



**Group of High Level National Regulatory Experts (HLG-BR)
Meeting of 6 May 2014**

Summary record

9:30-9:45 Opening: Adoption of the agenda and update of membership

Ms Marianne Klingbeil, Chair of the Group, welcomed the participants and introduced the newly appointed members of the Group (see annex I). The Chair introduced the agenda of the meeting.

9:45-10:45 Conclusions of the working groups

WG1 Evaluation (Ms Kirsten Scholl): The group has selected the General Food Law fitness check for the joint evaluation. However, WG members were nonetheless invited, if interested, to contribute individually to the Waste fitness check and the Occupational Health and Safety evaluation. As regards the General Food Law evaluation, the evaluation work is planned for July 2014 - May 2015, and the drafting of the final report for May - June 2015.

Discussion: The Chair reminded that there are currently more than 50 evaluations ongoing in the European Commission and that Member States are invited to contribute. The updated evaluation planning for 2014 can be found online at: http://ec.europa.eu/smart-regulation/evaluation/docs/forward_evaluation_plan_2012_en.pdf. HLG members were invited also to suggest other evaluations. The Chair informed that the consultation on the evaluation guidelines has been closed; 53 replies were received and the consultation report will be published before the summer. In conclusion, the Chair pointed out that while the mandate of the HLG-BR formally ends in October, the final report from Member States on the results of WG1 can be submitted directly to the SG.

WG2 SMEs (Mr Julian Farrel): This working group has produced two reports. The first one lists examples how legislation can be adapted to minimise regulatory burdens for SMEs. It was presented during the last meeting on 22nd October 2013. The second one provides SME views on progress on the most burdensome pieces of EU legislation as identified in the Commission's TOP10 Consultation. Its main conclusions are (1) while SMEs recognise that progress has been made, they believe regulatory burdens remain too heavy; (2) SMEs support lighter regimes, as these take into account the disproportionate costs faced by smaller businesses when complying with regulation; (3) SMEs welcome clear and timely guidance as it reduces the costs of understanding legislation, and can be used to simplify regulatory burdens; (4) SMEs believe consultation is essential to the development of Smart Regulation; (5) SMEs support faster progress on the Commission's Smart Regulation commitments; (6) SMEs believe the EU institutions and the Member States must cooperate to minimise unnecessary burdens urging the Council and the Parliament to take account of SMEs when considering legislation, and to preserve lighter regimes and exemptions. The report also lists SME recommendations for specific legislation identified in the TOP10 consultation. The WG Chair highlighted that these are views of selected SMEs in selected Member States, not necessarily representative views of all SMEs, nor the views of the HLG-BR members.

Discussion: The Chair thanked the group for the report, which provides a useful insight into remaining difficulties for SMEs with the legislation identified during TOP10 Consultation. However, where available, it was recommended to provide examples of specific issues raised by the SMEs as many recommendations remain rather general (e.g. specify which "other areas" of REACH SMEs find difficult to interpret, or where there is a duplication of requirements regarding Occupational Health and Safety). Some more information on SMEs consulted should also be added. The Chair highlighted that the report shows the importance of the joint responsibility for smart regulation of all EU institutions and Member States, as many of the SMEs' recommendations relate to amendments introduced by the European Parliament or the Council, or in the implementation in the Member States (e.g. Public Procurement, VAT refunds). The Commission is working on a REFIT scoreboard, which will outline in a transparent way the Commission's original proposals and what has happened to them in the Council and the Parliament.

The WG Chair explained that more details on specific SME suggestions will be provided in the revised report. He clarified that SMEs were consulted through SME organisations in Member States who participated in the working group (Austria, Denmark, Finland, Ireland, Sweden, and the UK), but stressed that the report has not aimed at presenting a representative view of all SMEs.

One member commented that there is a need to be transparent about changes made during the legislative process, as such changes do not always take account of the impact on SMEs. The REFIT scoreboard will help in this regard. Another member pointed out that the size of company is not a decisive element in all areas, but that one should rather take account of the risk of the activity performed by companies. SME exemptions are, therefore, not suitable in all situations. Another member agreed saying that there is a need to question this general assumption that all SMEs are innovative and create jobs, and therefore look for more differentiated approaches.

