Communication, the Commission amended the terms of reference of the Community Committees of Supervisors⁵⁵ at the beginning of 2009, establishing a clearer framework for the activities of the Committees and reinforcing current financial stability arrangements⁵⁶. The new terms of reference contain, among other things, a non-exhaustive list of tasks that the Committees are expected to perform, thereby enhancing the role of the Committees as regards the safeguarding of financial stability, and introduce qualified majority voting (when consensus cannot be reached) in order to improve the decision-making process within the Committees. They also introduce a new Committee – a Joint Committee on Financial Conglomerates – to facilitate cooperation between supervisors for cross-border bank and insurance firms.

In addition, the Commission proposed⁵⁷ that these Committees, as well as key bodies involved in the standard-setting process for financial reporting and auditing both at Community and at international level⁵⁸, should receive financial support from the Community budget so that they can achieve their objectives as rapidly and efficiently as possible. Political agreement was

⁵⁴ COM(2007) 727 of 20.11.2007

⁵⁵ Committee of European Securities Regulators - CESR, Committee of European Banking Supervisors - CEBS and Committee of European Insurance and Occupational Pensions Supervisors – CEIOPS

⁵⁶ C(2009) 176, C(2009) 177 and C(2009) 178 of 23.01.2009

⁵⁷ COM(2009) 14 of 23.01.2009

⁵⁸ International Accounting Standards Committee Foundation (IASCF), the European Financial Reporting Advisory Group (EFRAG) and the Public Interest Oversight Body (PIOB)

found on the proposal on 6 May 2009 and a maximum amount of 13.5 millions euros has been earmarked for the Committees for the period 2010-2013.

As a further step to address the current crisis and to strengthen the stability of the Community financial system the Commission, in its Communication "Driving European Recovery"⁵⁹, endorsed the key principles set out by the High Level Group on financial supervision in the Community (which had been chaired by Mr de Larosière). The Group recommended the establishment of a European System of Financial Supervision (ESFS), a network of national supervisory authorities and new European Authorities created on the basis of the current Committees. Unlike the Lamfalussy Committees, the new Authorities would be granted legal personality and certain powers for coordinating and carrying out specific tasks at Community level. However, day-to-day supervision would rely on national supervisors and the colleges of supervisors for cross-border groups. In addition, the Group recommended the creation of a European Systemic Risk Council, which would be responsible, under the auspices of the European Central Bank, for macro-prudential oversight of the Community economy. On the basis of these recommendations and the input received in the public consultation⁶⁰, the Commission adopted a Communication "European financial supervision" setting out its proposals on the future of the EU supervisory architecture. Specific legislative measures will follow in autumn 2009.

For further information, see:

http://ec.europa.eu/internal_market/finances/committees/index_en.htm.

2.6.2. *Telecommunications sector*

In the telecommunications sector, the Commission adopted in 2002 the Commission Decision 2002/627/EC establishing the European Regulators Group for Electronic Communications Networks and Services (ERG)⁶¹. The ERG was established to advise and assist the Commission in the development of the internal market for electronic communications networks and services. Made up of the heads of the 27 national regulatory authorities (NRAs), it provides a mechanism for encouraging cooperation and coordination between national regulatory authorities and the Commission with the aim of achieving consistent application, in all Member States, of the Community Regulatory Framework for electronic communications.

For further information, see: <http://www.erg.eu.int/>.

Despite the positive contribution made by ERG, the completion of the internal market in this sector calls for intensifying and reinforcing cooperation beyond its current forms. As part of the ongoing negotiation of the reform of the Community Regulatory Framework proposed by the Commission in November 2007⁶², the European Parliament and the Council have agreed to replace the ERG by the Body of European Regulators for Electronic Communications (BEREC). BEREC would advise the Commission and the NRAs on those issues related to the internal market in electronic communication where European consistency is needed. The Body should act as an exclusive forum for cooperation among NRAs and between NRAs and

⁵⁹ COM(2009) 114 of 4.03.2009

⁶⁰ The public consultation was held between 10 March and 10 April 2009. A High Level Conference was organised on 7 May 2009.

