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High Level Group of Independent Stakeholders on Administrative Burdens

Europe can do better.

Report on best practice in Member States
to implement EU legislation in the least burdensome way

High Level Group of Independent Stakeholders
on Administrative Burdens

Warsaw, 15 November 2011

Few things are harder to put up with than the annoyance of a good example.

Mark Twain, Pudd'nhead Wilson (1894)

The HLG

The High Level Group of Independent Stakeholders on Administrative Burdens ('HLG') was set up in 2007 to advise the Commission on the implementation of the Action Programme for Reducing Administrative Burdens in the European Union. The group is chaired by Dr. Edmund Stoiber, former prime minister of Bavaria; it consists of 15 members selected on the basis of their expertise in better regulation and/or the policy areas covered by the Action Programme.

The HLG has adopted more than 30 opinions covering more than 300 suggestions on how to reduce administrative burdens for businesses. The savings potential of these suggestions is estimated to exceed EUR 41 bn. annually.

As part of its renewed and extended mandate of 17 August 2010, the HLG was asked to prepare this report.

For further information, cf. http://ec.europa.eu/dgs/secretariat_general/admin_burden/ind_stakeholders/ind_stakeholders_en.htm

FOREWORD by the Chair

As the Chairman of the High Level Group of Independent Stakeholders on Administrative Burdens I have experienced on numerous occasions when talking to businesses, stakeholder organisations and citizens the level of blame directed at the EU for bureaucratic burdens that primarily derive from the way in which national administrations implement EU legislation. In some areas there are striking differences between the Member States, for instance in the area of public procurement.

In order to relieve the 23 million European enterprises from unnecessary bureaucracy and to improve acceptance of European policies among citizens and companies, the High Level Group has initiated a consultation process and distributed a questionnaire requesting examples of best practice in implementing EU legislation. Numerous examples were collected, verified and compared; they form the basis of the present report and are intended to facilitate a cross-border exchange of experience and methods, which is essential for the success of this exercise.

I would like to use this opportunity to express my gratitude to the reporting members Paul Mollerup and Johannes Ludewig and to all those who have helped with the production of this report. In addition, I would like to thank the national governments, and the representatives of regional and local authorities, as well as the European enterprises and business organisations for their invaluable contributions. These contributions show in a very concrete way how Europe can improve its legislative process towards better growth and employment, which will also contribute to an improved acceptance of the EU itself.

A handwritten signature in blue ink, appearing to read 'Edmund Stoiber', is centered on the page. The signature is fluid and cursive, with a large initial 'E' and 'S'.

Dr. Edmund Stoiber

EXECUTIVE SUMMARY

The EU is routinely held responsible for a sizeable share of the administrative burdens affecting businesses in Member States. **In general, between a third and half of the total administrative burdens on businesses in Member States are said to derive from EU regulation.** This puts a significant strain on the perceived benefits of the EU as seen from a business perspective.

Work carried out as part of the Action Programme for Reducing Administrative Burdens in the EU has shown that **almost a third of the administrative burdens deriving from EU legislation are in fact not caused by the requirements of the legislation as such, but primarily stem from inefficient national implementation of the requirements.** In other words, if all Member States were to transpose EU legislation into national rules in a manner as efficient as that applied in the most efficient Member State, administrative burdens could be reduced by up to 32%. Based on the total measured administrative burdens of EUR 124 bn., this is equivalent to a **reduction potential of nearly EUR 40 bn.**

Striking differences in transposition and implementation of EU legislation in the Member States – as evidenced e.g. by the differences in duration and cost of public procurement procedures – show that there is ample scope for improvement in the efficiency of the implementation of EU legislation in the Member States. **Reducing burdensome implementation of EU legislation would therefore contribute decisively to improving the life of businesses in the EU and to strengthening the EU's economy and its competitiveness.**

The current report prepared by the High Level Group of Independent Stakeholders on Administrative Burdens (HLG) as part of its extended mandate of 17 August 2010 provides concrete examples of best practice in implementing EU legislation in the least burdensome way. These examples represent ideas for smart solutions that might be fully or partly transferred to other Member States or other areas, in order to reduce burdens for businesses and the administration all over Europe whilst strengthening the integrity of the internal market.

The HLG identified best practice examples for **cross-cutting approaches on smart regulation and good implementation of EU legislation** such as the *Dutch Mark of Good Services* which provides a reference framework for municipal services to determine the quality of services to businesses and identify points for improvement, or the *UK's new transposition framework* which offers specific guidance on how to implement EU directives effectively or the *German EU SME-monitor* which provides SMEs with an overview of the initiatives listed in the Commission Work Programme marked according to a traffic light system on their relevance for SMEs. Furthermore, the HLG has attached a **summary overview on the institutional set-up and the systematic approach of the better regulation activities in the Member States** (annex 7), which offers insight into different possibilities to advance the smart regulation agenda and achieve results for businesses at national level.

In addition, the HLG presents **sectoral best practice examples by characteristics or drivers.** One of the most important drivers for implementing EU legislation in the least burdensome way is the **use of eGovernment.** Best practice examples identified in this context include the *Swedish Point of Single Contact* for the implementation of the

Services Directive, the *prohibition on the collection of duplicate data in Estonia* which promotes the re-use of data within the administration or the *fully digitalised public procurement system in Portugal*. Other drivers for best practice include **risk-based approaches** as evidenced by a *German online-portal for conformity checks of marketing standards*, the **use of options or lighter regimes** provided by EU legislation, e.g. within the *Flemish implementation of the structural funds by using simplified cost options*, **cross-border cooperation** as evidenced by an initiative for SMEs in the crafts/services/construction sector in the border regions of Austria, the Czech Republic and Germany ('*Grenzoffensive*') or by the *cooperation on applications needed for marketing authorisation of medicinal products* (France), and **enhanced stakeholder involvement and systematic end-user involvement**, e.g. by *Statistics Finland within their programme for the development of business data collection* or in the region of Karlovarské in the *Czech Republic concerning applications for integrated environmental authorisations*. An important driver is also the provision of **good guidance** for the implementation and application of EU legislation; a good example in this respect can be found in Ireland where an *online risk assessment and safety statement tool called 'Be smart!'* was developed. **Merging processes and permits** as evidenced by the *UK Environment Agency's Environmental Permits Regime* can further improve implementation of EU legislation. In specific cases **non-regulatory initiatives** might also support good implementation, e.g. the *single institution for handling passenger complaints created by railway undertakings in Germany*.

Based on the examples analysed for the preparation of the report the **HLG recommends that Member States – supported by the Commission – develop a framework for a regular and structured exchange of best practice** in relation to the implementation of EU legislation.

All players on EU level should strengthen their efforts to firmly integrate smart regulation principles into the legislative process. Likewise the Member States should encourage the development of national smart regulation agendas promoting a change of culture within the administration with a particular focus on improved stakeholder and end-user involvement, a solid institutional set-up and a structured approach to impact assessments. The issue of **perceived burdens** should be taken seriously, and **implications of legislation on SMEs and micro companies** need to be thoroughly examined. The HLG recommends that Member States keep introducing **new sets of quantitative targets**, in order to keep up momentum for reducing burdens on businesses, and to **make life as easy and predictable as possible for businesses**. Concerning the issues of **gold-plating** and the **use of exemptions or lighter regimes** for SMEs the HLG recommends applying a '**comply or explain**' approach.

The HLG strongly promotes the **use of eGovernment and digital solutions**, as well as **risk-based approaches**, and supports the **development of good guidance**.

On the basis of its work the HLG has produced a **Checklist for good implementation of EU legislation**, and the Group recommends that authorities responsible for the implementation of EU legislation when working on such an implementation take some time to go through the checklist in order to ensure an implementation that avoids burdensome elements to the widest possible extent. **The checklist covers the objective of the legislation, the exchange of best practice implementation, the use of impact assessments and evaluations, the extent of leeway for implementation, the use of**

derogations or lighter regimes, active and passive gold-plating, risk-based approaches, the end-user focus and digital solutions and re-use of data.

With this report the HLG has demonstrated that a whole range of tools has been used by those Member States that succeeded in coming up with superior ways of transposing EU legislation into national regulation. Lessons can and should be learned from these examples in all Member States. The HLG calls on stakeholders and end-users to make use of the examples by testing implementation in the respective Member States against them. **In the HLG's view it is essential that this is not the end of the road, but that the change of culture evidenced by these best practice examples stabilises and gains further momentum. Europe can indeed do better.**

THE HLG RECOMMENDS:

- 1. THAT MEMBER STATES - SUPPORTED BY THE COMMISSION - DEVELOP A FRAMEWORK FOR REGULAR AND STRUCTURED EXCHANGE OF BEST PRACTICE IN RELATION TO THE IMPLEMENTATION OF EU LEGISLATION.**
- 2. ALL PLAYERS STRENGTHEN THEIR EFFORTS TO FIRMLY INTEGRATE SMART REGULATION PRINCIPLES INTO THE LEGISLATIVE PROCESS.**
- 3. THAT MEMBER STATES ADVANCE THE DEVELOPMENT OF NATIONAL SMART REGULATION AGENDAS PROMOTING A CHANGE OF CULTURE WITHIN THE ADMINISTRATION WITH A PARTICULAR FOCUS ON**
 - a) IMPROVED STAKEHOLDER AND END-USER INVOLVEMENT**
 - b) A SOLID INSTITUTIONAL SET-UP**
 - c) A STRUCTURED APPROACH TO IMPACT ASSESSMENTS**
 - d) THE ISSUE OF PERCEIVED BURDENS**
 - e) THE IMPLICATIONS OF LEGISLATION ON SMEs AND MICRO COMPANIES**
 - f) INTRODUCING NEW SETS OF QUANTITATIVE TARGETS TO KEEP UP THE MOMENTUM FOR REDUCING BURDENS ON BUSINESSES**
 - g) MAKING LIFE AS EASY AND PREDICTABLE AS POSSIBLE FOR BUSINESSES**
- 4. THE USE OF A 'COMPLY OR EXPLAIN' APPROACH CONCERNING**
 - a) THE ISSUE OF GOLD-PLATING**
 - b) THE USE OF EXCEMPTIONS OR LIGHTER REGIMES**
- 5. THE USE OF E-GOVERNMENT AND DIGITAL SOLUTIONS**
- 6. THE USE OF RISK-BASED APPROACHES**
- 7. THE DEVELOPMENT OF GOOD GUIDANCE**
- 8. THE APPLICATION OF THE 'CHECKLIST FOR GOOD IMPLEMENTATION'**

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I. INTRODUCTION

The European Union comprises the largest single economic area as well as the largest economy in the world.¹ As an essential prerequisite for a positive business environment the EU provides a stable, high-quality legal framework that applies in all Member States. The EU is committed to constantly reviewing and improving its legal framework in order to ensure the competitiveness of the Member States in a globalised world. This also includes removing unnecessary administrative burdens on businesses.

For its part, the Commission has substantially developed its 'Smart Regulation' policy over recent years. The policy now includes evaluation of existing measures to identify their successes and failures (*ex post* evaluation) and forward looking (*ex ante*) impact assessment of proposals for new EU legislation. The European Parliament and the Council are working on ways to ensure an impact assessment function connected to their work as co-legislators amending and adopting proposals for new EU legislation. The Commission is also committed to developing the use of so-called fitness checks², where specific sectors are evaluated in order to determine *inter alia* to which extent the legal framework of the sector as a whole could benefit from a general review with the aim to identify excessive administrative burdens, overlaps, gaps, inconsistencies and/or obsolete measures, and to help to identify the cumulative impact of legislation. All these measures are designed to improve the quality of new legislation.

While regulation is important and necessary, its implementation can also entail costs. Some of these costs are linked to legal obligations to provide information either to public or private parties (administrative costs). The part of the costs which is specifically linked to information that businesses would not collect and provide in the absence of a legal obligation is called the administrative burden. Information and reporting is central to the proper functioning of the internal market, but the balance between the benefits of information and reporting requirements and their administrative burdens needs constant vigilance, and can change over time – some of the existing procedures in place may have become needlessly time-consuming, excessively complicated or obsolete, some information might already be available from other sources.³ This is particularly true in the case of the opportunities offered by the use of new technologies that can alleviate or render unnecessary information obligations currently in place.

- Action Programme -

In early 2007 the EU launched an Action Programme for Reducing Administrative Burdens in the European Union as part of the efforts to generate more growth and jobs in

¹ Cf. [http://en.wikipedia.org/wiki/List_of_countries_by_GDP_\(nominal\)#cite_note-imf2010gdp-world-eu-3](http://en.wikipedia.org/wiki/List_of_countries_by_GDP_(nominal)#cite_note-imf2010gdp-world-eu-3) presenting rankings by the IMF, the World Bank and the CIA World Factbook

² Cf. http://ec.europa.eu/dgs/secretariat_general/evaluation/index_en.htm; more specifically http://ec.europa.eu/dgs/secretariat_general/evaluation/docs/fitness_check_en.pdf

³ Cf. COM(2007)23 "Action Programme for Reducing Administrative Burdens in the European Union", p. 4.

Europe. The programme covers 72 EU legal acts in 13 domains⁴ - covering an estimated 80% of the administrative burdens of EU origin according to the Commission.⁵ The objective of the Action Programme is to reduce administrative burdens for businesses by 25% by 2012. This reduction target is a joint objective, which can only be attained on the basis of a shared responsibility and a common endeavour by the Member States and the European institutions. Rather than promoting deregulation and change of policy objectives set out in EU legislation, the Action Programme aims at streamlining and making less burdensome the way in which policy objectives are implemented. By addressing the implementation of EU legislation on national (including regional and local) level, best practice examples can contribute to achieving the reduction target.

"Europe has to give priority to ideas and innovation without bureaucratic stop signs. We can really give economic growth in Europe a forward push if we manage to get on with this." Edmund Stoiber

Achieving the 25% reduction target is expected to generate significant benefits for the EU's economy, since companies will be able to spend more time on core business activities which reduces production costs and allows additional investment and innovation activities to materialise. This in turn should improve productivity and overall competitiveness. According to the Commission's Communication on the Action Programme this could lead to an increase in the level of EU GDP of 1.4% or EUR 150 bn. in the medium term.⁶ The HLG notes that the estimated outcome can only be realised if reductions are not consumed by administrative burdens deriving from new legislation.

However, it is not only economic benefits which are important outcomes of the Action Programme. Equally important is a change of culture within the EU administration as well as administrations on other levels of government. The public service needs to be seen as taking concerns about red tape into account throughout the whole legislative cycle, i.e. from the design of legislation to its implementation and application. The reasons for regulating certain issues in a specific way need to be clearly communicated, in order to avoid the impression of a bureaucratic exercise. Reducing administrative burdens should also contribute to enhanced compliance with EU legislation. It should not only alleviate the life of companies, but also ensure that the legal acts are actually delivering their underlying objectives.

- High Level Group -

In August 2007 the Commission established the High Level Group of Independent Stakeholders on Administrative Burdens ('HLG') to advise the Commission on the

⁴ Agriculture and agricultural subsidies (AGRI), Annual accounts / company law (CLA), Cohesion policy (COH), Environment (ENV), Financial services (FIN), Fisheries (FISH), Food safety (FOS), Pharmaceutical legislation (PHA), Public procurement (PP), Statistics (STAT), Taxation / Customs (TAX), Transport (TRAN), Working environment / employment relations (WE).

⁵ Cf. COM(2008)35 "Reducing administrative burdens in the European Union, 2007 progress report and 2008 outlook", p. 3

⁶ Cf. COM(2007)23 "Action Programme for Reducing Administrative Burdens in the European Union", p. 4.

implementation of the Action Programme.⁷ The HLG is chaired by Dr. Edmund Stoiber, former prime minister of Bavaria; the remaining 14 members include the leaders of several bodies responsible for fighting red tape at national level, representatives from the world of industry, small and medium sized enterprises, environmental and consumer organisations as well as social partners (for a full list cf. annex 1), all having first hand experience in better regulation. The European Parliament, the Committee of the Regions (CoR) and the independent regulatory oversight committees Actal (NL) and Regelrådet (SE) follow the work of the HLG as observers. For all 13 domains within the scope of the Action Programme the HLG has designated reporting members.