WG3 Implementation (Mr Aleš Pecka) presented its draft report, the aim of which was to identify problems encountered by the Member States in the implementation of EU legislation and/or best practice. The report identifies elements which can be seen as preconditions for an effective implementation, lists separately various problems related to the negotiation phase and, respectively, to the implementation phase and covers subjects such as gold-plating and infringements. It also includes some recommendations. However, concrete examples and best practices of implementation are still not sufficiently reflected in the report.

Discussion: The Chair welcomed the identification of a number of concrete problems related to the implementation of EU law on the ground. She also welcomed that the report explicitly mentions that ensuring clarity and quality of EU legislation is an important task of the co-legislators, and not only of the Commission. However, the Chair regretted that best practices to address the challenges linked to the transposition and implementation of EU law are still missing from the report. She also invited to the HLG-BR members to comment on the usefulness of implementation plans. HLG-BR members were invited to send any written comments by 12th May.

Operational conclusions:

- **The first report by SME working group on Best practice examples will be published on the HLG-BR website.**
- **The second report by SME working group on SME views on progress on the most burdensome pieces of EU legislation identified in the Commission's TOP10 Consultation will be published on the HLG-BR website after the working group Chair has integrated the comments and suggestions expressed during the meeting.**
- **HLG-BR members are encouraged to participate in the work on General Food Law joint evaluation.**
- **HLG-BR members are invited to send their comments on the draft implementation working group report in writing to Ales Pecka, the WG Chair, by 12th May. He will integrate the comments by 23rd May after which the final report will be sent**

around to the HLG. The final report will be published on the HLG-BR web-site soon after that.

- In addition, the HLG-BR members are invited to send to SG-HLG-BR@ec.europa.eu their national guidelines and, in particular, best practice examples on evaluation, stakeholder consultation, impact assessments as well as transposition and implementation of EU law for the best practice library: http://ec.europa.eu/smart-regulation/impact/best_practices_examples/index_en.htm preferably by 23rd May.

10:45-11:30 European Commission Smart Regulation initiatives: ABRplus

Ms Elizabeth Golberg, Director for Smart Regulation, presented an update on ABRplus programme. The aim is to evaluate the results of the first programme: how 12 measures from the ABR Action Programme have been implemented at a national level and the extent to which the estimated reductions in administrative burdens have materialised and, more generally, what stakeholders' and national authorities' appreciation is of the outcome. Almost all Member States have replied to the questionnaire; some replies were limited to a qualitative assessment, while some replied both qualitatively and quantitatively. The lack of input from major business associations is disappointing. There will be a follow-up to collect missing information and verify figures, to identify best practices, as well as to better understand why some Member States do not use options for SME exemptions.

Discussion: Members welcomed the ABRPlus programme, although some pointed out that administrative burden reduction focusing on information requirements is only a first step. The next step should be to look at broader compliance costs, in order to provide for a more holistic approach. One member noted that while the administrative burden reduction figure from the 1st programme is very impressive, the question is whether MS are fully implementing what has been agreed. Members asked how it is envisaged to take the ABRPlus programme further and how the Commission intends to follow-up the Competitiveness Council Conclusions of end 2013 (e.g. 5 year action plan).

Ms Golberg explained that the Commission is not only focusing on administrative costs but looking at compliance costs as well. A recent CEPS study has looked at different methods used to quantify costs and the results will feed into the revision of the impact assessment guidelines. With regard to follow-up on the Council conclusions, REFIT is an annual programme and an on-going management tool to screen and review the acquis. In the ABRPlus programme, the Commission is looking not only for quantification, but also for qualitative illustrations and examples.