⁶¹ Commission Decision 2002/627/EC of 29 July 2002, as amended by Commission Decision 2004/641/EC of 14 September 2004, and by Commission Decision 2007/804 of 6 December 2007

⁶² http://ec.europa.eu/information_society/policy/ecomms/library/proposals/index_en.htm.

the Commission, in the exercise of the full range of their responsibilities under the Community regulatory framework.

For further information, see: <http://ec.europa.eu/ecom>.

The informal Contact Network of Spam Enforcement Authorities (CNSA) was set up in 2004 at the initiative of the Commission, which also serves as the group's secretariat. The CNSA facilitates the development of cooperation on cross-border complaints and the sharing of information and best practices in enforcing anti-spam laws (transposing the rules on unsolicited commercial communications set out in Article 13 of Directive 2002/58/EC on privacy and electronic communications⁶³) between the national authorities of all EU and EEA Member States.

For further information, see:

<http://ec.europa.eu/transparency/regexpert/detail.cfm?ref=1382&l=all>.

2.6.3. *Electricity and gas sectors*

In the electricity and gas sectors, current Community rules⁶⁴ already require Member States to have a regulator and, since the second energy markets package in 2003, a European Group of Regulators for Electricity and Gas (ERGEG) has worked towards the development of the internal market. Nevertheless, experience showed that its powers needed to be formalised so that it is able to take decisions when national regulators cannot agree.

As a result, in its recent 3rd energy markets package⁶⁵, the Commission proposed creating a new Agency for the Cooperation of Energy Regulators. This will not replace national regulators, but will monitor and enhance cooperation between them. While national regulators will be responsible for dealing with national energy matters, the Agency for the Cooperation of Energy Regulators will focus on cross-border issues and the internal market. It will have powers to act in cross-border situations, in particular when transboundary pipelines and electricity lines are involved. On 22 April 2009 the European Parliament voted to support the setting up of the new Agency. The 3rd energy markets package will be formally adopted with the vote of the Council which is expected to take place in summer 2009.

Finally, the 3rd energy markets package will promote cross border collaboration and investments with a new European Network for Transmission System Operators. Grid operators in the Community will cooperate and develop common commercial and technical codes as well as security standards. They will also plan and coordinate the investments needed at Community level and will be required to adopt non-binding Community-wide 10-year network development plans. This will ease cross border trade, create a level playing field for operators and promote the completion and functioning of the internal market in electricity and gas⁶⁶.

For further information see:

http://ec.europa.eu/energy/gas_electricity/third_legislative_package_en.htm

⁶³ OJ L 201 of 31.7.2002, p. 37.

⁶⁴ http://ec.europa.eu/energy/gas_electricity/index_en.htm

⁶⁵ COM (2007) 530 of 19.9.2007

⁶⁶ See Press Release IP/09/622 of 22 April 2009.

2.6.4. Nuclear sector

In July 2007, the Commission established a European High Level Group in nuclear safety and waste management⁶⁷ (later registered under the acronym of ENSREG, European Nuclear Safety Regulators Group). Creation of this Group was endorsed by the European Council of 8-9 March 2007 and got support of Community Institutions⁶⁸.

The Group is mandated to develop a common understanding in nuclear safety and to ensure the enforcement of commonly recognised safety principles and practices. Since ENSREG is composed of high level representatives from all Member States (senior regulators or heads of national authorities in charge of nuclear safety), its agreements facilitate development of common approaches in nuclear safety and waste management.

The Commission had already consulted the Group for the preparation of a revised Proposal for a Council Directive (Euratom) setting up a Community framework for nuclear safety⁶⁹. Many of its Members' suggestions have been taken into account in the Commission's adopted proposal.

In addition, the Group has been working on a common approach for reporting at the review meetings of the Internal Atomic Energy Agency (IAEA) relevant Conventions⁷⁰ and preparation of guidelines on transparency for nuclear regulators.

For further information, see: http://ec.europa.eu/energy/nuclear/ensreg/ensreg_en.htm and http://circa.europa.eu/Public/irc/tren/nuclear_safety_and_waste/home.