The main task of the group which started its work in January 2008 was to provide advice on administrative burden reduction measures suggested by consultants, through internet consultation and local workshops in Member States. On the basis of the consultants' reports on the measurement of administrative burdens as well as on input from stakeholders and Commission services the reporting members have prepared opinions on suggestions for reducing administrative burdens in the EU for each of the 13 priority areas. In addition, the HLG adopted opinions on suggestions by stakeholders going beyond the 13 priority areas or received after the adoption of the respective sectoral opinions. Further opinions dealt with specific issues such as fast-track actions, extensions of the Action Programme or the smart regulation consultation. In September 2009 the group presented its intermediate report; the final report is foreseen for end of 2012. To date the HLG has adopted more than 30 opinions covering more than 300 suggestions on how to reduce administrative burdens for businesses. The savings potential of these suggestions is estimated to exceed EUR 41 bn. annually.

The most prominent examples of reduction suggestions include the following⁸:

- facilitating e-invoicing between enterprises by putting electronic invoices on an equal footing with the paper version; reduction potential: up to EUR 18.4 bn.
- tachograph: widen the existing exemptions for certain craftsmen from the obligation to install and use a tachograph in their trucks from a 50 to a 150 km radius from their base; reduction potential: up to EUR 59 m.
- micro companies: reducing European accounting obligations for very small enterprises; reduction potential: up to EUR 6.3 bn.

The total administrative burdens measured for the 72 acts in scope of the Action Programme have been estimated at EUR 124 bn.⁹ With the support of the HLG the Commission has already tabled proposals with an administrative burden reduction potential exceeding EUR 40 bn. which would mean a reduction of 33%. Out of these, measures worth EUR 27 bn. (22%) have already been adopted (by the co-legislators), while measures worth EUR 13.7 bn. (11%) are still pending adoption by the European Parliament and the Council. Despite the fact that the reduction target at EU level is not a

⁷ Commission Decision of 31 August 2007 setting up the High Level Group of Independent Stakeholders on Administrative Burdens - C(2007)4063

⁸ For information on the state of play, please cf. the sectoral reduction plans which are regularly updated: http://ec.europa.eu/dgs/secretariat_general/admin_burden/result_burden/result_burden_en.htm

⁹ COM(2009)544 "Action Programme for Reducing Administrative Burdens in the EU – Sectoral Reduction Plans and 2009 Actions", p. 4

net target, the focus on reducing administrative burden in itself is likely to have positive effects on new legislation as well. For companies to feel the reduction impact, it is first of all essential that the European Parliament, the Council and the Commission work together to ensure that agreement can be reached on adopting further proposals to reduce the administrative burdens stemming from the EU. Secondly, it is paramount, that the measures adopted at EU-level are implemented and applied in the Member States without undue delay, and in a way that is least burdensome for businesses. The latter is the mission of this report from the High Level Group.

General overview of the administrative burden reduction at EU level (August 2011)¹⁰

	Adopted *	Pending adoption by co legislator	Total proposed by Commission	Total proposed by HLG
Reduction potential (in million €)	- 27 100.1	- 13 695.5	-40 795.6	> -41 000
Reduction potential (in %)	- 21.9 %	- 11.1%	-33.0%	> -33%

The results of the measurement have shown significant differences in transposition and implementation of EU legislation within the Member States in general. Based on the data used for measuring the administrative burdens of the original 42 legal acts included in the 13 priority areas of the Action Programme it can be estimated that 32% of the administrative burdens of EU origin felt by businesses in the Member States can be linked to the national implementation.¹¹ The vast majority of the excess burden felt by businesses is linked to inefficiencies in national administrative procedures (28%), i.e. to the fact that the requirements of the EU legislation in many Member States are implemented in national legislation in ways far more burdensome than necessary when compared to the implementation carried out in the Member States that have adopted 'smart', less burdensome requirements (e.g. prefilled online forms vs. blank paper based forms, one-stop-shop vs. several decentralised authorities). Only a small part of the excess burden derives from the decision of some Member States to go beyond what is required by EU legislation (so-called 'gold-plating', 4%). This also concerns implementation on regional or local level.

Assuming that 32% of the EUR 124 bn. administrative burdens of EU origin can be linked to the national implementation, the burden reduction potential in relation to the

¹⁰ For detailed sectoral reduction plans, please cf. http://ec.europa.eu/dgs/secretariat_general/admin_burden/result_burden/result_burden_en.htm

¹¹ Cf. COM(2009)544 "Action Programme for Reducing Administrative Burdens in the European Union – Sectoral Reduction Plans and 2009 Actions", p. 6; Consortium document published on: http://ec.europa.eu/enterprise/policies/smart-regulation/documents/files/abs_transposition_en.pdf.

EU acts measured in the context of the Action Programme amounts to nearly EUR 40 bn. By coincidence this figure is almost identical with the EUR 40.8 bn. (33.0%) measured for administrative burden reduction proposals already tabled by the Commission, although these figures reflect different elements of administrative burden reduction (burden reduction potential of proposals tabled at EU level vs. burden reduction potential by eliminating inefficient national implementation of EU legislation). Since the reduction measures already tabled by the Commission will reduce the total burden, the two figures mutually influence each other; they are partly overlapping and can thus not be added together. Nevertheless, the impressive figures prove the need for Member States to act in a decisive manner. The present report provides some ideas for improvements in this respect.

An illustrative example of the differences in transposition and implementation can be found in the area of public procurement. In a recent evaluation of the EU public procurement rules¹² the Commission examined whether the EU rules had succeeded in putting transparency and cross-border competition to work for better public procurement outcomes. The study found *inter alia* that the typical duration of a procurement procedure from the dispatch of a contract notice to its award varied between 77 days (LV) and 241 days (MT), while the average costs of procedures (in person days for authorities and firms) differed between 22 days (LU) and 93 days (BG). While the costs for firms differ between 10 person days (FI/FR) and 34 days (MT), the costs for authorities differ between 11 person days (LU) and 68 days (BG). These differences suggest that there is ample scope for improvement in the efficiency of public procurement administration in some Member States which, if implemented, should in turn reduce costs for businesses and authorities alike.

Average costs of EU public procurement procedures in Member States (in person days for authorities and firms)

	Best performer	Worst performer	Difference
Authorities	11	68	57
Firm	10	43	33
Authorities + winning firm combined	22	93	71

Although not directly linked to the implementation of EU legislation, a study *inter alia* comparing the authorisation regimes concerning small rooftop photovoltaic systems in various Member States likewise showed striking differences in national procedures. While in some Member States, such as Germany, no permission is required, other Member States require up to 4 different permissions, and the procedures can last up to 50 weeks.¹³ A study organised by the Bavarian business organisation vbw identified considerable differences in costs identified in the implementation of the equal treatment directives and the greenhouse gas emission allowance trading directive.¹⁴

¹² Cf. http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/evaluation/index_en.htm

¹³ Comparison of legal-administrative procedures for PV projects in the EU - Results of the PV LEGAL project; more comparative data available at cf. <http://www.epia.org/projects/ec-projects/reduction-of-bureaucratic-barriers-for-successful-pv-deployment-in-the-eu.html>

¹⁴ Cf. vbw "Bürokratiekosten durch EU-Vorschriften", November 2011; Directive 2002/73/EC amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and

Another example of inefficient transposition and implementation can be found in the railway market sector: The first railway package adopted in 2001 was intended to ensure fair and non-discriminatory access to the rail network and services – *inter alia* by establishing a regulatory body. To fulfil their tasks, the regulatory bodies must be adequately staffed and resourced, so that they can respond to issues raised by train operators and others timely and effectively. Despite acknowledging differences in market size and characteristics, it is difficult to see how 2 employees (Estonia, Finland and Slovenia) can fulfil their tasks in the same efficient and non-discriminatory manner as 150 employees (UK).¹⁵

In its work to date the HLG has also dealt with numerous suggestions and complaints by stakeholders that sometimes challenge the respective implementation of EU legislation and thus point to the need of improved practices. For instance, the 7th HLG opinion on offline suggestions of 11 March 2011 dealt with such diverse issues as problems faced with the recognition of registration documents for an imported car issued by one Member State in another Member State, regional authorities not making use of simplification possibilities offered in the Waste Shipment Regulation or burdensome procedures for the acceptance of professional qualifications. Moreover, the reports produced by Cap Gemini, Deloitte and Ramboll Management on administrative burdens in the 13 priority areas covered several examples of both good and bad implementation of EU legislation.¹⁶

On EU level, the Commission is dealing with suggestions and complaints with different instruments as described in its 28th annual report on monitoring the application of EU law in which the Commission reports on trends of application of EU law by the Member States – including infringements and case-handling.¹⁷ The IT tool 'CHAP' is specifically designed for the registration and management of complaints and enquiries by European citizens on the application of EU law by Member States. While the majority of the cases are closed via direct responses by the Commission, 17% feed into the 'EU Pilot' project which aims at providing quicker and better answers to questions raised by citizens or businesses and solutions to those problems arising in the application of EU law. To this end, EU Pilot provides improved communication and cooperation between the Commission services and Member State authorities.

The 28th annual report also shows the shortcomings in transposition and application of EU law. While the total number of infringement procedures launched by the Commission against Member States for failure to apply EU law has decreased the number of infringement procedures due to late transposition of directives has increased. This also

women as regards access to employment, vocational training and promotion, and working conditions, Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation; Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community

¹⁵ Cf. Typology and structure of Regulatory Bodies in the EU-railway sector, <http://www.europarl.europa.eu/studies>

¹⁶ Cf. http://ec.europa.eu/dgs/secretariat_general/admin_burden/meas_data/meas_data_en.htm

¹⁷ COM(2011)588 of 29 September 2011, p. 7 f.

concerns the Internal Market Directives¹⁸ - including directives specifically aimed at cutting administrative burdens on SMEs. For instance, the Commission had to call on three Member States on 29 September and 27 October 2011 to comply with their obligation to fully implement Directive 2009/49/EC as regards certain disclosure requirements for medium-sized companies and the obligation to draw up consolidated accounts. This directive, which was due to be implemented by 1 January 2011, relieves the reporting burden imposed on SMEs.¹⁹

"Example is not the main thing in influencing others. It is the only thing."
Albert Schweitzer

In its 22 October 2009 Communication the Commission concluded that the "significant differences in the burdens imposed by national measures implementing EU legislation indicate that the exchange of best practices would greatly reduce the level of administrative burdens in many Member States." In order to foster this process and to further exploit the administrative burden reduction potential the Commission has mandated the HLG to produce the present report on best practice in Member States to implement EU legislation in the least burdensome way.

The request to produce the report is the most prominent feature of the extended mandate of the HLG that was adopted on 17 August 2010.²⁰ Apart from the best practice report, the new mandate prolonged the advisory work of the group on suggestions to reduce administrative burdens, extended the advice function to the Simplification Rolling Programme and to the provision of assistance in ensuring progress in the European Parliament and the Council in adopting proposals on reducing administrative burdens, and provided for a more regular and structured exchange with the Impact Assessment Board. With the best practice report the national implementation of EU legislation has moved into the focus of the HLG's work as well.

II. OBJECTIVES

The Europe 2020 strategy sets out smart, sustainable and inclusive growth as mutually reinforcing priorities for the EU in the years to come.²¹ Smart growth includes initiatives to improve the business environment, in particular for SMEs; and getting legislation right is an essential element for achieving smart growth. In that sense, smart regulation as outlined by the Commission in October 2010²² is an indispensable element of smart growth. To design or change legislation in a way that makes it simpler and less

¹⁸ Cf. Internal Market Scoreboard published on 29 September 2011, http://ec.europa.eu/internal_market/score/index_en.htm

¹⁹ Cf. IP/11/1114 of 29 September 2011, IP/11/1282 of 27 October 2011

²⁰ Commission Decision of 17 August 2010 amending Decision 2007/623/EC setting up the High Level Group of Independent Stakeholders on Administrative Burdens (2010/C 223/03)

²¹ COM(2010)2020 "EUROPE 2020 – A strategy for smart, sustainable and inclusive growth"

²² COM(2020)543 "Smart Regulation in the European Union"

burdensome for businesses and others to comply with will contribute to improving the business environment as well as creating and securing jobs.

The legislation itself, however, is but one, albeit important, tool for improving the business environment. Another essential element is the actual implementation of the legislation. When this is done in an efficient, smart way, it can save costs for both businesses and the public administration, and at the same time ensure that compliance can be enhanced, so that the objectives of the legislation are met. The main ambition of the report is thus to abolish, or at least significantly reduce the estimated 28% of the burdens linked to inefficiencies in national administrative procedures.

At the moment, the Member States do not always seem to look beyond their own implementation. On the one hand, that seems to be a natural consequence of the fact that the administration is usually asked to ensure that the national (or regional, local) implementation is consistent with the legal requirements, and they usually know best how new regulation can be integrated into the existing body of legislation taking into account the specific characteristics of the respective legal environment. On the other hand, a comparison with the implementation in other Member States can provide the public sector with new ideas, and new incentives for improving their implementation. This does not necessarily mean that they have to take over the implementation 1:1, but they could integrate innovative elements and thus enhance their own practices. By exchanging experience and sharing reasons for implementing legislation in a certain way, all concerned could benefit from an improved implementation.

This report is meant to provide concrete ideas for improving the implementation of EU legislation. It is clear that not all best practice examples presented in this report are transferable to every Member State. Nevertheless, even features that cannot be transferred easily will provide food for thought on how particular elements of a specific implementation can be improved, and thus provide benefits to business and the public sector alike.

The report shall instigate a more regular and structured exchange of best practice amongst the Member States in order to promote the deployment of similar practices. In some areas such an exchange is already well on its way,²³ but these encouraging examples should be extended to other areas. In addition, it has to be ensured that the administration 'on the ground' is actually involved in this exchange and not only very specialised experts, so that the concrete advantages of best practice examples actually reach those that are responsible for improving the implementation.

Summing up, the basic objective of the report is to provide concrete examples for model solutions for implementing EU legislation in the least burdensome way. These solutions might be fully or partly transferred to other Member States or other areas, in order to reduce burdens for businesses all over Europe whilst strengthening the integrity of the internal market. At the same time, the HLG decided to go beyond a simple list of best practice examples. By providing analysis of the best practice examples on common features and characteristics, the report also gives insight into elements that influence best practice and thus gives indications on how administrative practices can be turned into

²³ Cf. annex 5; e.g. Simplification Experts Group on Agriculture, EU network for implementation and enforcement of environmental law (IMPEL)

good or best practices. To this end the report compiles a checklist for good implementation of EU legislation (cf. VI.).

The attached summary overview on the institutional set-up and the systematic approach of the better regulation activities in the Member States (annex 7) is meant to provide insight into different possibilities to advance the smart regulation agenda and achieve results for businesses at national level. It builds up on the work performed by the OECD in the EU 15 Project²⁴ and was updated with information received from all 27 Member States. The HLG hopes that policy makers in Member States will not only exchange best practice when it comes to the implementation of specific legislation but will also find inspiration in the way the better regulation agenda is organised and promoted in the various Member States. In this respect, some examples have been taken up in IV.2.a).

III. METHODOLOGY / APPROACH

The HLG appointed Mr Paul Mollerup and Mr Johannes Ludewig as coordinating reporting members for this report. A questionnaire for best practice examples (see annex 2) was transmitted to heads of state and government in all Member States as well as stakeholder organisations and published on the HLG's website. In parallel, the CoR organised a consultation of the EU's regional and local bodies under the auspices of the CoR's observer to the HLG, Mr Lambertz, on the basis of an adapted questionnaire. Moreover, Commission services were asked to contribute further best practice examples.

