



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate C - Smart Regulation
SG-C2 Regulatory Policy and Impact Assessment

**Group of High Level National Regulatory Experts (HLG-BR)
Meeting of 16 April 2013**

Summary record

Opening: Adoption of the agenda and update of membership

Adoption of the Meeting report of 23 October 2013

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 and meeting report of 23 October 2013 was adopted.

10:15-10:45 Communication on EU Regulatory Fitness and SME Communication

Presentation by the Commission and discussion

Ms Elisabeth Golberg, Director for Smart Regulation, presented the Commission Communication on EU Regulatory Fitness, as well as the SME communication and the results of the Top 10 consultation. She outlined the main developments with regards to the Commission smart regulation tools: impact assessments, evaluation, stakeholder consultation and implementation of EU legislation, as well as administrative burden reduction and simplification as described in the two Communications. Ms Golberg stressed that smart regulation is a shared mission between the Commission, Council and Parliament, in particular, concerning the better use of impact assessments in the Council and Parliament with regards to substantive amendments, as well as joint evaluations. She also reminded that Member States will be asked to report by 31 December 2013 on how they implemented ABR measures.

HLG-BR members welcomed the presentation. The questions focused on the practicalities of required reporting on administrative burdens, timing of the REFIT activities, including revision of the evaluation guidelines, as well as enforcement of the common commencement dates.

Ms Golberg explained the timing of the REFIT activities, including that a Communication on evaluation is planned in the autumn and consultation on evaluation guidelines in the last quarter of 2013. Common commencement dates apply to Commission regulations and are being enforced through the Commission inter-service consultations.

10:45-11:30 Community of best practice in Smart Regulation

State of play, latest developments, exchange of good practice.

Best practice library for impact assessment and evaluation.

The Chair introduced the need for the HLG-BR to benefit from more practical examples of good practice in smart regulation tools rather than a general discussion on how things should be done in theoretical terms. She explained that the Commission would like to create a best practice library of such good practical examples on the HLG-BR website. The Chair invited HLG-BR members to send the good smart regulation practices in their Member States on:

- Ex-post evaluation: general guidance and practical examples of evaluation;
- Stakeholder consultation: general guidance (including minimum standards, length, reaching out to specific target groups such as SMEs and micro-enterprises) and practical examples of consultation (consultation document and summary of results achieved);
- Impact assessment: general guidance and practical examples of impact assessments;
- Transposition/implementation of legislation: general guidance and practical examples, e.g. lighter regime for SMEs, avoidance of gold plating etc.

The Chair informed that the documents received will be made available on the HLG-BR Europa website and explained that this website could be used as a platform to share certain documents/links of interest for

the others. The Commission will ensure translation into EN (key parts, summaries) within the limits of available resources.

The HLG-BR members welcomed the proposal of best practice library, encouraged to keep it technically simple and mentioned already some examples (e.g. legislative drafting support website in Finland). The Chair noted that the success of such best practice library depends on the input provided by the HLG-BR members.

Operational conclusions:

- **The Chair thanked the HLG-BR members for the support and asked them to send their guidelines and practical examples of ex-post evaluations, stakeholder consultations, impact assessments and transposition/implementation to the Secretariat by End of May.**
- **The Chair announced that the Commission will send the HLG-BR members together with the draft minutes of the meeting a proposal for the format of the best practice library and the required input from Member States.**

11:30-12:30 Further work of the High Level Group - working groups <i>Presentation of the scope for working groups</i>
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The Chair reminded that in the meeting of 23 October 2012 the HLG-BR established three working groups and the following members have been nominated for the working group chairs:

- WG1 – evaluation, Kirsten Scholl (Germany);
- WG2 – SMEs, Julian Farrel (United Kingdom);
- WG3 – implementation, Aleš Pecka (Czech Republic);

The Chair recalls that the main objective of this session and the working groups in the afternoon is to (1) agree on the objectives pursued by each group, (2) to agree on internal working methods, (3) to foresee an indicative calendar for the work and report results to the HLG-BR with the target date for final output in spring 2014, and (4) to launch initial substantive discussion. She presented the context of the working groups and the Commission expectations for the outcome of these working groups:

- Evaluation: as explained in the Regulatory Fitness Communication the Commission aims to launch on a pilot basis joint evaluations with interested Member States. The WG can make a valuable contribution to this initiative in organising these pilot evaluations: initiate the process by ensuring the selection of the appropriate measure(s) to be evaluated; ensure the commitment of the relevant services to contribute to the evaluation; work with the sector services on the design and planning of the steps in the evaluation process; ensure consistency and work progress; and contribute to the conclusions to be drawn based on the outcomes.
- SMEs: this WG should identify Administrative Burden Reduction Plus programme initiatives falling within the areas of EU legislation identified in the TOP10 consultation to identify the results achieved on the ground and best practices in implementation to the benefit of small businesses.
- Implementation: this WG would look at tools of cooperation between the Commission and Member States (best practice), gold plating (distinguishing between gold plating setting higher standards, e.g. in environmental field, and gold plating requiring administratively more than necessary to fulfil the objectives of legislation), specific implementation issues and problems (e.g. priority areas as covered by the "Single Market Governance" communication) as well as transparency for the wider public on transposition and implementation measures.