2.7. Networks in the competition area (European Competition network)

In order to ensure consistent application of Articles 81 and 82 EC in a system of parallel competences, the European Competition Network (ECN) was created by the entry into force of Council Regulation 1/2003/EC on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (hereafter Regulation 1/2003/EC)⁷¹. The ECN is composed of designated national competition authorities (NCAs) and the Commission. Article 11 of Regulation 1/2003/EC and the Commission Notice on cooperation within the Network of Competition Authorities (the "Network Notice")⁷² are the main pillars underpinning the functioning of the system.

The Regulation fundamentally altered the existing framework for the application of Articles 81 and 82 EC. Until then, the Commission had exclusive competence to apply Article 81 by way of formal exemption decisions, with national competition authorities and courts not being

⁶⁷ OJ L 195/44 of 27.07.2007

⁶⁸ Council of Ministers of 8 May 2007 drew conclusions setting out possible actions of the Group; European Parliament in its resolution of 10 May 2007 on "on Assessing Euratom – 50 Years of European nuclear energy policy" noted Council initiative supporting creation of a High Level Group.

⁶⁹ COM (2008) 790 final of 26.11.2008

⁷⁰ Convention on Nuclear Safety and Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management

⁷¹ OJ 2003 L1, 4.1.2003, p.1

⁷² Official Journal C 101, 27.04.2004, p. 43-53.

empowered to grant such exemptions. The Regulation empowered national competition authorities and national courts to apply Articles 81 and 82 EC in their entirety⁷³.

The cooperation between the competition authorities of the Member States and the Commission has substantially changed following the adoption of this Regulation. Enforcement of EC competition rules has increased since the entry into application of Regulation 1/2003/EC. In total, more than 1000 cases have been taken up to date by the Commission and NCAs on the basis of the EC competition rules in a wide variety of sectors. None of these cases resulted in the Commission initiating proceedings pursuant to Article 11(6) of Regulation 1/2003/EC to relieve a national competition authority of its competence for reasons of consistency of application. The ECN has contributed significantly to the consistent enforcement of Articles 81 and 82 EC through its horizontal policy work. As a recent report on the functioning of Regulation 1/2003/EC found, the ECN has proved to be a successful model of cooperation.

The ECN offers a unique framework for cooperation and also provides a forum for policy discussions, whether they are sector-specific or general. It currently consists of a horizontal level (ECN Plenary), as well as 16 sectoral subgroups (e.g. Energy, Pharmaceuticals, Financial services, Motor vehicles, etc.) and four working groups dealing with horizontal policy projects. Sophisticated IT support systems have been developed and are maintained by the Commission in order to enable all ECN members to monitor cases handled within the network and to exchange information. In the case of investigations, the NCAs can also provide assistance to the Commission. Within the ECN, the Commission plays an active role in the development of common standards, such as the ECN Model Leniency Programme, which was drafted within the ECN in 2006.

For further information, see: http://ec.europa.eu/competition/ecn/index_en.html.

2.8. Network Promoting Efficient European Public Administrations (EUPAN)

All the above-mentioned actions can be best performed if national public administrations, at all levels, are efficient and effective. With a view to achieving this general objective, Member States and the Commission have decided, about 20 years ago, to establish a European Public Administration Network (EUPAN). Cooperation is organised on three levels:

- Political: Ministers and Commissioner responsible for public administration
- Management: Directors General (Heads of Administration)
- Technical: Working Groups on Human Resources, Innovative Public Services, eGovernment, Social Dialogue; meetings of the Directors of Institutes and Schools for Public Administration as well as Experts on Better Regulation.

The role of the Commission in EUPAN is to:

- help to identify working areas which complement the activities undertaken in the Community Institutions
- exchange views on the main innovations related to the modernisation of public administration within the Commission
- avoid duplication of work within the Community framework
- ensure a coherent presence in the network, as well as an efficient dialogue with the national public administrations.

⁷³ Articles 5 and 6 of Regulation 1/2003 state that the Member State competition authorities and the national courts have the power to apply Articles 81 and 82 EC.

EUPAN can therefore be regarded and used as a network supporting the continuous development of national public administrations including those tasked with the conception and the implementation of the single market.

For further information, see: www.eupan.eu and <http://circa.europa.eu> (as part of EUPAN's internal reform process, a new single website will be available as of December 2009).