1. Definition of best practice

The first issue that needs to be addressed is the question as to what actually constitutes a 'best practice' in the context of this report. **For the HLG 'best practices' refer to practices that consistently show results superior to those achieved with other means.**²⁵

The best practices presented in this report have been selected from a range of examples that were submitted primarily by Member States and thus reflect practices that are high on the agenda in those countries. From the start, the HLG has endeavoured to involve experts from the national governments, the CoR, the Commission services and stakeholder organisations in both providing and evaluating best practices. Nevertheless, it is likely that there are best practices which the HLG was not aware of, and there might also be equally good or better examples (already existing or in the process of being developed) than the examples that feature in this report. The HLG is well aware that a best practice in the legal and institutional framework of one Member State might be unsuitable in another Member State.

In the HLG's view this does not in any way diminish the value of this report. The report should be seen as the beginning of a process for better and less burdensome implementation of EU legislation, not as its end. In any case, 'best practice' is not a static

²⁴ Cf. http://www.oecd.org/document/24/0,3746,en_2649_34141_41909720_1_1_1_1,00.html

²⁵ Cf. <http://www.businessdictionary.com/definition/best-practice.html>

concept. What was best practice in the past can become bad practice, if it is not constantly refined and enhanced. Likewise, 'best' practices can become better. They can be evolved, refined, adapted, extended etc.

The best practices of this report are intended to perform as benchmarks: They should be used as a point of reference for evaluating the performance or level of quality of the implementation of EU legislation.

2. Challenges

When preparing this report, the HLG faced several challenges.

a) Collection of examples

First, a sufficient number of possible best practice examples had to be collected. For this purpose, a questionnaire had been sent to all Member States in early November 2010. In response, the national governments transmitted almost 130 examples covering a range of different areas. Some national governments have also presented best practices during HLG meetings (cf. annex 4).

In addition, the CoR performed a consultation of the regional and local authorities throughout the EU which generated 51 best practice examples. These examples were analysed and supplemented by 30 further examples in a study produced in May 2011.²⁶ 14 additional examples from the regional level had been sent directly to the HLG Secretariat or presented during HLG meetings bringing the total number of examples to 95.

The questionnaire was also sent to various stakeholder organisations and published on the HLG's website. Stakeholders such as business organisations from Austria, Denmark, Finland, Germany, Luxemburg, the Netherlands and Spain contributed 20 additional examples.

Moreover, research on existing sources as well as with Commission services produced further examples. For instance, Commission services sent examples on issues such as energy, transport, occupational health and safety, consumer issues, animal health and the services directive. Reports on best practice examples such as the 2009 Swedish Presidency Report,²⁷ a report by IMPEL²⁸ or reports by the consortium of consultants²⁹

²⁶ Progress Consulting S.r.l. and Living Prospects Ltd, "Administrative burden reduction at the regional and local level"; published together with the contributions received

²⁷ December 2009 Report by the Swedish Presidency of the Council: "Better Regulation – Presentation of practical exercise on sharing good examples"; published together with the contributions received

²⁸ European Network for the Implementation and Enforcement of Environmental Law (IMPEL), cf. also IMPEL-report "Practical Application of Better Regulation Principles in Improving the Efficiency and Effectiveness of Environmental Inspection Authorities", <http://impel.eu/projects/practical-application-of-better-regulation-principles-in-improving-the-efficiency-and-effectiveness-of-environmental-inspection-authorities>

²⁹ Cf. http://ec.europa.eu/dgs/secretariat_general/admin_burden/meas_data/meas_data_en.htm

hired for the administrative burden measurement exercise were screened for examples that could be taken up in this report.

It has to be noted that some of the examples from different sources overlapped. For instance, governments as well as business organisations have sent the same examples, or best practice examples from the Swedish Presidency Report have been submitted in an updated form.

In total, more than 300 examples were collected for the initial overview. All these examples are published together with this report on the HLG's website.³⁰

b) Pre-selection of examples

Once the initial list of examples had been compiled, the list as well as the information submitted on individual examples had been sent to HLG members after a first screening of the examples by members of the HLG's Secretariat in unit C1 of the Secretariat-General for specific features.³¹ The HLG members examined the examples and provided feedback on the quality of the examples. Some of the quality parameters used for the pre-selection included solidly measured savings potential, use of specific new methods or tools, such as risk-based approaches, advanced and/or special application of eGovernment solutions, examples of good cross-border cooperation, special tailoring of implementation for the benefit of SMEs etc. The HLG members also provided feedback regarding the need for additional information, recurrent themes or special characteristics within their respective areas. HLG members had informally involved stakeholders in this exercise. On the basis of the feedback by HLG members a reduced list of about 150 best practice examples had been produced and distributed to HLG members as input document for the HLG meeting on 14 July 2011.

It should be mentioned that the HLG had agreed early on in the process that the distribution of examples by geographical origin and by subject matter had not been a decisive criterion for pre-selecting the best practice examples. The main criterion for the HLG when selecting examples for the report was the quality of the example, not its origin. The HLG is convinced that there are good examples for implementing EU legislation in a less burdensome way in most Member States.

c) Verification of examples

One of the main challenges when producing this report was the verification of the examples, i.e. to find out if a submitted best practice example was indeed 'best practice'. In addition to the initial screening by the HLG members and members of the HLG's Secretariat, the HLG decided to launch a consultation of responsible Commission services, national governments, the CoR and targeted stakeholder organisations on the reduced list of best practice examples. The consultation took place during the months of July and August 2011. All those involved in the consultation process were asked to take a

³⁰ http://ec.europa.eu/dgs/secretariat_general/admin_burden/ind_stakeholders/ind_stakeholders_en.htm

³¹ E.g. information provided on measured administrative burden savings potential, eGovernment elements, relation to EU legislation, methodological character, gold-plating, cross-border elements, stage of implementation, clarification of complex legislation, solution tailored to specific needs, risk-based approaches, merging of different proceedings, end-user involvement, SME-focus.

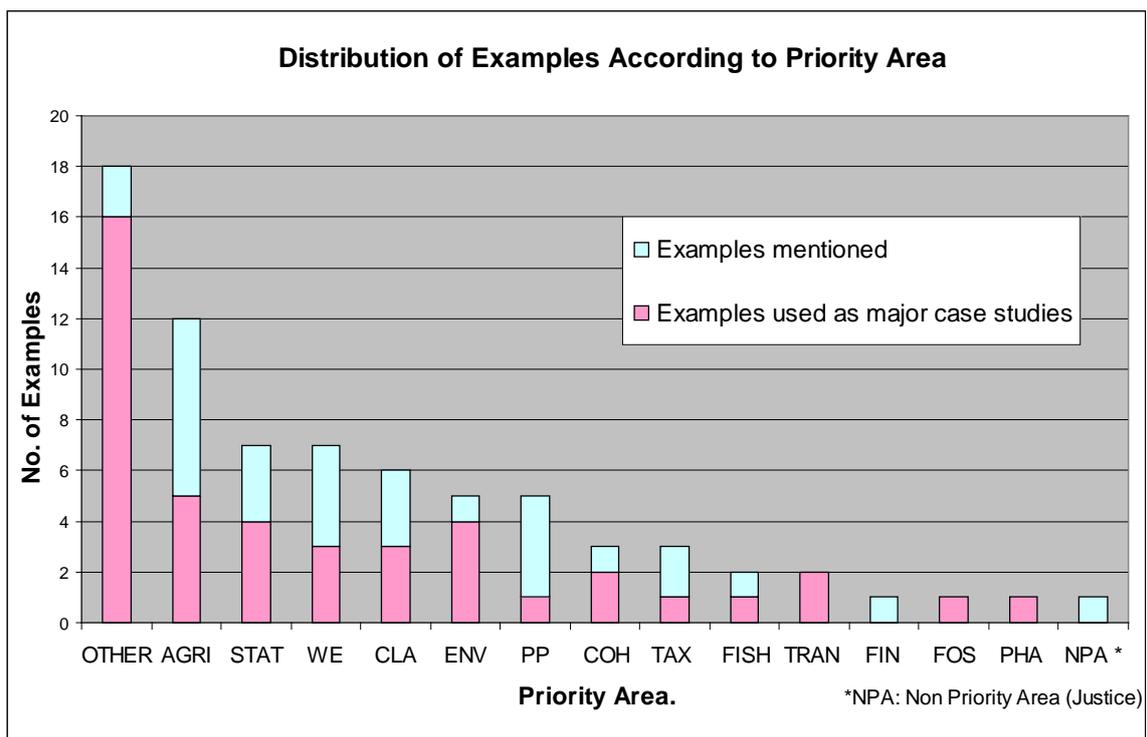
closer look in particular at those examples that had been submitted from other sources (e.g. whether stakeholder organisations agree with the examples submitted by governments and vice versa, whether Commission services shared the governments' or stakeholders' assessment of the examples etc.). Thus, national governments were able to assess whether they have transposed EU legislation in a similar way or even better than those Member States listed as best practice at that point.

The HLG strived for close involvement of stakeholders to the widest possible extent, since it was an essential objective for the group to identify best practice examples that really matter to businesses and not only examples that are judged as elegant by those responsible for their implementation.

As mentioned before, the HLG decided to go beyond a mere list of best practice examples for this report. Thus, the report analyses the examples with a view to identifying what characterises and drives the examples for implementing EU legislation in the least burdensome way.

d) Final selection of examples

The draft report was discussed during the HLG meetings on 22 September and 20 October and adopted by the HLG in its meeting in Warsaw on 15 November 2011.



For the abbreviations of the priority areas please cf. footnote 4.

IV. PROJECT OUTCOMES / BEST PRACTICES

Longum iter est per praecepta, breve et efficax per exempla. (The road to learning by precept is long, but by example short and effective.)

Seneca the Younger, Epistula Moraliū ad Luciliū

With the 44 best practice examples presented in dedicated boxes below the HLG aims at providing some 'shortcuts' to a national implementation of EU legislation that helps to reduce administrative burdens for businesses which may also as an added benefit simplify the life of public authorities as well. 30 additional good practices are briefly mentioned in the text outside of the boxes ('T1'-'T30'); more detail on all examples can be found in the original contributions that are published on the HLG's website. Annex 3 provides a short overview on all examples used in this report.

The examples presented below cover a range of areas and Member States. Analysis of the examples shows that some common features of smart implementation of EU legislation can be identified. The HLG has used the results of this analysis to feed into a checklist for good implementation of EU legislation which can be found in chapter VI.

1. Introduction

In addition to specific examples in individual areas the HLG has received a number of examples which present more general, cross-cutting approaches on smart regulation and good implementation of EU legislation. These examples will be presented first (below 2.). Then individual examples for specific issues or areas will be taken up (3.).

The HLG chose to present the examples by certain characteristics (e.g. digital solution). In addition, the HLG also examined which subject areas are predominant among the best practices submitted (3.j). By looking into reasons why some areas are more prone to reduction efforts than others, the HLG aimed at identifying additional characteristics for good implementation of EU legislation.

A final introductory remark concerns the intended beneficiaries of best practices: Although the Action Programme for Reducing Administrative Burdens was aimed at businesses, ideally both businesses and public authorities should benefit from best practices in implementing EU legislation. For the HLG this has also been a criterion for selecting the best practice examples featured in this report. Best practices are not intended simply to transfer costs from business to the public sector.

2. Best practices for cross-cutting approaches on smart regulation and good implementation of EU legislation

Some examples representing practices of a more general cross-cutting approach to smart regulation have been chosen to provide ideas for the development of different aspects of better or smart regulation at national level. In particular, some specific elements of

national smart regulation programmes are presented here in order to provide input for other Member States on how to organise these. In the HLG's view smart regulation programmes foster good implementation of EU legislation, since the officials responsible for the transposition and implementation of EU legislation are expected to strive for the least burdensome solution while drafting laws or implementing legislation.

Best practices on transposition of specific pieces of EU legislation are presented in section 3. This also covers some cross-cutting elements such as eGovernment or risk-based approaches that will be explained by means of specific examples of transposition of EU-legislation in different areas.

a) Smart/Better Regulation

Better or smart regulation programmes are well established in many Member States, and in some cases in a number of regions or local authorities. Meanwhile, it is common ground that regulation must be efficient and the least burdensome to allow businesses, citizens as well as administrations to concentrate on their everyday work and tasks. This also holds true for regulation that has its origin in EU legislation. Yet achieving this aim is a continuous process that calls for a cultural change of administrative procedures and perceptions of how to legislate across the EU. The need to promote this cultural change within both EU and national, regional and local administrations is one of the most important elements of the better regulation agenda.

The drive for this cultural change comes from a number of sources.

Firstly, regulators themselves are beginning to recognise that the desired sectoral policy objectives set out at political level are not necessarily best achieved by adding new regulation and information obligations, but more likely by applying a 'smart regulation' approach, i.e. the least burdensome regulation necessary to achieve the desired policy objectives. This may entail the need to also evaluate the entire stock of existing regulation within the sector in question. At EU-level a similar exercise has been initiated with the introduction of the so-called 'fitness checks'.³²

Secondly, the business community itself is pressing for a cultural change towards smarter, less burdensome regulation. Their objective is to be able to channel resources away from red tape towards tasks that have a direct positive impact on their commercial activities. This will help them to improve productivity and competitiveness – and ultimately profitability.

Thirdly, NGOs, trade unions etc. representing *inter alia* worker, consumer and environmental interests recognise the need to develop regulation that can achieve the policy objectives in the least burdensome way. In spite of a sometimes divergent public perception, NGOs, trade unions etc. on the one hand and the business community on the other hand can often agree on suggestions for least burdensome solutions. Most of the HLG's opinions on burden reduction suggestions, for instance, have been adopted unanimously, while fully acknowledging in the discussions that there may be diverging views on policy objectives.

³² Cf. http://ec.europa.eu/dgs/secretariat_general/evaluation/docs/fitness_check_en.pdf

How Member States have decided to meet this call for a cultural change differs. However, it is clear that with programmes for better regulation and national targets for administrative burden reduction across all Member States significant effort is put into this agenda at national level.

Although there are different approaches in the Member States on smart regulation there are features that are usually part of the respective programmes and that can be called best practice (for a comprehensive overview cf. Annex 7). Below some of these trends are presented.

(1) Simplification / Administrative Burden Reduction Programmes

By September 2009 all Member States had followed the invitation of the Spring 2007 Council to set ambitious national targets for reducing administrative burdens for businesses. Targets vary between -15% (Luxemburg, Malta) and -30% (Lithuania, Spain). These targets cannot be directly compared, as some Member States use gross targets, which only include the reduction potential of administrative burdens that have been removed, and others use net targets, where the negative effect of new burdens introduced over the same period is included in the calculation of the total reduction (by decreasing the extent of the positive reduction). Some Member States which have already completed or are about to complete their initial targets have set further targets (e.g. currently third target for the Netherlands) or new targets on issues such burdens for citizens (Austria) and compliance costs (Germany and the Netherlands).

The implementation of the national programmes has instigated a range of initiatives which are meant to improve the daily life of businesses. When looking for ways to reduce the burdens on businesses, Member States have explored different kinds of techniques to do so including eGovernment solutions, exemptions for certain types of businesses, decreased frequencies for transmission of data, limitations on the scope of information requests, alignment of reporting requirements for different pieces of legislation, reliance on samples, implementation of the only-once principle etc.

Some national better regulation programmes also refer to specific national approaches for implementation of EU legislation in regards to their overall approach to better regulation (e.g. Portugal, Germany and the UK). For example, in the Portuguese programme for better regulation one can among other things find a specific focus on a timely implementation of EU directives.

1 The Portuguese Simplegis Programme

The Portuguese Simplegis Programme follows up on previous better regulation initiatives and focuses on three objectives: to simplify legislation, to make laws more accessible for citizens and businesses and to better enforce laws. The programme explicitly takes account of the influence of EU legislation. As part of the simplification efforts the programme aims at having 'zero delays' in the transposition of EU directives, in order to allow citizens and businesses to benefit from harmonised legislation early on. 2010 saw the lowest number of new legislative decrees by the government within the last 10 years due to strict tests of necessity. For the future it is planned that the decree-laws and

implementing decrees that are published at the online version of the official journal are accompanied by a plain language summary, both in Portuguese and in English.³³

The Programme is estimated to save EUR 200m. of direct costs for citizens and businesses annually.