The Chair invited the HLG-BR members for comments and questions.

The WG Chairs briefly elaborated on their respective areas:

- Evaluation: the aim of this WG will be to produce practical outcomes useful for the future design and implementation of the evaluation of EU regulation based on practical Member State experience. Particular challenge will be to identify areas where joint evaluations will be carried out.
- SMEs: in addition the WG could also (1) produce (quite rapidly) a compendium of best practices on how legislation has been adapted to take into account the needs of SMEs. As this is not simply a question of including or excluding SMEs from legislation, such a compendium could categorise different lighter regimes, e.g. compliance dates, lighter inspections, risk-based approaches; (2)

where the results of TOP10 consultation indicate specific concerns for SMEs, the WG can discuss the ideas how to make these pieces of legislation lighter for SMEs.

- **Implementation:** this WG could use experience from the two other WGs. In addition to topics identified, it would be important to provide a common understanding and definition of gold-plating as a tool and guidance widely accepted by the Commission and the Member States.

The Chair encouraged the working groups to focus more on what is currently done in the Member States and how can we learn from each other. The Chair asked working group chairs to produce a short summary of the results and working arrangements of the working groups and sent them to the secretary of the HLG-BR for distribution together with the meeting minutes.

12:30-13:00 Member State Best practice presentation

- a) Presentation of the Burden hunter initiative by Denmark followed by a Q&A session*
b) Identification of future presentations

a) Presentation of the Burden hunter initiative by Denmark followed by a Q&A session

Mr Sune Knudsen presented the Danish burden hunter initiative. The origin of this initiative came from the recognition that the Standard Cost Model method had its limits: although in principle administrative burden reduction can be calculated, the benefits of this reduction are not always felt by business. Starting point for burden hunter initiative was to understand how the end-users perceive the regulation. Mr Knudsen presented a practical case of recording NACE code when registering a new company. The burden hunter method used service journeys, observation and interviews with both businesses involved as well as case workers assisting NACE code recording to find sources of errors and time-consuming procedures. A new digital solution was introduced which resulted in €3.2 million savings (compared with project costs of about €40000). Typical challenges of this method include the need to manage expectations and getting high-level involvement. Mr Knudsen ended with the presentation of new Danish smart regulation strategy, which is focused on end-users.

b) Identification of future presentations

The Chair invited the HLG-BR members to suggest other best practices or interesting examples of using smart regulation tools.

Operational conclusions:

- **The Chair invited the HLG-BR members to propose presentations of their Member States' experiences and examples/good practices of smart regulation tools: evaluation of existing policies, measures to reduce administrative burden, implementation of EU law, as well as their own IA systems. Up to two such presentations could be included in the agenda of each meeting. The proposals should be emailed to the Secretariat.**

The next meeting of the HLG-BR will be scheduled in the second half of the year (tentatively October).

Enclosures:

- Summaries from the working groups
- Proposal for the format of the best practice library and the required input from Member States

Appointment of new members:

- ***The Netherlands:*** Mr Stefan KORENEEF, Head International Unit Regulatory Reform and ICT policy, Ministry of Economic Affairs, Agriculture and Innovation and Mr Dimitri VERHOEVEN, *(as alternate member)*.
- ***Poland:*** Mr Jacek BARTMINSKI, the Director of Economic Regulation Improvement Department, Ministry of Economy, and Mr Artur KOPIJKOWSKI-GOZUCH, Head of Regulatory Reform Unit, Economic Regulation Improvement Department, Ministry of Economy *(as alternate member)*.
- ***Slovak Republic:*** Mr Peter ONDREJKA, Director of Economic Analysis Department, Ministry of Economy, and Ms Daniela GURSKA, Department for Economic Analysis, Ministry of Economy *(as alternate member)*.

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Working group 1: Evaluation of legislation

WG 1 "Evaluation" had a first exchange of views on the basis of an information note by the Commission and a short presentation by the chair (attached). The Commission stated its interest in receiving information from the Member States on their ex-post-evaluation policies and planning. Examples of best-practice in ex-post evaluation work could provide helpful elements to be included in a joint evaluation.

Most participants underlined their interest in sharing experiences/best-practice with regard to ex-post evaluation. Expectation was raised that the pilot evaluation should lead to concrete results with particular focus to the end-user.

The group agreed to identify as the first step possible candidates for joint pilot evaluations. In the light of the chosen pilots further steps (i.a. procedure, methodology, timing) need to be discussed.

Possible candidates can be taken out of the following "lists": (1) ABRplus, (2) Top 10, (3) fitness checks and (4) the Commission list on on-going ex-post evaluations.

Criteria for the selection of possible candidates should be: reduction of administrative burden (not only linked to costs), medium sized costs and benefits, appreciable impact to business/stakeholder.

Proposed deadline for feed-back is 24 May 2013.

Next steps: It is proposed to have a next discussion round along the DBR meeting in Lithuania (5-7th June).