11:30-14:30 Member State Best practice presentations

- a) Spain - results of the public reforms commission: focus on implementation of the EU law and simplification measures*
- b) Greece - public administration reforms: focus on implementation of the EU law and simplification measures*
- c) Portugal – current status of policies and initiatives for regulatory performance*

a) Spain - results of the public reforms commission: focus on implementation of the EU law and simplification measures

Mr Juan del Alcázar Narváez, Adviser to the Vice-President, Minister for the Presidency and Spokesperson of the Government of Spain, presented the recent reforms of the Spanish Public Administration (CORA), focusing on the implementation of the EU law and simplification measures. The CORA Commission included representatives of every ministry while also trade unions, employers' association and consumer representatives participated in the CORA Council, Chamber of Commerce, etc. Several citizen suggestions on administrative simplification and duplication had also been made. In the area of budgetary discipline, measures taken included

fight against late payment in the public sector, which has been a big problem particularly for SMEs. Two new laws have been passed to ensure monitoring and compliance with legal payment period to suppliers. For example, there is an obligation to publish actual payment times. Another measure foreseen in this area is creation of an information hub that will provide standardised information on economic and financial activities in all areas of government. Regarding public transparency, a new law on Transparency, Access to Public Information and Good Governance was adopted in December 2013. Apart from public authorities it also covers state own companies and entities that receive subsidies. It obliges covered entities to publicly disclose certain information such as organizational data, legally relevant information (e.g. guidelines, answers to public requests, pre-draft laws), economic information (e.g. contract details, subsidies, grants, budgetary and real estate data). The Market Unity Guarantee Act tackles the fragmentation of the domestic market emerging from differences and overlapping of central, regional and local regulation (2700 regulations have been identified as affecting the market unity, ministries have 6 months to adapt them). Spain's Better Regulation programme includes codification of law, use of common commencement dates, one in-one out rule, guide to detecting and avoiding duplications, as well as a burden reduction manual. Major simplification projects include environmental and customs procedures.

Discussion: Members asked if the identified regulations that posed problems for market unity concerned national transpositions of EU regulation or purely national regulation, what kind of political and administrative structure is in charge of this programme (e.g. which ministry or body is responsible, are there regular meetings and control mechanisms for the implementation of this programme?), and what kind of indicators are being used to measure the result and real impact of these reforms.

In answering the questions, Mr Narváez explained that regulations identified as affecting the market unity were both national regulations or transpositions of the EU law. Regions in Spain can adapt these, which has created a complex structure of legislation over time making it difficult for business to determine what rules apply in which region. Nevertheless, market unity within the EU has not been affected as EU regulation regarding internal market applies in the whole territory and there is total recognition of other Member States' licences, authorizations, etc. Strong political support is perhaps the most important element to allow a successful introduction of administrative changes, alongside support from the administrations themselves. To ensure a sustained implementation impetus from the highest level of the government is needed: the current reform is directly under the supervision of the president and the vice-president of Spain (Ministry of Presidency, but also Ministry of Finance and Public Administration). There is a central office to monitor the implementation of the reform in the Ministry of Presidency, which provides monthly feedback, implementation reports every three months as well as annually. The presenter admitted it is difficult to communicate the impact of the reforms as they take time to be felt. Regarding indicators, he explained that all measures are monitored in a standardised way, and that the financial impact as well as impact on business and consumers is analysed. There is also a simplified method to measure administrative costs.

b) Greece - public administration reforms: focus on implementation of the EU law and simplification measures

Ms Victoria Sotiriadou, Director of the EU Affairs Directorate of the Ministry of Economy and Finance presented Greece's public administration reforms, focusing on the implementation of EU law and simplification measures. Examples of measures taken included tax collection (such as mergers of local tax offices), public order (e-ID) and reforms abolishing barriers to access economic activities. For the latter, the implementation of Services Directive was highlighted as an example where Greece actually has gone further than what is formally required: restrictions to service providers has been abolished such as pre-licencing for start-ups, inspections can be carried out not only by public administration but also certified agencies.

Discussion: Members asked if any results, for example, in terms of growth, start-ups and job creation can be observed from the Greek services liberalisation given that some of the laws date from 2011 and 2012.