National reduction targets help to focus attention on the impacts of legislation for businesses. They can also be used as means to promote the administrative burden / simplification agenda. Additionally, including national legislation that transposes European legislation into national administrative burden reduction programmes and extending the reduction target on such legislation provides an extra driver for a less burdensome implementation. Germany, for example, has included all national legislation transposing EU directives into its baseline measurement, so that the national 25% reduction target is applied on such legislation as well. Similarly, institutionalised national processes which also include a specific focus on the implementation of EU-legislation in the context of their administrative burden / simplification programmes can support a better implementation of the better regulation agenda in general and of EU legislation in particular.

Furthermore, communication of the results of the administrative burden and simplification agenda is an important aspect. Several examples have been delivered that aim specifically at promoting the advantages and / or the concrete results of the better regulation initiatives, e.g. 'LET administration' in Denmark (T1). One of the objectives of most of these initiatives is addressing the problem of perceived burdens or the perception that not a lot has changed. These examples include specific communication tools (e.g. websites for collecting simplification suggestions³⁴) and a certain kind of certification / award for good initiatives or services, e.g. the 'Mark of Good Services'.

2 The 'Mark of Good Services', the Netherlands

In order to improve the municipal services to businesses, the Dutch government has developed the certificate 'Mark of Good Services' issued by the Regulatory Reform Group. The certificate provides municipalities with a reference framework to determine the quality of services to businesses and identify points for improvement. The framework is based on a system of standards for businesses which was developed in consultation with municipalities and SME- and industry organisations collecting the ten most important entrepreneurial wishes for municipal services. These standards allow the measurement and improvement of the quality of services provided to businesses; at the same time they set preconditions for municipalities and businesses (e.g. product catalogue containing the most relevant products for businesses on the municipalities' side,

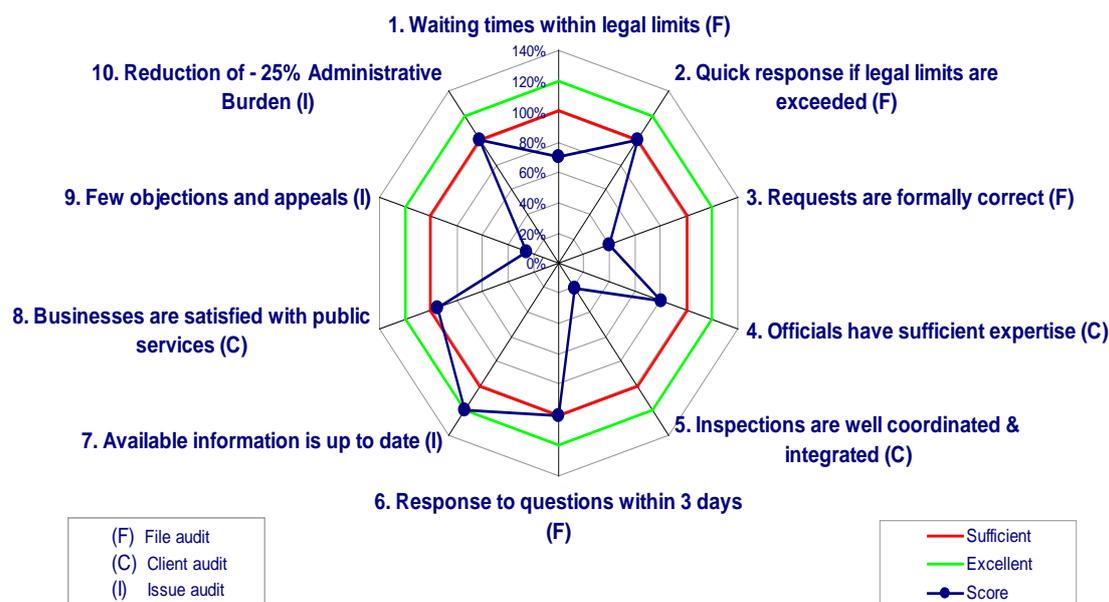
³³ Cf. <http://www.dre.pt/>

³⁴ Cf. Belgium, DAV (Dienst Administratieve Vereenvoudiging)/ ASA (Agence pour la Simplification Administrative) website: <http://www.simplification.be/showpage.php?iPageID=210&sLangCode=NL;>
UK (Business Link / Better Regulation Executive): <http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1084699441&type=PIP;>
Lombardy ('Semplific@ con noi'): <http://www.rl2.it/segnalazioni/>

commitment to submit applications in accordance with submission requirements and to respond to questions within the stipulated period on the businesses' side).

With the 'Mark of Good Services' companies know what they can expect from municipalities and municipalities know where they have to improve services based on measured standards. 88 out of 418 Dutch municipalities had fully implemented the certificate of good service by November 2011; the government aims at 200 municipalities covering about 70% of the population by early 2012.

- example of certificate of good services –



Simplification and administrative burden reduction efforts should naturally encompass sub-national levels as well, in particular but not limited to those cases where sub-national levels have legislative powers. In the Netherlands, for instance, there are agreements between provinces and municipalities on the one side and the state on the other side which include reduction targets on administrative burdens for citizens and businesses (actual agreement: 5% annually starting in 2012). The HLG has received several contributions on regional initiatives as well as one presentation on a recent initiative in Lombardy.

3 Simple Lombardy Agenda, Italy

The government of Lombardy devised a comprehensive simplification strategy in 2010 ("Agenda for the Simplification and Modernisation of Lombardy (2011-2015)"). It encompasses administrative/normative simplification, digitalisation and re-engineering of administrative processes at sub-national level. A broad range of stakeholders was consulted when designing the strategy and implementing the programme. Paying

particular attention to the end-user perspective, 47 processes with significant impacts on target groups were singled out during 2011 and mapped in order to measure administrative burdens and to analyse critical aspects of the processes. Apart from companies citizens and the public administration constitute target groups. According to an interesting incentive system, bonuses for directors were linked to the achievement of the set simplification processes. A checklist of ten questions was produced for people who draft administrative measures, in order to keep new burdens minimal. Moreover, a special training course for government officials has been designed.

(2) Impact Assessments

While the administrative burden reduction programmes in most cases focus only on the existing burdens in the stock of legislation, it also needs to be ensured that new legislation is not entailing new unnecessary burdens on the addressees. To achieve this, in a first step it is necessary to create transparency of the impacts of new regulations so that lawmakers as well as businesses and other stakeholders get to know intended and unintended impacts. Therefore, in several Member States it is obligatory for lawmakers to carry out an impact assessment prior to the final decision on the regulation. In impact assessments the regulation's objective, alternatives and social, environmental and economic impacts have to be described. In most Member States the economic impacts include the administrative burdens as well as other costs.

To achieve the desired change of culture as an overarching goal of smart regulation it is necessary that the civil servants involved in lawmaking be required to assess the impacts of the legislation they produce. Carrying out impact assessments and justifying the legislative proposals against the burdens created develops an impetus to keep the burdens to a minimum. Therefore, impact assessments – and ex-ante measurement of administrative burdens in particular – are of utmost importance to embed a better regulation mindset.

More information on national approaches to performing impact assessments can be found in annex 7 on the institutional set-up of better regulation activities in Member States.

(3) Institutional set-up / political backing for enforcing the smart regulation agenda

It is apparent from the overview of the institutional set-up in Member States (annex 7) that no uniform method of organising the better regulation agenda at national level exists. There are, however, some common features that are worth taking note of.

It seems that many Member States apply a systematic approach to better regulation, whereby the responsibility for implementing the overall strategy and monitoring the progress rests with a central minister or government agency. In Germany for example, the overall responsibility is with the State Minister in the Federal Chancellery and thus in the heart of the government. The State Minister chairs a Committee of State Secretaries on Bureaucracy Reduction meeting every second month and reports to Cabinet quarterly. This is a very important aspect as this centralisation creates the opportunity to make the rather abstract issue of better regulation visible to the public and raises awareness.

Furthermore, it conveys high-level political backing which is a key element for the success of better regulation programmes.

4 KAFKA in Belgium

The Kafka initiative was launched in 2003 as an innovative way to cut red tape. Enterprises and citizens could make suggestions online (through www.kafka.be) to abolish or simplify legislation. As a result more than 200 rules and laws were repealed or simplified. The success of Kafka is apparently linked to the publicity around the initiative and the political backing it received. There was a clear public link to the minister in charge who was recognised as 'the KAFKA face'.

All Member States have set specific targets and deadlines to spur the administrative burden reduction agenda ahead. The combination of administrative burden reduction programmes and the explicit description of administrative burdens in impact assessments of new regulations enable governments and the public to monitor the success of the respective programmes and to control the development of administrative burdens. Often this is secured by having the reduction targets being net-targets, i.e. new burdens have to be balanced by further reductions.

An important feature of some recent initiatives is to force policy makers to think twice before attempting to introduce new legislation involving additional administrative burdens on businesses. The idea is to underline the necessity to analyse and evaluate the need for regulation compared to other policy measures, self-regulation or 'soft law' that might achieve the same objectives. Whereas these initiatives prove popular with the business community, others fear that legislation that would be necessary to reach certain policy objectives will not be passed, or that regulation previously deemed to be necessary will be discarded and its objectives abandoned.

Below an example of the most recent high-profile initiative of this sort from the UK is presented. The HLG will follow the progress and results of this with particular interest keeping in mind both the expected benefits and risks.

5 One-in, One-out and small business moratorium on new UK regulation

The UK government has introduced a 'One-in, One-out'-approach (OIOO). This means that for all measures that fall within its scope, "... no new primary or secondary UK legislation which imposes costs on business or civil society organisations can be brought in without the identification of existing regulations with an equivalent value that can be removed." In practice if a department wishes to introduce regulation (an 'IN') that has a cost on business, it must, through either removing or amending existing regulation (an 'OUT'), produce a benefit of at least equal value to business. The initiative thus represents a special case of a 'net reduction target' introduced by several other governments (e.g. Germany, the Netherlands and Sweden) which is meant to ensure that the burden reduction efforts in one area are not thwarted by increased burdens in another area.

The UK independent scrutiny body, the Regulatory Policy Committee (RPC), performs a specific role with respect to the implementation of OIOO. The RPC is responsible for (1) validating that a department has correctly recognised the direction of its regulatory proposal (as a regulatory or deregulatory measure) in terms of either producing an 'IN' or an 'OUT', (2) validating that the size of the 'IN' or 'OUT' being claimed is robust and credible and has been calculated in accordance with the prevailing OIOO methodology; (3) validating claims by departments that their proposals are 'out of scope' of OIOO. With the external and independent scrutiny of the claimed costs and benefits on business, the UK government intends to add credibility to the process.

Furthermore, the government has introduced a three year moratorium for newly established and micro enterprises whereby they will be exempt from all new legislation that might impose burdens on them until March 2014.³⁵

While in most Member States the responsibility for monitoring better regulation remains exclusively within existing government structures, several national governments (Germany, The Netherlands, Sweden and the UK) have set up independent oversight committees (so-called 'watchdogs'). The Netherlands has been frontrunner and pioneer in embedding such an independent watchdog in its legislative procedure by setting up 'Actal' in 2000 and continuously enlarging its mandate.

The existing watchdogs are comprised of independent experts e.g. from the business community, the scientific community and experts with first hand experience from government. These watchdogs monitor and report on smart regulation. They are established as a safeguard to ensure that the respective government programmes deliver results. Most of them are involved in scrutinising the quality of impact assessments of new regulations to provide for utmost transparency of the impacts of new regulations. To involve independent watchdogs into the legislative procedure by giving them the power to scrutinise impact assessments provides an extra incentive for civil servants to do impact assessments properly and produce legislation with as few burdens as possible. It furthermore adds credibility to the respective smart regulation programmes by creating extraordinary transparency.

6 Regelrådet, Sweden

The Swedish Better Regulation Council (Regelrådet) is an independent government-appointed committee of inquiry. The Council has advisory standing in relation to the regulators' regular preparation and decision-making organisation.

Regelrådet examines the proposals for new and amended regulations that may have effects on the working conditions of enterprises, their competitiveness or other conditions affecting them. Furthermore, it has to consider whether the government and

³⁵ Cf. government guidance available at <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/g/11-1198-guidance-moratorium-on-new-domestic-regulation.doc>; guidance on One-in, One-out Methodology: <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/o/11-671-one-in-one-out-methodology>

administrative agencies under the government have carried out the statutory impact assessments and to assess whether new and amended regulations are designed to achieve their purpose in a simple way and at a relatively low administrative cost for enterprises. The Council assesses the quality of the impact assessments, follows developments in the area of better regulation and provides information and advice that can promote cost-conscious and effective regulation.

The mandate of Regelrådet was recently amended and its role as adviser emphasised. The mandate now specifically requests that the Council shall provide guidance on how impact assessments should be amended, if not satisfactory from the start. Upon request the Council shall also give advice to the committees of inquiry on how to conduct impact assessments. Regelrådet shall provide a systematic list of examples on how impacts of legislation can best be described. Furthermore, the Council shall review EU impact assessments on proposals considered to have great impact on business in Sweden and provide advice on the extent of a complementary Swedish impact assessment and what it should comprise.

(4) Direct stakeholder involvement and end-user involvement

Several examples have been submitted on ensuring end-user involvement in developing legislation, including EU legislation. Others deal with the involvement of the relevant stakeholders. Both are important to achieve the aim of better or smart regulation. While stakeholder involvement is meant to ensure that all different angles of a legislative initiative have been taken into account, end-user involvement is more targeted at involving those that will be subject to the practical application of the respective legislation.

7 Stakeholder and end-user involvement in the elaboration of the Action Plan for Improvement of Business Environment, Latvia

In Latvia, the Action Plan for Improvement of Business Environment is elaborated in close cooperation with entrepreneurs and representatives from business organisations. Areas and activities for the improvement of the business environment are identified by entrepreneurs (selected using statistical methods to ensure appropriate representation by area of activity, size, region, import/export etc.), via outcomes from international business environment assessments and business surveys performed every second year. The latter focuses on administrative and bureaucratic burdens in specific areas. In 2011, areas such as eGovernment, real estate registration or tax administration are included. The regular repetition during the last 10 years allows for assessing the identified problems and the specific characteristics of surveyed areas on a long-term perspective, thus providing a tool to evaluate the effectiveness of enacted reforms. For 2011 at least 700 responses are expected. These will then be included in a report that is discussed in expert working groups composed of ministries, NGOs, economists and entrepreneurs; the groups prepare suggestions and recommendations for reforms.

Draft regulations or proposals for the improvement of the business environment are also debated in the Economic Council which is an independent institution attached to the Ministry of Economics including representatives of NGOs from all sectors.

An example from Denmark actually involves first-hand experience of the challenges faced by businesses in complying with legislation by government officials themselves.

8 The Danish Burden Hunter project

An example of direct end-user involvement is the Danish Burden Hunter project. The starting point for the project was the experience gained from the work on reducing the amount of time spent by enterprises in complying with information obligations based on the standard cost model methodology. The Burden Hunter project wanted to go further by increasing the emphasis on the burden *experienced* by the enterprises - in other words the perceived burden.

Civil servants conducted visits to enterprises to experience first hand the regulatory challenges they face and to actively involve enterprises and allow them to identify the burdens that cause them most irritation. One of the main ideas behind this approach is a change of perspective for those making and applying the rules to see what the implementation of these rules on 'the other side' means in practice. This user-centric approach allowed businesses themselves to set the agenda for regulatory action and help develop solutions to reduce administrative burdens. It also focused on achieving a holistic understanding of the enterprises' day to day routines and experience with the authorities.

The application of the Burden Hunter method led to the identification of a number of new initiatives to reduce burdens. One example concerns the 'holiday request form' for employees. The findings from applying the method resulted in changing administrative processes and the national regulation in order for the form to be digitalised. The form can now be generated automatically which leads to substantial savings regarding postage expenditure and time savings for authorities, employees and businesses. It is estimated that the digital service has the potential to replace an estimated annual 3 m. holiday request paper forms by the time the service is fully implemented.