Working group 2: Improving regulatory framework for SMEs/Micro-enterprises

- 1) The Working Group on Small and Medium-Sized Enterprises (SMEs) considered a note from the Commission suggesting that the Group might:
 - a) compare best practice in implementing ABR+ measures falling within the areas of EU regulation identified by SMEs in the TOP10 consultation, on the basis of a list provided by the Commission;
 - b) in due course consider implementation of a broader range of ABR+ measures, in terms of simplification and burden reduction for SMEs.

- 2) The Group noted that the Commission's list of ABR+ measures falling within the TOP10 consultation:
 - covered 5 policy areas (waste; food labelling; procurement; VAT; tachographs);
 - therefore contained only a minority of the measures of concern to SMEs raised by respondents in last Autumn's consultation;
 - largely consisted of Regulations, and contained only one Directive (2008/9/EC on VAT refunds) for which the transposition date had already passed.

- 3) The Group therefore concluded that the list of ABR+ measures did not seem to reflect the majority of concerns raised by SMEs in the TOP10 consultation; and, at this stage at least, doubted that there would be much best practice in implementation to consider.

- 4) The Group welcomed the future publication by the Commission of the mapping of legislation carried out by Directorates General, and the envisaged measures to respond to issues raised by SMEs in the TOP10 consultation. Group members agreed they would be happy to seek views from their SME organisations on specific proposals to reduce burdens in these areas.

- 5) More immediately, the Group agreed that it would compile a collection of best practice examples of legislation which had been adapted to take account of the needs of SMEs or micro-enterprises, grouped by category of adaptation (eg whole or partial exemptions; longer transitional periods; reduced reporting or record-keeping requirements; reduced fees; simplified inspection regimes; de minimis rules; risk-based approaches etc). The Group agreed to produce this paper by the Summer break.

Working Group 3: Transposition and Implementation of EU law

The Working Group 3 (WG3) was established in the meeting of the High level group (HLG) of national experts on 16th April 2013 as the advisory committee in order to assist the Commission in implementing smart regulation policies and with the proposed task to examine how EU legislation is transposed and implemented by Member States. Bearing in mind that the transposition and implementation of EU law is primarily a responsibility of Member States, the WG3 should focus mainly on examining common problems of implementation and examples of best practice from the Member States as well as useful tools of cooperation between the Commission and Member States. Nevertheless, the WG3 should additionally also identify and suggest new ways and possibilities for drafting “smart” legislation by the Commission so as it could be implemented easily in the Member States.

- A) The members of WG3 are kindly requested to approach the respective central EU law coordination units in their national administrations with the **following questions to be answered**:
- 1) *What are the most typical challenges and problems the Member States (national administrations) do face when implementing EU laws? In your answers please make possible difference between problems arising from the specific national structures, measures or processes and, problems caused by the implemented EU law as such (or due to the current practice in the EU institutions).*
 - 2) *Could you provide some concrete examples and cases under question on which you would possibly demonstrate the information provided in the answer to the question No. 1?*
 - 3) *Could you suggest one or more examples for possible case studies which could be followed in the same way in a sample of Member States in order to identify common problems or specific features which could be identified as a good practice in implementation of a concrete EU legislation?*
- B) Furthermore, the members of the WG3 are kindly requested to provide any additional and available written information on:
- 4) Methodologies / guidance / principles on the transposition of EU law in national legislation used in your respective countries: (Memo 1-2 pp.) + any text or guidance available in English version.
 - 5) **Eileen** was very kind to accept the request to prepare a short comparison of description used for the term "**gold-plating**", e.g. which differences exist or might be caused in the understanding of this concept by different institutions according to the available knowledge and definitions (national administrations, EC, independent watchdogs etc.? (1-2 pp.).
 - 6) Equally, I would like to thank the EC observers, Karl and Arek, who agreed to provide us with any further text and a concrete example on the newly proposed use of the implementation plans, once they are available. It is further suggested that the COM would provide the WG3 with the description of what does the COM expect to be a good implementation once WG3 decides on a concrete measure to be followed.

The proposed deadline for sending the answers and any additionally documents (if available) to the Chair of WG3 is Friday 28th June 2013 c.o.b. (pecka.ales@vlada.cz).

Short description of implementation plans by EC:

The Commission can support Member States in their transposition and implementation efforts by preparing implementation plans (IP) for certain directives and regulations. The preparation of an IP aims at facilitating the timely and effective application of law, fully recognising the responsibility for the latter rests with the Member States. Work on implementation issues should start with the Impact Assessment which identifies the preferred policy option and the appropriate (legal) instruments, having analysed potential implementation issues in detail. The preparation of the IP should follow the impact assessment. It should identify challenges which the MSs will face in applying the legislation and which need to be taken into account when MS plan their transposition and implementation work. On the basis of the assessment of key implementation challenges, it should set out the various types of support which Commission services will provide to the Member States to better prepare for implementation. An IP should be prepared when the implementation of the legal act concerned, because of its nature or complexity, could benefit or be facilitated by supportive measures.