Ms Sotiriadou explained that for services, this year has started to show good results, including for regulated professions. She would come back to the HLG with specific figures regarding different types of businesses (hairdressers, cafes and restaurants) as well as increase of start-ups.

c) Portugal – current status of policies and initiatives for regulatory performance

Mr David Sousa, advisor to the State Secretary for Administrative Modernization, presented the latest developments in Portugal concerning smart regulation and administrative simplification. The SIMPLIFICAR Programme integrates all initiatives related to administrative modernization, including regulatory burden reduction and regulatory impact assessment. Stakeholder engagement and strong political consensus were highlighted as important elements. Internal governance arrangements include an inter-ministerial network composed of focal points in each ministry that hold regular meetings to define tasks, share best practices and tools, and report on progress. Portugal is carrying out an inventory of regulatory burdens which has already covered the sectors of industry, and commerce and services, and will continue with other sectors throughout the year. This inventory included a national survey and a series of interviews with businesses and business representatives. The identification of regulatory burdens will also be made through a crowdsourcing campaign following the “red-tape challenge” scheme that has been adopted in the UK. As for the reform of regulatory burdens identified in this process, a methodology based on stakeholder engagement workshops is being developed. It is also planned to introduce a tool for regulatory reform petition – WikiLegis – where stakeholders can directly make suggestions to reform legal texts. The local Simplex programme aims to create incentives for local governments to reform and introduce simplifications. The 'only once' principle has been introduced as a universal principle allowing administration to demand the same documentation only once. The 'one in, one out' approach has also been introduced and applies to the central government and public administration, but cannot be imposed on the Parliament or local governments.

Discussion: Questions were asked about the approach for the interviews with businesses to identify the administrative burdens, how the WikiLegis works, which are the documents and departments concerned with the 'only once' principle. One member commented that the 'only once' principle can be practically very difficult to implement as there should be a legal requirement for data being accessible (privacy concerns) and when data becomes outdated, there needs to be a mechanism for updating.

Mr Sousa explained that the inventory of regulatory burden started with a literature review and approaching business organisations that helped to identify themes, review the questionnaire for the survey and later distribute it to its members. Roundtable interviews were conducted with industry and individual interviews with services companies. This helped to identify common burdens as well as those specific to each sector. Portugal used the Standard Cost Model for calculating administrative costs of some of the regulatory burdens identified at this stage (estimated at €150 million). The “red-tape challenge” website – which includes the WikiLegis tool – is still in preparation (to be available in September/October). The 'only once' principle applies not so much to data, but more for official documents, certificates (e.g. proof of absence of criminal record) and information sharing depends on citizen consent.

Operational conclusions:

- **The Chair thanked the presenters and encouraged them to send some of the measures presented for the best practice library.**

14:30-15:00 AOB/Conclusions

The Chair recalled that this was the last meeting of the HLG-BR whose mandate ends in October. At this stage it is still open how the next Commission will take forward its work on smart regulation. She announced that there will be a Communication on REFIT in June, and that a public consultation on the Commission's Impact Assessment and Consultation Guidelines is coming up. The Chair reminded members that comments on the implementation working group report should be sent by the 12th May and that they are invited to contribute to the best practice library.

Appointment of new members:

- **Denmark:** Mr Torsten ANDERSEN, Head of Division, Danish Business Authority, and Mr Morten UHRSKOV, Head of Section, Danish Business Authority (*as alternate member*).
- **France:** Ms Célia VEROT, Directrice adjointe au Secrétaire Général du Gouvernement, chargée de la simplification, Mr Pascal SCHUSTER, Chargé de mission au Secrétariat Général du Gouvernement (*as alternate member*) and Ms Aurélie LAPIDUS, Secrétaire Générale Adjointe des Affaires Européennes, Service du Premier Ministre, Mr Bertrand JEHANNO, Chef du Secteur "Marché Intérieur" au SGAE, Service du Premier Ministre (*as alternate member*).
- **Spain:** Ms Teresa ORTIZ MARIN, Board Advisor Support Unit, Directorate General for Administrative Modernisation, Procedures and Promotion of E-Government, Ministry of Treasury and Public Administration, and Ms Rocio PEREZ DE SEVILLA RUIZ-GRANADOS, Counsellor Adviser Member, Directorate General for Administrative Modernisation, Procedures and Promotion of E-Government, Ministry of Treasury and Public Administration (*as alternate member*).

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