A number of portals have been created for submitting ideas on reducing red tape.³⁶ The Belgian Kafka-initiative as one of the pioneer examples has already been mentioned above. A recent initiative is mentioned in the box below.

9 The Red Tape Challenge, UK

The UK government has created the 'Red Tape Challenge', a website for businesses and citizens to submit comments as to which regulations are working and which are not; what should be scrapped, what should be saved and what should be simplified.³⁷ At regular intervals regulations affecting one specific sector or industry are published, alongside the general regulations that cut across all sectors. Businesses can comment on the

³⁶ The Norwegian government has launched a new initiative on 17 October 2011, explaining simplification via videos in the context of a football game; cf. www.enklereregler.no.

³⁷ <http://www.redtapechallenge.cabinetoffice.gov.uk/home/index/>

regulations, and ministers then have three months to work out which regulations they want to keep. Since there is a default presumption that burdensome regulations will have to go, the ministries will have to make a very good case for them to stay. The initiative and the reversed burden of proof is an interesting way of promoting open discussion of ways in which the aims of existing regulation can be fulfilled in the least burdensome way possible.

Annex 7 on the institutional set-up of better regulation activities in Member States contains further information on national approaches to stakeholder consultation. A thorough involvement of both stakeholders and end-users will most often help to ensure that legislation is formulated in the least burdensome way for the businesses / people it will affect.

(5) Compliance costs: going beyond administrative burdens

In 2007 the OECD and the World Bank have issued a report on the Dutch approach to reduce administrative burden, in which it was recommended to broaden the regulatory reform focus from administrative burdens to broader impacts of regulation, and in particular compliance costs, i.e. the entire measurable time and costs for complying with statutory provisions. The main reason was that business felt that the reduction measures of the Dutch administrative burden reduction programme were not going far enough. It became obvious that administrative burdens are indeed an important part of the burdens which businesses are faced with, but much lower compared to the full regulatory costs.

Similar experience has been made in other Member States so that a general international trend seems to evolve which extends smart regulation programmes to compliance costs (NL, SE, UK). Nevertheless, as administrative burdens are considered to be part of compliance costs, they need to remain an indispensable part of the smart regulation agenda.

10 Broadening the scope of smart regulation in Germany

On 27 January 2010 the German government broadened the scope of its smart regulation approach amongst other things to compliance costs. The government set the target to reduce 25 % of the compliance costs in 8 policy areas, e.g. planning and building law for infrastructure projects, tax declarations (obligations to provide supporting documents for tax and customs affairs), harmonisation and shortening of the retention periods and evaluation periods for commercial, tax and social law.

Furthermore, with the recent amendment of the law on the establishment of a National Regulatory Control Council as of 16 March 2011, the Normenkontrollrat has the mandate to scrutinise not only administrative burdens but also compliance costs of new regulations for businesses, citizens and administrations prior to Cabinet decision. This enables the Council to scrutinise the full regulatory burden and ensures that those impacts become transparent for any new legislation.

In order remain robust in the political debate, a method of calculating the impact of compliance costs in a comprehensible, sound and commonly accepted way had to be elaborated. This methodology was developed on the basis of the standard cost model and agreed upon by the Normenkontrollrat and the Federal government.³⁸ As regards the scrutiny of compliance costs in new legislation, a similar mandate has been given to the Dutch independent watchdog Actal.

(6) Common commencement dates

Frequent changes of legislation can also cause (administrative) burdens for businesses, and in particular small businesses which have to change their processes, adapt electronic systems etc. An idea addressing that problem can be seen in so-called common commencement dates meaning that business-related legislation comes into force on a limited number of fixed dates, with a view to ensuring a more streamlined flow and early information on new regulation. The idea has already been taken up in the Small Business Act³⁹ based on a system introduced in the UK.

11 Common Commencement dates, UK

In the UK most new laws affecting businesses come into force on one of two common commencement dates each year (6 April and 1 October). This enables companies to prepare their business for the introduction of new or changed requirements.

The respective government website⁴⁰ provides information on regulation expected to enter into force on either of the two dates. In addition, it provides links to regulation updates for detailed guidance on regulations that are about to or have recently come into force. Moreover, businesses can sign up for a regulation update email alert service. The website also encompasses a link to a 'Statement of New Regulation' presenting an overview of all regulations implemented or planned to be implemented in a certain period.

Finally, the website also includes an opportunity for businesses to submit suggestions to improve regulation, thus encouraging close stakeholder involvement, as well as a link to the Red Tape Challenge website.

Other Member States such as the Netherlands and Sweden have similar systems (general common commencement dates in Sweden are 1 January and 1 July), sometimes not limited to business legislation. In the HLG's view the Member States and the

³⁸ http://www.normenkontrollrat.bund.de/Webs/NKR/Content/DE/Publikationen/2011-07-20-leitfaden-erf_C3_BCllungsaufwand.html

³⁹ Cf. COM(2008)394 "Think Small First – A 'Small Business Act' for Europe", p. 7; cf. also http://ec.europa.eu/enterprise/policies/sme/business-environment/common-commencement-dates/index_en.htm#h2-common-commencement-dates-at-eu-level

⁴⁰ Cf. <http://www.businesslink.gov.uk/bdotg/action/detail?type=ONEOFFPAGE&itemId=1075320304#>

Commission should consider harmonising these common commencement dates to the extent possible, so that business can profit even more.

b) Cross-cutting approaches on good implementation of EU legislation

In addition to best practices as regards smart regulation the HLG received several examples that represent cross-cutting approaches on good implementation of EU-legislation. These approaches feature good implementation of EU legislation in general, i.e. not in the context of a concrete piece of legislation.

(1) Gold-plating

Several examples received by Member States refer to the issue of gold-plating, both by examples on individual pieces of legislation where it is claimed that gold-plating has been reduced or eliminated and by examples of (procedural) safeguards in order to avoid gold-plating when transposing EU legislation.

The HLG recognises that the term 'gold-plating' is used in different ways. In its Communication on Smart Regulation⁴¹ the Commission provides a broad definition of gold-plating. This also covers higher standards etc. going beyond minimum requirements in the areas where this is possible according to EU law, while in the context of the measurement of administrative burdens the term has been used in a narrower sense, i.e. linked to information obligations going beyond EU requirements such as an increased frequency of reporting, requesting more information than necessary, requesting information that has already been delivered to other authorities or including more businesses than required etc. With respect to gold-plating linked to higher standards etc., it needs to be mentioned that in certain areas such as environment, consumer protection and working environment EU legislation indeed frequently prescribes minimum requirements or framework legislation; some EU legislation also contains optional provisions. In these cases, the respective national legislative bodies may exceed the minimum requirements or complete the framework and allow for enhanced protection or stricter requirements or standards in their national legislation, since a harmonisation on the highest level was not possible. In some cases this might lead to administrative burdens which cannot automatically be considered 'unnecessary'. In addition, Member States may sometimes combine transposition measures with a wider updating or consolidation of existing regulation for the sector concerned.

Administrative requirements that go beyond what is required by EU legislation and in most cases differ between Member States or even regions can be annoying for businesses, in particular if competitors in other Member States are not faced with them. When proposing a transposition or implementing measure, Member States should always identify clearly which provisions are required under EU law and which provisions are proposed at the initiative of the national government, together with a clear explanation of

⁴¹ Cf. footnote 15 of COM(2010)543: "Gold-plating refers to the practice of national bodies going beyond what is required in EU legislation when transposing or implementing it at Member State level."; http://ec.europa.eu/governance/better_regulation/glossary_en.htm#_G.

the reason for these 'additional' provisions. In this context, the HLG recommends that Member States justify their decisions and explain their motives to the public – similar to 'comply or explain'-approaches applied in corporate governance,⁴² since even in cases when there may be good reasons for going beyond EU requirements, it is important to communicate these reasons (and allow for a public discussion). Gold-plating in the sense of creating unnecessary administrative requirements and burden for companies by e.g. introducing an increased frequency of reporting, requesting more information than necessary, requesting information that has already been delivered to other authorities or including more businesses than required etc. should be avoided in any case.

Since there are multiple ways of gold-plating, there are also multiple opportunities for reducing gold-plating. Some Member States have delivered examples on reducing gold-plating for individual acts. For instance, Italy has presented an example of reduced gold-plating in the Personal Data Protection Code (T2). Others have provided examples for best practices in avoiding gold-plating in the first place. The HLG sees the latter examples indeed as best practices, since they provide a systematic approach to avoiding burdensome implementation of EU legislation.

12 Independent assessment of gold-plating in Germany

With the recent amendment of the law on the establishment of a National Regulatory Control Council in Germany, the Normenkontrollrat has the mandate to scrutinise not only administrative burdens and compliance costs of new regulations, but also to assess whether the new regulation comprises gold-plating. According to the respective guidelines impact assessments on new proposals transposing EU legislation should have an explanation if the proposal goes beyond the requirements of the European legislation. So far, such an explanation has been rare in impact assessments. Therefore, the Normenkontrollrat will thoroughly monitor compliance with this obligation and issue a request to the respective line ministry if needed.

It needs to be kept in mind that there are basically two different scenarios in which gold-plating in terms of administrative requirements or higher standards can occur: first, during or after the transposition process when the national or regional legislator deliberately decides to add requirements on top of new EU requirements ('active' gold-plating); second, when new EU legislation (partly) replaces already existing national legislation and the legislator refrains from abolishing existing legislation going beyond the newly introduced EU legislation ('passive' gold-plating). In the latter case, the national or regional legislator generally checks whether the existing legislation concurs with the EU requirements, but not necessarily whether there are excessive or unnecessary national requirements that could be eliminated at the same time. Doing so should actually be considered best practice.

⁴² For more information on "comply or explain" cf. a study on the monitoring and enforcement systems concerning Member States' corporate governance codes, available on http://ec.europa.eu/internal_market/company/ecgforum/studies_en.htm

13 The UK's new transposition framework

The UK government has challenged policy and decision makers to "end the so-called 'gold-plating' of EU rules, so that British businesses are not disadvantaged relative to their European competitors". The UK has been driving a programme of work in recent years to ensure that the implementation of EU legislation will not adversely impact on the competitiveness of British businesses. Most recently, the government published 'Guiding Principles' for EU legislation which all government departments must abide by when transposing EU legislation. The government also published specific guidance on how to implement EU directives effectively. When transposing directives, government services are required to explain any gold-plating in their impact assessment which must in turn be considered by the RPC and cleared by the Reducing Regulation Committee. This explicitly includes checking whether pre-existing UK standards are retained which are higher than those required by the directive.⁴³ Finally, government services are also required to check whether maximum streamlining has been achieved between the new and existing regimes taking into account the whole area of legislation on which a directive impacts, in order to avoid overlapping or contradictory provisions.

(2) SME-focus

SMEs form a specific group of stakeholders and end-users. In general, information obligations impose a proportionally higher burden on SMEs and often especially on the smallest ones.⁴⁴ For instance, due to their size most SMEs do not have in-house staff with specialised knowledge on all regulatory matters, which forces them to rely on (potentially expensive) external resources. A recent initiative by the German government in cooperation with SME organisations is meant to address this problem.

14 The SME-monitor, Germany

An interesting project for specific stakeholder (SME) involvement is the SME-monitor operated by the German Federal Ministry of Economics and Technology. The SME-monitor provides SMEs with a tool to get information on planned initiatives relevant for SMEs early on in the process and to get involved in ongoing activities and consultations. In cooperation with SME organisations the Ministry reviews the initiatives listed in the Commission Work Programme on their relevance for SMEs and marks them according to a traffic light system (red – strong relevance for SMEs expected, yellow – possibly relevant for SMEs, green – not relevant for SMEs). The SME-monitor was first published

⁴³ Cf. <http://www.bis.gov.uk/policies/better-regulation/policy/european-legislation/guiding-principles-eu-legislation> which includes a link to the specific transposition guidance for an effective implementation of EU directives

⁴⁴ Cf. COM(2009)544, p. 5

in April 2011. It is updated annually and provides links to past and ongoing consultations, roadmaps and further information published by the Commission.⁴⁵

In addition to the external function in relation to SMEs and SME organisations, the monitor also fulfils an internal government function, in that remarks by SMEs on how SME concerns can be addressed are included in the list and forwarded to the ministries responsible for the further (legislative) proceedings. The list can also be channelled into dialogue with other policymakers and lobbyists to raise awareness among stakeholders of the importance of selected initiatives for SMEs. Thus, the monitor represents an important tool in striving to avoid unnecessary administrative burdens and promoting the search for SME-friendly options.

The clear-cut classification helps focusing SMEs' attention on those initiatives likely to be most relevant for their business. The concept might be transferred to other areas and stakeholders.

- excerpt from *SME-monitor* -

No.	COM CWP	COM GD	Title	Subject-matter and objective, process	Add. remarks	SME relevance
19	I-19	EMPL	Review of Directive 2003/88/EC; legislative	Objectives of the review are the adaptation of the directive to new circumstances due to recent developments in patterns of work and a clearer design of the implementation, in particular concerning on-call duties. The extent of the review will be determined taking into account the consultation of the social partners.	Expected adoption: 3 rd quarter 2011; link to info by COM, link to roadmap	Yes
101	Ila-61		Social Business Initiative	The objective of the initiative is to promote social business and its development in the Single market.	Possible initiative, tabled for review	Possible
169	Iib-37		Proposal to introduce common standards for gathering evidence in criminal matters	The legislative initiative aims at facilitating the (mutual) recognition of (obtaining) evidence	Expected adoption: 2012	No

(3) Use of options for exemptions or lighter regimes

In some cases directives allow the Member States to make use of exemptions or lighter regimes. The use of such options can substantially reduce administrative burdens, as the case may be. An illustrative example is the possibility of exempting small companies from statutory audits as mentioned in the July 2008 opinion of the HLG on company law.

⁴⁵ Cf. <http://bmwi.de/BMWi/Navigation/Europa/eu-mittelstandsmonitor.html>

If all Member States made full use of this option, it is estimated that this would entail an additional reduction of administrative burdens of up to EUR 584 million.⁴⁶

On the other hand, Member States need to make sure when using derogations that they do not introduce 27 different – maybe even more burdensome – sets of rules that lead to an unintended fragmentation of the single market.

A good example for a general approach concerning the use of options for exemptions or lighter regimes is the UK's new transposition framework presented above. The guidance on transposing directives and avoiding gold-plating also requires an explanation by the responsible service within the impact assessment as well as scrutiny by the RPC and clearance by the Reducing Regulation Committee in cases where the proposed transposition does not take full advantage of any derogation which keep requirements to a minimum. Specific examples for individual pieces of legislation can be found in section 3.

(4) Behavioural insights

Governments have always used a wide range of tools to achieve policy objectives. ‘Traditional’ tools, including legislation and regulation or fiscal measures – tax and spending – have been used throughout history to provide incentives to people to behave in certain ways. Many of the most dramatic improvements in the quality of life of citizens have resulted from the use of instruments of this kind.

The background thinking here is that many of the most pressing public policy issues faced today are equally influenced by how individuals behave. Everyone can cite instances in which we know that we should act differently in our own self interest or in the wider interest, but for one reason or another do not. The traditional tools of government have proven to be less successful in addressing some of these behavioural problems. Thus, some governments have started to think about ways of supplementing the more traditional tools of government, with policy that helps to encourage behaviour change of this kind.

In some areas EU legislation prescribes the obligation for Member States to obtain a certain outcome, but not the exact method whereby the outcome is to be achieved. For instance, within the area of statistics an EU legal act might be explicit on the data that has to be delivered by Member States to Eurostat, but not how the data is to be collected. In these instances, making use of behavioural insights may foster concrete suggestions that lead to both higher compliance and lower actual and perceived burdens on business.⁴⁷

⁴⁶ Cf. para. 33 of 10 July 2008 HLG opinion, http://ec.europa.eu/enterprise/policies/smart-regulation/files/080710_hlg_op_comp_law_final_en.pdf; Report prepared by Cap Gemini, Deloitte and Ramboll Management on Administrative Burden in Company Law, http://ec.europa.eu/dgs/secretariat_general/admin_burden/meas_data/meas_data_en.htm

⁴⁷ While application of behavioural insights can lead to reduced administrative burdens, this is not necessarily always the case, for example when the objective is to influence the behaviour of the end-users rather than the entities to be regulated.

15 Behavioural Insights Team, nudge unit, UK

In the UK a 'Behavioural Insights Team' has been established to help the government develop and apply lessons from behavioural economics and behavioural science to public policy making. In short, it supports government departments in designing policy that better reflects how people really behave, not how they are assumed to behave. And in doing so, it supports the Coalition Government's commitment to reducing regulatory burdens on business and society, and achieving its goals as cheaply and effectively as possible.

The Behavioural Insights Team is based in the Cabinet Office, and is composed of a small group of civil servants, drawing on academic and empirical evidence from the world's leading behavioural economists and behavioural scientists.

(5) Fora for exchange of best practices

The present report is meant to address a very specific area, i.e. best practices for implementing EU legislation in the least burdensome way. Its objective is to instigate an exchange of best practices in order to reduce costs for businesses. In this context it needs to be mentioned that there are already (several) websites and expert groups on EU-level aiming at supporting the exchange of best practices. An interesting example is www.epractice.eu which is administered by the European Commission, with more than 1000 best practice examples in the database. The purpose of this site is to facilitate the exchange of advice, experience and events within the areas of eGovernment, eInclusion and Interoperability. Furthermore, there are various sector-specific examples of fora for best practice exchange. The HLG has compiled a non-exhaustive overview of websites and expert groups on EU-level dealing with best practice in annex 5, in order to facilitate best practice exchange.

(6) General approaches to guidance

In order to be able to comply with legislation, those concerned by the legislation must be enabled to understand what is expected from them. This requires in the first place that the wording of the legislation is of high quality, yet at the same time as easy to understand as possible. To this end, some governments such as the German government have created internal checkpoints where officials exclusively deal with the comprehensibility of draft legislation.

However, since legislation often regulates complex issues, in the second place it is indispensable in many instances that the administration provides good guidance that is easily accessible and available well before the respective legal obligations enter into force. In producing guidance the target group needs to be addressed in an appropriate way, ideally containing simple explanations specifically targeted at those concerned by the legislation as well as practical examples on the way in which obligations can be met. In this context the UK government has produced a 3-page guide on drafting guidance for

a prominent target group, i.e. small businesses,⁴⁸ which can be used as a checklist for preparing guidance.

3. Sectoral best practices by characteristics/drivers

In this section individual best practices are presented by characteristics and drivers, i.e. identifying the elements of the practices that make them 'best' practices. Additional information on the examples mentioned in this part can be found in the original contributions that are published on the HLG's website. Annex 3 provides a short overview on all examples used in this report.

a) eGovernment

One of the initial expectations of the HLG had been that a high share of examples will be related to eGovernment solutions and digitalisation of processes. Indeed, a closer examination of the examples selected for the report shows that more than half of the examples make use of eGovernment in respect to the implementation of EU legislation. eGovernment more specifically refers to governments' use of information technology in their relations to businesses, citizens or regarding internal government management. The aim of eGovernment is to deliver better government services, ensure better interaction with citizens and businesses and more efficient administrative processes.

The initiatives submitted contain different eGovernment features such as websites with information or more advanced portals where different administrative procedures and reporting can be made digitally. In the application of eGovernment, approaches for re-use of data among public authorities also appear as a recurrent feature. These are all features that support both efficient and good quality implementation of EU legislation and the HLG highly supports the use of digital solutions when implementing EU legislation. In fact the HLG recommends that the use of information technology is taken into account already when formulating legislation at EU-, national, regional and local level. This way Member States can avoid creating barriers for digitalisation in legislation such as a demand for hand written signatures, physical presence etc. The HLG also notes the need to avoid similar problems in connection to e-identification, and recommends the mutual recognition of e-signatures etc. in order to facilitate their cross-border use. Taking account of information technology already when formulating legislation can also help ensure that new information obligations and corresponding digital systems attempt to follow businesses' workflow, which makes it easier for businesses to re-use their existing data.

Below a selection of examples that reflect an interesting use of eGovernment will be presented.

⁴⁸ "Getting your message across: advice on drafting guidance for small businesses", <http://www.bis.gov.uk/policies/enterprise-and-business-support/business-environment/better-guidance>

(1) eGovernment portals

The examples received for the report show a large proportion of eGovernment portals of either a more general character, such as general business portals, or portals dedicated to more specific professional areas such as agriculture, fishery, pharmaceutical industry etc. The portals are usually characterised by providing a single point of contact where businesses can gain access to a multitude of 'services' - often provided by different authorities. One stop-shop is the name often used to characterise the portals. The portals normally provide general information for businesses, but the more advanced portals also often have features such as 'log-in functions' in order to grant businesses access to send data to public authorities in a secure way. Similarly, the portals often grant access to 'personalised data' on the businesses, i.e. data on the businesses registered with the public authorities from previous reporting.

An important feature of these portals is that the processes are related to businesses' existing procedures, in order for them not to have to produce new data, but re-use existing data generated for their current internal procedures. In order to achieve these results, it is essential to involve the end-users when developing these kinds of portals or websites.

16 The UK farming theme, integrated in the general business link portal

The UK's Business Link portal (www.businesslink.gov.uk) is the government's online resource for businesses containing essential information, support and services, including best practice case studies. For the agricultural sector, originally an independent portal had been developed ('whole farm approach') bringing together advice, guidance, self assessment tools and services into one easily accessible location. By now, the farming theme is one of many sectoral themes of the portal.

The portal is interesting from different perspectives. First of all it was originally developed in cooperation with farmers, thus putting the end-user at the centre of the digital services. Secondly, the integration with the business portal shows a highly developed, encompassing and easily accessible one-stop-shop for businesses. Thirdly, the farming theme of the business portal will play an important role in applying the 'digital first' approach (i.e. that the digital channel should be used as the primary communication source with the public authorities) recommended by the British Farming Regulation Task Force Review in May 2011.⁴⁹ Finally, it is expected that a planned rollout of improved rural broad band access and a steadily increasing range of services will help user numbers to grow – driving the delivery of both cost saving and more benefits.

The portal includes an overview with links to farming services online. Among other things the farming theme implements the single payment scheme for farmers (Regulation (EC) No 73/2009). Farmers can for instance download pre-populated direct payment applications, track existing applications and view claim and entitlement statements (27,000 users). Other services include the Cattle Tracing System Online (37,000 users). Furthermore, there is an interesting selection of guidance and self-assessment tools, e.g. a Cross Compliance Self Assessment Tool. Links to cross-sectional aspects are provided as

⁴⁹ Cf. <http://www.defra.gov.uk/publications/2011/05/17/pb13527farming-reg-report/>

well, e.g. farm business planning (guidance and tools for farm business benchmarking, budgeting and managing tax), environmental resources, waste management, animal/plant health etc.

A high number of other interesting portal solutions and one stop shops have been submitted to the HLG, and it is not possible to mention all in this report. Interesting solutions include for instance the Bulgarian single entry point for reporting fiscal and statistical information (T3), the Austrian portal FinanzOnline (T4) and the Finnish portal palkka.fi (T5) for facilitating the fulfilment of employer obligations, to mention but a few.

eGovernment portals also play a crucial role when Member States develop cross-border services for businesses. Obviously, the internet is the most widespread tool for cross border services. However, the cross border element poses different challenges for both public authorities and businesses in the Member States. For example, the cross border aspect puts a great demand on the development of services in different languages. Furthermore, digital cross border services are challenged by issues such as the mutual recognition of national electronic signatures in order to be able to facilitate a full completion of electronic procedures. These are difficult challenges, but work is in progress. On the latter point, in 2012 the Commission will launch proposals regarding a revision of the e-signature and e-identification directive as well as a proposal for mutual recognition of e-identification and e-authentication, which should support a development in this area among Member States.

17 Implementation of the Services Directive – The Swedish Single Point of Contact - www.verksamt.se

The objective of the Services Directive (Directive 2006/123/EC) is to provide a legal framework to eliminate the obstacles of the freedom of establishment for service providers and the free movement of services between the Member States. The Services Directive obliged Member States to set up 'Points of Single Contact' (PSC), by end 2009. The PSCs are eGovernment portals that should allow businesses to obtain all relevant information and to complete all necessary procedures relating to the start-up of a business and to the cross-border provision of services online.

The Swedish PSC is based on the country's existing eGovernment portal for businesses. Through this portal it is possible to complete a large number of procedures electronically when e.g. starting-up a new business: it is possible to register your company, apply for relevant business licenses and apply for a VAT number online. Information and application forms are available in Swedish and English for a large number of procedures and can be submitted electronically

As the creation of PSCs is obligatory, similar solutions can be found in all Member States. The Swedish PSC has *inter alia* been selected as a best practice because it already provides a high number of services in English. Furthermore, the Swedish PSC goes beyond the requirements of the Services Directive by offering procedures that are not dealt with by the Directive (such as tax) and sectors that are excluded from scope (such as the medical professions or transport services). That these additional services are offered

in the context of the PSC provide businesses with even more advantages than already required by the Services Directive.

Another interesting portal with some special features can be found in Luxembourg.

18 The Luxembourg eGovernment flagship www.Guichet.lu

Luxembourg has developed the Point of Single Contact as part of their general eGovernment flagship: Le Guichet. It is a 'one-stop-shop' that provides a comprehensive and integrated system for the electronic exchange of information between authorities, citizens and businesses. The portal offers services and information for citizens in both French and German, and services and information for businesses in French and English. At the site it is possible to find information and apply for setting up a new business. Also information on tax issues, human resource issues etc. can be found. Additionally, in the context of the portal Luxembourg is involved in a collaboration among different Member States on how to provide simple online procedures for cross-border services. Finally, Guichet.lu is also available in a mobile interface and can be accessed through the most common smartphones.

It is worth mentioning that activities in Member States on improving services and simplifying the business environment, in particular for SMEs, have gained momentum in recent years and months. Thus, a number of other interesting examples have been submitted in this area. For instance, in Slovenia the registration time for companies has been reduced from 60 days to a maximum of three days with the introduction of the e-VEM portal (T6). Furthermore, in a meeting with the EU SME Envoy⁵⁰ in Brussels on 14 September 2011, the SME Envoys from the 27 Member States signed up to the target of making it possible in all Member States to start a business in 3 days at a cost of no more than EUR 100.⁵¹ The various Single Points of Contact will play a crucial role in achieving this target.

⁵⁰ The EU SME Envoy is appointed by the Commission and works to open up channels of communication between the Commission and SMEs, and their representative organisations. The EU SME envoy acts as the promoter of SMEs' interests throughout the whole of the Commission ensuring in particular that the 'Think Small First' principle is being applied effectively. Additionally, each Member state has appointed SME Envoys that similarly work to promote the interests of SMEs at national level and to ensure a greater representation of SME interests at all levels of policy-making. Furthermore, the national SME envoys act as the main interface between the European Commission and national policy-makers for contributing towards the dialogue on the implementation of the small Business Act. . http://ec.europa.eu/enterprise/policies/sme/small-business-act/sme-envoy/index_en.htm

⁵¹ Cf. http://ec.europa.eu/enterprise/newsroom/cf/itemlongdetail.cfm?item_id=5398&lang=en&tpa_id=0&displayType=news; for an overview on one-stop-shops including time and costs for start-up procedures in Member States in 2010 please cf. http://ec.europa.eu/enterprise/policies/sme/business-environment/files/startups2010_en.pdf

(2) Re-use of data

An interesting feature for several of the examples received is the focus on public authorities' re-use of data that businesses and citizens have already provided. The aim is to reduce the level of administrative burdens on businesses and citizens by only asking them to hand in data once. This is crucial, as providing the same – or similar – data to regulators is the example most frequently mentioned by businesses when pointing to 'irritation burdens'.

19 Re-use of data for agricultural statistics, Germany

Data on the number and type of cattle for the livestock survey which is to be carried out twice a year is now derived from existing administrative sources (cattle register) without separate requests for information to the farmers. This concerns about 150,000 cattle farmers.

The degree of sophistication of the system is quite ambitious and requires *inter alia* a certain financial investment. A system adapted to small countries can be found in Luxembourg.

Reusing data requires digital systems that can interact and thereby provide data across different levels of government. Therefore, the extent to which re-use of data occurs in the different Member States depends mainly on the maturity of the digital systems in the administrations. Although the HLG welcomes initiatives that support the re-use of data within public administrations, the Group also underlines the importance of not just reversing the burden of providing data to the public administrations, but actually achieving time savings through re-use of data. Therefore it is important that when Member States formulate new objectives for re-use of data, that these objectives reflect an investment plan in digital systems which ensures that the digital solutions in a fairly short time period can guarantee a return of investment in the form of saved man-hours.

Although the digital development is crucial for the Member States' initiatives to re-use data, the specific countries' traditions for enforcing the protection of businesses' and citizens' data is often just as crucial. Allowing data that has been collected for one purpose to be used in another context is not always simple. First, specific data might be sensitive. Secondly, an increased re-use of data might also provoke fear of misuse of data and unjustified surveillance.

However, it is clear that re-use of data can save a lot of time and money for both businesses, citizens and public authorities and the technological developments open new possibilities for an efficient re-use of data. The important thing is to strike the right balance between the level of efficient re-use and the protection of data.

20 Use of VAT data for statistical purposes, Lithuania

Statistics Lithuania is using VAT data from the State Tax Inspectorate database for statistical purposes. The VAT data partly replaces data for the Short Term Statistics

survey on industrial activity collected separately before. The replacement started as an experiment in 2008, and was fully implemented in 2010. As a result, 12% of small enterprises sampled for the industry survey do not need to fill in the statistical questionnaire.

The submitted examples show that re-use of data is implemented in many areas, not least in the area of statistics where businesses often register data that they have already submitted for other purposes. Another prominent area in this respect is managing European funds, where re-use of data is also a central tool to ensure a smooth implementation of EU legislation. The two boxes below present two examples with a central focus on re-use or sharing of data among public authorities are presented. One is a specific technical approach to sharing of data; the other is a general approach to encourage re-use of data among public authorities.

21 The Welsh online European Funding office portal – WEFO Online⁵²

As part of a general modernisation of the Welsh European Funding Office (WEFO) a new business process has been implemented in the shape of an interactive portal for beneficiaries and staff. A so-called 'clearing house' – an IT-system for managing structural / cohesion fund interventions⁵³ and for the exchange of data among the relevant authorities – is part of the portal. The clearing house provides a platform to store and share data among different authorities so that the beneficiaries are asked to provide data and information only once within the application process, entailing an evident reduction of administrative burdens. The 'clearing house' consists of 3 elements: 1) the Programme and Project Information Management System that stores application information documents electronically; 2) The beneficiaries are enabled to provide all data requested for compliance, and data is stored in a database system which all authorities and bodies can consult; 3) clear guidelines are available on the information requested and the level of detail that is needed.

Compared to the previous situation based on paper application the new system provides real time information on beneficiaries' projects and records, automatic validation and fully online service. Previously, about 30% of manual claims submitted needed an element of re-work, this has been virtually eliminated due to the mandatory electronic submission. Beneficiaries receive quicker and more certain information about their claims (96% within 15 days). Automated reports, innovative data reporting options, better audit trails and more possibilities for sharing information represent some of the advantages of improved management and better compliance.

It is worth noting that the staff of WEFO's payment team could be reduced from 40 to 16. In addition, parts of the system are also re-used in other areas of government, e.g. the secure system to system messaging or the claims and document management system for the management of the Welsh Child Trust Fund. Compared to the previous situation the Welsh funding portal represents a mature and intelligent management and re-use of data

⁵² <http://wefo.wales.gov.uk/?skip=1&lang=en>

⁵³ Cf. Regulations (EC) No 1080-1084/2006, in particular Regulation (EC) No 1080/2006 on the European Regional Development Fund (ERDF) and Regulation (EC) No 1081/2006 on the European Social Fund (ESF)

in the public administration which facilitates a smooth business process when handling the applications for the beneficiaries of the European funds.

Another interesting example of re-use of data stems from the Netherlands where the European Structure of Earnings Survey (Regulation (EC) No 540/1999) is completely based on existing data sources, thus not requiring additional surveys and duplicate data requests from businesses (T7). In order to avoid that businesses are requested to provide the same data twice, Estonia has enacted a rather radical solution.

22 Prohibition on the collection of duplicate data in Estonia

Reforms in Estonia have reduced administrative burdens of businesses in the field of data collection. Before the reforms the same data had to be presented by companies in annual reports, statistical reports and other reports. For the latter, data was presented on paper or in a format that did not allow automatic data processing. In 2010, the system for the submission of electronic annual reports allowing data processing was introduced and a prohibition was imposed on the collection of duplicate data. According to the Estonian Accounting Act the Government cannot require data from businesses anymore which has already been submitted to the Commercial Register via the electronic annual report.

This has a direct impact on the implementation of a number of regulations including for instance Regulation (EC) No 295/2008 concerning structural business statistics. The new system for the electronic annual reports allows for an automatic transfer of data to the EKOMAR (Estonian Structural Business Survey) with the aim of automatically producing statistical reports. The submission of the EKOMAR report is obligatory for more than 10 000 businesses on an annual basis. The impact of the new system is even wider as the data are also used by other public authorities.

The example of a general prohibition on the collection of duplicate data is a highly interesting approach both as to how to limit the administrative burdens on businesses and as to how to make the administration more effective by automating procedures. It needs to be mentioned that it also requires public authorities to develop technical solutions that can provide for sharing data such as the solution for the submission of electronic annual reports.

(3) Move towards increased or even mandatory digitalisation

Another interesting element among some of the submitted examples is the move towards making digital processes the primary source of communication between public authorities and businesses, or even making it mandatory for communication. This entails fully abandoning communication with businesses and citizens through paper letters, telephone etc. in specific areas.

A clever way to encourage businesses to move to digital reporting is seen in a number of Member States where special incentives are put in place to those businesses reporting by digital means. In some instances, this may entail faster feedback from tax authorities on the tax return and thus an earlier payout of excess tax paid, in other instances businesses using digital communication may be given favourable treatment.

The Bavarian tax authorities encourage the electronic submission of tax declarations with a competition for a car.

The screenshot shows a web browser window with the URL <https://www.elster.de/bayern.php>. The page title is "Verlosung in Bayern". The main content includes:

- Verlosung in Bayern**
- Text: "Gewinnen Sie mit ELSTER einen nagelneuen Audi A3 Sportback oder einen von 29 weiteren attraktiven Preisen."
- Text: "Wenn Sie Ihre Steuererklärung bis 31. August 2011 in Bayern elektronisch abgeben, nehmen Sie automatisch an der Verlosung teil."
- Text: "Es spielt keine Rolle, welches Steuerprogramm Sie verwenden. Entscheidend ist nur: Die Steuererklärung muss elektronisch erstellt und über das Internet abgegeben werden."
- Alle Preise**
- List of prizes:
 - Preis: Ein roter Audi A3 Sportback
 - Preis: Gutschein für einen Aufenthalt in einem Wellness-Hotel im Wert von 500 €
 - Preis: Gutschein für einen Aufenthalt in einem Wellness-Hotel im Wert von 300 €
- Text: "Alle 27 weiteren Gewinner erhalten je eine Familienjahreskarte der Bayerischen Schlösserverwaltung, die..."

The page also features an image of a red Audi A3 Sportback with the license plate "LN TA 737" and a banner that says "ELSTER nutzen und einen Audi A3 gewinnen!". There are also smaller images of a woman receiving a massage and a castle.

Some Member States aim at going beyond mere encouragement of digital procedures by moving into the direction of mandatory digitalisation. Reasons for taking such a decisive step are often that both businesses and public authorities can benefit to a high extent. To be able to exclusively move all communication with businesses to a digital platform, it is crucial that the public authorities can provide solid, mature and efficient digital solutions to the benefit of the businesses. At the same time the public authorities achieve the benefits of automating procedures and only maintaining one source of communication.

The first step towards mandatory digitalisation can be the development of digital systems that are intended to constitute the first or primary source of communication between businesses and public authorities. Once a very high user uptake of the system has been achieved the next step can be to close down other sources of communication in order to exclusively rely of the digital channel in the communication with businesses.

The application of mandatory digitalisation differs among Member States. Most still foresee digital systems as one communication channel among other channels, although with a strong focus on making digital channels the first or even primary communication channel. The reason for this is *inter alia* a concern that making digital solutions mandatory can lead to objections and possibly exclusion of certain groups of businesses that are not ready to use the required digital tools. However, some Member States do apply mandatory digitalisation in specific areas and others even apply mandatory digitalisation as a general principle for the communication between businesses and public authorities.

23 Mandatory digital communication between businesses and public authorities, Denmark

In the recently published Danish eGovernment strategy 2011-2015 ambitious objectives have been set regarding the mandatory digital communication between public authorities and businesses. As of 2013, all letters to businesses will be sent digitally and selected digital reporting systems will in the course towards 2015 be made obligatory. This objective entails a commitment that information obligations stemming from national as well as EU legislation will be supported by a digital reporting solution by 2015. Already digital solutions have been put in place for the single payments scheme in the agricultural area, annual accounting reports, logbooks for fishery vessels and many other areas within the scope of the Action Programme for Reducing Administrative Burdens in the EU. Access to all business reporting possibilities to the Danish authorities will be gathered on one website called www.virk.dk. The existing digital reporting possibilities are already to be found here, along with a digital mailbox for requests made by businesses.

The new Danish eGovernment strategy also launches a similar approach towards the communication between citizens and public authorities. It will be obligatory for all citizens to have a digital mailbox by 2014 in order for public authorities to send all letters digitally. Furthermore, starting in 2012 it will gradually be made obligatory for all citizens – that are able to – to use selected digital reporting systems.

Public procurement is a good example for an area that can benefit significantly from digitalisation. The HLG has received several interesting examples for good practices in this area at different stages of development from various Member States such as Cyprus (T8) and Finland (T9) and also from the regional level (Baden-Württemberg, Sachsen-Anhalt, T10, T11).

24 Public procurement in Portugal is fully digitalised

Since 1 November 2009 tender procedures in Portugal must be performed through an electronic platform (<http://www.ancp.gov.pt>). The use of electronic means to conduct the procurement phases up until contract award is mandatory for most public purchases, and this makes Portugal the most advanced country in Europe in implementing e-procurement. The electronic public procurement rate in Portugal is 75% (2010), whereas the EU average is estimated to be less than 5%.

The aim of the mandatory digitalisation is to reduce bureaucracy and administrative costs and to increase transparency and competition. Before the digitalisation public procurement in Portugal was a bureaucratic process with a huge amount of paperwork underlying the required documents (contract specifications, proposals, proposal analysis reports, etc.). Moreover, very little information was ever systematically disclosed to citizens about public procurement.

The Portuguese best practice is fully in accordance with the December 2008 opinion of the HLG for the priority area Public Procurement, where the HLG strongly recommends that the Commission pursues its efforts to diffuse e-procurement and e-government, so that documents can be provided electronically. The Portuguese example shows that the switchover to e-procurement can be implemented successfully and in a relatively short time-frame, provided it is well-planned and benefits from high-level political support.

(4) Collaboration on eGovernment solutions across borders

Sharing experiences on the development and implementation of eGovernment systems among Member States is done in several contexts. One example is the website www.epractice.eu, where it is possible to share best eGovernment practices in different areas. The HLG highly recommends such initiatives. Additionally, the HLG advises that Member States consider the possibilities of offering their developed systems or the respective technical concepts to other interested Member States, ideally with special arrangements for translation and for allowing other Member States to add new features or to adjust specific elements of the systems. Similarly, this can also apply in the regional context. For instance, in 2007 the Bavarian State government introduced an online collection approval register for Bavaria in accordance with Directive 1999/105/EC on the marketing of forest reproductive material with distinct eGovernment features including WebMap services (T12). Two other German states adopted the software in 2010; a computer centre in Bavaria carries out data storage and maintenance for the three states.

(5) Digital tools in manual practices

Digital tools are not only important in the context of activities carried out behind a desk, but are also used in everyday practice such as fish auctions.

25 Fully automated fish auctions in Spain

In Spain all daily fish auctions in the authorised 204 first sale markets 'lonjas' have been automated. With the old system auctioneers had to compile information manually on the first sale, transfer it to a physical support (CD) and send it by mail to the competent authorities. Now all the data required by Regulation (EU) No 404/2011 for the labeling and traceability of fish is recorded automatically and made available to traders before the first sale. The auction is made through remote access, the requested sales data is then collected automatically (auctioneers must only check that it is correct) and sent via the internet within 48 hours to the competent authorities. The system relieves fishermen of administrative duties, increases transparency for traders and allows for full traceability of the fish. A similar system is used for the first marketing of fish in Portugal. The reduction of costs related to the respective information obligations due to the electronic processing of sales by auction centers has been estimated at 50%.

Also in the area of fisheries, the Netherlands have created an integrated system from catch to labelling (T13). Special weighing equipment in large vessels is linked to a computer that fills the logbook and prints labels by species. Fishermen only indicate the type of species weighed. Due to its costs the system is not available for smaller and older vessels, but the development of lighter adapted systems are being considered.

b) Risk-based approaches

Some of the best practice examples contain elements of risk-based approaches or risk management. Risk-based approach/risk management refers to a structured process of decision-making where risks are systematically identified, assessed, ranked and treated.

In ideal risk management, a prioritisation process is followed whereby the greatest risks with the greatest probability of occurring are handled first, and lesser risks with lower probability of occurrence are handled in descending order.⁵⁴ In practice the process can be quite challenging.

Governments and authorities make use of different instruments to ensure that regulations are complied with, such as controls, inspections, audits etc. Controls and audits are necessary, but can be very burdensome and time consuming for businesses, and avoiding unnecessary controls means reducing administrative burdens for businesses. Risk-based approaches in this context more specifically refer to the task of targeting controls or audits to those areas and businesses with the highest likelihood of violations of decisive legal requirements. On the other hand it also means less controls for those areas and businesses where no or only very limited non-compliance can be expected. As the majority of businesses are law-abiding, it is a waste of resources, both for governments and businesses, to attempt to supervise or control the way each and every business complies with each and every rule.

26 National Subsidy Framework in the Netherlands

On 1 January 2010 the Dutch government introduced a new National Subsidy Framework, which applies to all national subsidies. The objectives of this framework are simplification, reduced control rates and smarter accountability, less bureaucracy and administrative burdens, less errors and less implementation costs. Rather than checking all applications to control the legitimacy of payments, checks are based on a risk-based approach. Small grants (of up to EUR 50,000) are paid out as a lump sum instead of on the basis of real costs. No financial accountability from beneficiaries is required. Instead, performance-based sample checks (on the basis of risk analyses) are carried out to control whether funded activities are in fact carried out.

A study on the effects of the framework has shown that a yearly reduction of 30-40% of administrative burdens could be achieved. The grants up to EUR 50,000 are estimated at 80% of the total. By this calculation, the administrative savings are between EUR 45-62m. The National Subsidy Framework is however not applicable for EU-subsidies. The Dutch government has suggested using it also for EU-subsidies.

As authorities often have limited resources, it is important to use the resources in a way that maximises the overall level of compliance. As a main rule, in the HLG's view, controls and audits etc. should follow a risk-based approach, where the aim is to achieve as good compliance as possible with the resources available (often referred to as compliance risk management). Good use of risk-based approaches should among other things focus on identifying indications of non-compliance behaviour. Use of databases and portals can help the authorities in their decision-making.

⁵⁴ http://en.wikipedia.org/wiki/Risk_management

27 Online-Portal QuaKon for conformity checks of marketing standards, Germany

The Federal Agency for Agriculture and Food (*Bundesanstalt für Landwirtschaft und Ernährung - BLE*) is *inter alia* responsible for monitoring compliance with marketing standards for fruit and vegetables etc. imported/exported from/to third countries outside the EU. The BLE provides the online procedure QuaKon for registering products intended for import or export. The system was introduced on 1 July 2009 and was developed to reduce administrative burden when implementing new EU legislation. Importers/exporters can notify the imports/exports electronically, waivers can be issued and dispatched electronically. The inspection data can be analysed electronically and thus serve as a basis for risk analysis.

To guarantee a harmonised approach to inspections, the federal inspection service and the inspection services of the states have developed a common guideline on risk analysis which takes inspection results of the previous three years into consideration. Based on those results, risk categories for products are established according to the percentage of risk that a sub-standard product is imported. Certain smaller lots and lots for specific uses can be spared from inspection. The intensity of inspection then varies according to the risk category. The risk analysis is not yet done automatically, but the decision to determine the risk of non-compliance taken by the competent inspector is based on data from the new database.

In 2010 the Commission published a Compliance Risk Management Guide for Tax Administrations.⁵⁵ The Guide provides background information, best practices and a framework for the implementation of modern compliance risk management principles. In more recent years risk management in the tax administrations has been significantly developed. Based on the behaviour of taxpayers systematic processes to stimulate compliance and to prevent non-compliance were designed. The Compliance Risk Management Guide has been developed within the framework of the Fiscalis 2013 programme, which is the main supporting instrument to facilitate cooperation between tax authorities in the EU.⁵⁶

⁵⁵ Compliance Risk Management Guide for Tax Administrations, Fiscalis Risk Management Platform Group, 2010; http://ec.europa.eu/taxation_customs/resources/documents/common/publications/info_docs/taxation/risk_managt_guide_en.pdf

⁵⁶ http://ec.europa.eu/taxation_customs/taxation/tax_cooperation/fiscalis_programme/fiscalis2013/

28 Electronic invoicing in VAT legislation in Finland

As long as there has been electronic invoicing it has been treated equally with paper invoices in the Finnish VAT Act. The Finnish tax administration has not encountered any specific problems concerning e-invoicing. On the contrary, e-invoicing provides more and better opportunities for both tax administration and business entities to track and audit invoices.

Developed systems in electronic invoicing are integrated and often automated systems for exchange of data concerning various transactions between businesses, where the invoice is just one important document in the supply chain from order to payment. As regards invoices, these systems can in many cases give the authorities more information than just a plain invoice. Electronic document archives also enable quick access to data, and access can also be remote via internet on tax administrations' premises, which makes the audit even more efficient. Digital data enables the use of computer assisted auditing techniques allowing larger amounts of data to be analysed and cross-checked quickly.

Strict formal requirements could act against the goal of encouraging the development of e-invoicing, without any real advantages for the authorities. When the Invoicing Directive was implemented in Finland from 2004, the Finnish authorities tried to avoid increasing the administrative burden for businesses and to minimise the need for changes to established practices. Most importantly, any constraints to the use and development of electronic invoicing needed to be avoided. This will also be taken into account for the implementation of Directive 2010/45/EU which needs to be transposed by 2013.

This Finnish example is in accordance with the October 2008 HLG opinion on electronic invoicing in the VAT Directive. It especially proves that tax administrations should modernise their practices and benefit from technological change rather than impeding it (cf. paragraph 10).

c) Use of options or lighter regimes provided by EU legislation

Further to general approaches presented above (2.) the following paragraphs present examples for specific best practices for the use of options of lighter regimes provided by EU legislation.

In the area of cohesion, for instance, the Commission amended the ERDF and the ESF Regulations⁵⁷ in 2009 to lighten the administrative burden on beneficiaries and management bodies and to contribute to a more efficient and correct use of the funds. The amendments allow for certain operations to simplify the basis of the calculation of eligible costs and encourage a greater use of lump sum or flat rate payment which involve approximation of costs instead of reimbursement of real costs. In 2009, the Commission issued technical guidance to facilitate the use of simplified costs. Various Member States

⁵⁷ Regulation (EC) No 1080/2006 on the European Regional Development Fund; Regulation (EC) No 1081/2006 on the European Social Fund

such as Austria (T14) and the UK, as well as regions such as Bavaria (T15) have meanwhile made use of these simplified cost options.

29 Operational programmes "Flanders", Belgium

In Belgium the Operational Programmes for ESF 2007-2013 "Flanders" and for ERDF 2007-2013 "Flanders" make use of all simplified cost options in the regulations. The Monitoring Committee of the Flemish ESF Operational Programme decided to limit the use of the 'real cost' principle following the amendments of 2009. This major move was justified by the advantages of simplified cost options: (1) easy to communicate and to control; (2) less time consuming, so more time to develop, monitor and support content and results of projects and programmes.

In Flanders, projects are implemented via a standard scale of unit costs, for the whole project (with some exceptions). Indirect costs are always paid on the basis of a flat rate of direct costs. Only in those cases where there is no data (historical or benchmarks) to justify a standard scale of unit cost, the real costs principle will be used for direct costs. In the context of the ERDF 2007-2013 "Flanders" Operational Programme direct costs are eligible staff costs plus operational costs directly linked to the project. Indirect costs have been defined with reference to a limited list of indirect costs mentioned in a manual on eligibility of expenditure. The flat rate of 15 % is calculated on the basis of indirect costs identified in a representative sample of the projects of the previous programming period, which have been considered as being of comparable nature.

In the area of statistics the respective EU legislation is rather output oriented, i.e. defining what a Member State has to deliver in terms of statistical information, but not how this information needs to be collected.⁵⁸ This means that the national authorities have some discretion in elaborating information requirements, and implementing them in a least burdensome way by making use of technical possibilities, e.g. via electronic submissions, extrapolation or re-use of data. In certain cases this opens up possibilities for exemptions of SMEs etc.; thus, national authorities need to constantly check how they can apply the respective EU provisions in the least burdensome way.

30 INTRASTAT – Raising of thresholds, Germany

INTRASTAT is the system for collecting information and producing statistics on the trade in goods between Member States. The EU has lowered the minimum coverage of the intra-EU trade statistics in two steps in 2004 and 2009 to 97% of total trade (exports) and 95% of total trade (imports). In 2009 Germany exempted almost 10,000 of a total of 70,000 businesses from their INTRASTAT information obligation through raising the reporting thresholds from EUR 300,000 to 400,000 value of traded goods per year and direction of flow. Given the decrease of response burden by EUR 11 m. per year, especially for SMEs, the corresponding lack of information (0.4 % of dispatch value and

⁵⁸ Cf. HLG opinion on statistics of 7 July 2009.

0.6% of arrivals value) seemed acceptable. Several other Member States (e.g. Belgium) also raised the exemption thresholds.

As a result of the increasing coverage rate due to the positive foreign trade development in Germany in 2010/11, Germany is preparing to raise the exemption threshold from EUR 400,000 to 500,000 in 2012. About 7,000 enterprises would profit from this; in the end about 84% of the enterprises having intra-EU trade on the dispatch side and about 92% on the arrival side would not need to provide statistical information for INTRASTAT anymore. The example is evidence of the importance of continuing observation of developments linked to flexible thresholds where a positive development in trade allows for exempting more businesses and thus reducing the burden.

For the area of company law the government of the Slovak Republic has contributed an example of making use of options (introduced by Directive 2006/68/EC amending Council Directive 77/91/EEC as regards the formation of public limited liability companies and the maintenance and alteration of their capital) for exemptions from certain obligations (T16), in order to reduce burdens for companies.

The Austrian government submitted an example for a lighter regime foreseen for micro enterprises up to 10 employees in the area of working environment. Where the risk assessment shows that there is no risk at work for employees the documentation of the risk assessment can be managed in a simplified manner by using a simplified form provided in the annex of the respective regulation (T17).

d) Intergovernmental/cross-border cooperation

One of the main objectives of the EU is to establish or ensure the functioning of the internal market which shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the EU treaties, cf. Art. 26 TFEU. To this end, measures have been adopted which harmonise requirements across the EU, *inter alia* to simplify the life of companies active in more than one Member State which have to deal with one set of legislation instead of multiple sets. Nevertheless, Member States still largely retain the responsibility for certain areas such as taxation and social welfare. The HLG has received several contributions on initiatives that aim at reducing administrative obstacles via cross-border cooperation. This can entail easy access to relevant information, adjustment of procedures, better mutual acceptance of documentation, interoperability of IT systems etc.

31 'Grenzoffensive' – cross-border initiative for SMEs in crafts / service / construction sector, Austria, Czech Republic, Germany

"Grenzoffensive" works to minimise or eliminate administrative obstacles local SMEs face when they wish to expand their activities to the other side of the border in the neighbouring regions of Bavaria, South Bohemia and Upper Austria. The work has focused on facilitating the provision of cross-border services, for example in the construction sector, and in particular on the formalities regarding the posting of

workers.⁵⁹ An internet site was created (www.grenzoffensive.org), accessible in German and Czech, to present the relevant legislation, explain the procedures and enable the downloading of all the necessary forms. The information might be further elaborated in the future. Some formalities were eliminated between the three regions, while other procedures were clarified. Moreover, 'Grenzoffensive' has dispensed dozens of information and training seminars, and over 2,500 SMEs received individual counselling from a network.

Cross-border cooperation is also central in the increasing development of digital systems to facilitate less burdensome administrative procedures when e.g. reporting data to public authorities. Many examples exist of cooperation between Member States and even at broader international level on how to develop specific systems or standards for how to exchange data. The cooperation facilitates that rather than developing 27 different systems, one system or one standard can be developed as the demands for the functions of the systems should be similar as the countries follow the same EU legislation.

32 Electronic submission of application needed for marketing authorisation for medicinal products, France

A good practice example of international cooperation is cooperation in respect to development of digital systems. This has been the case in the development of the eCTD system. The eCTD system is an IT application that has been developed at international level⁶⁰ and is recognised by the EU and its Member States. The introduction of eCTD is facilitated by coordination work of the European Medicines Agency.

The eCTD system is used by companies when preparing the application for a market authorisation. The system guides the applicant through all the necessary steps to complete the application in a structured way and also provides the possibility to submit the application electronically to the Member State authority. Not all Member States accept the electronically submitted applications yet, but more and more do. Thus, all Member States move in the same direction, while some Member States are more advanced in the process than others. France is one of the Member States that has implemented the eCTD system whereby the national authority accepts 'electronic-only' submissions of applications for market authorisation. In case applicants are not able to provide an electronic-only application, France also allows for a paper submission of the application.

Also in the area of financial reporting cooperation between Member States at a wider international level is taking place regarding the development of a technical standard, the XBRL standard, on how to exchange financial data among public authorities and businesses and even among businesses themselves. Some Member States become frontrunners for actually implementing the standards. The Dutch authorities, for instance,

⁵⁹ Cf. relevant EU directives, e.g. Directive 96/71/EC on posting of workers, Directive 2005/36/EC on professional qualifications and the Service Directive (2006/123/EC)

⁶⁰ The ICH (International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use - www.ich.org) is responsible for the development of the eCTD.

are working on optimising business reporting to public authorities through their Standard Business Reporting (SBR) Programme by fully digitalising and standardising the reporting procedures (T18). The programme primarily focuses on a standardisation of the processes on financial reporting from businesses to government (e.g. filing taxes, annual reports, statistical reporting) by applying the XBRL standard. Public authorities and businesses cooperate; in addition businesses have the possibility of using the same standard for exchanging data with each other. In an opinion adopted on 10 March 2011 the HLG had called upon the Commission to make an inventory of different XBRL practices in Member States and advocated an initiative to streamline XBRL taxonomies, in order to make full use of the savings potential for businesses and avoid creating new burdens.

e) Enhanced stakeholder involvement and systematic end-user involvement

While section 2 has highlighted some general approaches to stakeholder involvement and systematic end-user involvement as best practices, the following examples refer to good practices related to individual projects and pieces of legislation.

33 Programme for development of business data collection, Finland

Statistics is one of eight priority areas in the Finnish Action Plan for the reduction of administrative burdens. To coordinate the reduction efforts, Statistics Finland has launched a programme for the development of business data collection 2007-2011. The programme aims at reducing the response burden on enterprises and developing respondent relations with better service. It is in Statistics Finland's interest to enhance and improve conditions for companies' responses to enquiries in such a way that they are motivated to supply high-quality data.

A part of the programme is to develop better relations with global and large companies. Statistics Finland began working more closely with large enterprises in 2008, and the cooperation was strengthened in 2009 when a working group dedicated to large enterprises was set up. Statistics Finland also maintains so-called 'large enterprise coordinators' who are promoting good cooperation with the data providers of the large enterprises. So far around 10 multinationals are included in this part of the programme, but the idea is to expand gradually to around 20 to 30.

Statistics Finland and representatives of the Finnish enterprises also have a permanent liaison group, where draft legislation is discussed. The liaison group normally meets four to six times each year.

Enhanced end-user involvement is also very important on the local level which has to deal with end-users on a daily basis in most cases. It is essential that both sides, the end-users and the public authorities, are aware of each others' positions and needs. That way, both sides can ensure that expectations as well as problematic issues are identified early on in the process.

34 Advice and consultation prior to the submission of an application for integrated environmental authorisation, Czech Republic

In the region of Karlovarske in the Czech Republic the regional authority, competent as an integrated prevention agency, has eased the complex procedures to apply for an integrated environmental IPPC authorisation by cooperating very closely with the respective applicants. To make the application as simple as possible the authority and the future applicants discuss the application to identify issues where initial adjustments should be made prior to the submission of the official application. This ensures that during the application process problematic issues have been settled in advance so that the authorisation process is simplified and shortened as much as possible. Furthermore, the applicant only has to submit those documents needed to assess the application as attachments. Additionally, documents already submitted by the applicant to the regional authority in a different procedure are not required to be submitted for a second time. These procedures reduce the time needed to issue an integrated permit, and they reduce the administrative burdens for both applicants and authorities.

For the implementation of rather complex programmes it might also be necessary and indeed good practice to appoint central contact points to facilitate and improve the implementation. The Bavarian State government, for instance, has appointed one civil servant Leader-manager per government region who provides support for all public-private partnership initiatives in the context of Leader+ (T19). Leader+ is one of the initiatives financed by EU structural funds; it is designed to help rural actors and to encourage the implementation of integrated, high-quality and original strategies for sustainable development. The appointed managers act as a central contact person, adviser and coordinator for all involved, from local stakeholders to the responsible ministry and all the relevant technical authorities.

f) Examples for good guidance or model training solutions

As mentioned in section 2 it is essential that those affected by legislation understand what is expected of them, in order to be in a position to comply with the legislation. In some cases this may even require having guidance available in different languages. The HLG had repeatedly pointed to the significance of accessible and understandable guidance, ideally including practical examples, in the context of efforts to reduce administrative burdens for companies.⁶¹ Below a few examples of good guidance can be found.

35 Guide to the reporting of injuries, diseases and dangerous occurrences, UK

Article 9 (2) of Directive 89/391/EEC requires Member States to define *inter alia* the obligations to be met by companies in respect of drawing up reports on occupational accidents. The UK Health and Safety Executive (HSE) has published a guide to the

⁶¹ Cf. HLG opinion of 28 May 2009 on working environment, points 42 ff.

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR).⁶² It contains detailed guidance on what needs to be reported, the definitions applied, the identification of the responsible people for each reportable event, etc. It also refers to the Incident Contact Centre (ICC), to which notifications and reports should be made, and it contains template forms.

For successful guidance two main factors are indispensable: accessibility and good quality (including clarity). The HSE's guide is well structured and detailed; it is also free to download from the HSE's website. The guidance is not compulsory, but following it should normally be enough to comply with the law; health and safety inspectors may refer to it as illustrating good practice. It may help save companies the costs for training, for understanding the procedures and avoiding costly mistakes. It provides the information most people would need to understand their duties and to know when they must act, with regard to the reporting.

Good guidance also constitutes a significant cost factor, in that it can help companies to fulfil certain tasks themselves without the need to outsource the work to (costly) external experts.

36 The Irish 'BeSMART!' initiative

EU legislation requires all Irish businesses to conduct a risk assessment, and in addition as a national requirement to produce a Safety Statement. The administrative burden on businesses of complying with the requirements was measured in 2009 and estimated to be almost EUR 235 m. During this exercise, it became evident that many companies were relying on external experts when trying to comply with the regulations, and many smaller companies were not fully compliant.

Thus, Irish authorities initiated a programme of producing simplified guidance for small businesses. As a part of the 'Taking Care of Business' initiative, for instance, an online risk assessment and safety statement tool called 'BeSMART!' was developed. This tool uses a risk-based sectoral approach and template forms to empower small businesses to manage safety in-house while complying with the law. 'BeSMART!' was launched on 16 February 2011, and it is in line with the HLG's opinion of 28 May 2009 (cf. paragraph 47) where the HLG had identified this area as a potential area for action. The majority of the group had suggested going even further by removing the requirement to have a written risk assessment for micro companies involved in low risk activities. This suggestion is currently under review by the Commission.

Member States such as Austria and the UK are currently working together with the European Agency for Health and Safety at Work to alleviate the administrative burdens linked to producing written risk assessments by providing standard forms and templates for risk assessments online. Austria, for instance, created a free and easily accessible online tool to help SMEs create an appropriate written risk assessment (T20) which is

⁶² Cf. <http://www.hse.gov.uk/pubns/priced/173.pdf>

regularly updated and improved – and used by approximately half of the Austrian enterprises producing written risk assessments.

Concerning access to guidance it is important that Member States make full use of the technical possibilities offered today. The website of the Austrian Labour Inspection (www.arbeitsinspektion.gv.at), for instance, provides free and easily accessible information on occupational safety and health requirements for employers, workers and experts for occupational safety and health issues (T21). From easily understandable presentations of the most important issues regulated in relevant legislation, readers are directly referred to the original texts of the individual legal provisions. The services offered are complemented by downloadable information folders and brochures as well as forms (including explanations) for fulfilling notification duties in the field of occupational safety and health.

37 Specific IPPC Portal, Czech Republic

The Czech IPPC portal (www.mzp.cz/ippc) provides information on IPPC legislation (IPPC regulation at a European as well as national level), important documents, statements of the Ministry of Environment in the IPPC area, including reports to the European Commission, etc. Furthermore, applicants can follow the status of their application online. Application forms can be submitted in paper and electronically. Providing this information in an easily accessible way helps to save time for business prior to and during the application process and for the administrations, as inquiries by the applicants will decrease.

The Maltese government has submitted an example (T22) for a transparent approach concerning the transposition and implementation of a complex directive in the area of financial services, i.e. Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities ('UCITS'). The Malta Financial Services Authority designed an ad hoc section on its website dedicated to UCITS which contains information on legislation, consultation documents and guidance; furthermore, briefing sessions for the industry are organised.

38 GQS_{BW} – Comprehensive quality assurance for agricultural undertakings in Baden-Württemberg, Germany

GQS_{BW} is a tool that helps farmers in Baden-Württemberg to observe legal provisions applying to their farms, e.g. on cross compliance and the legal requirements of private quality assurance systems. The tool comprises information on more than 200 legal acts of different origins (82 EU level, 68 national level, 21 state level, additional from other areas such as safety at work), and is updated annually. Using checklists, forms (e.g. protocol on the use of plant protection products) and information leaflets, all the relevant legal provisions and the requirements of private quality assurance systems (e.g. QS, GLOBALG.A.P., QZBW) are presented clearly and systematically for farmers. The electronic version allows checklists to be processed, stored and customised on the computer. The systematic operating methods of GQS_{BW} mean that on the spot checks at

farms using GQS_{BW} can be managed by farmers and carried out by inspectors in a more structured manner. A better understanding of the legal provisions is supposed to reduce offences against cross-compliance.

Guidance can also be used as a means to standardise responses for the administration and avoid over-compliance by businesses.

39 Submission of a safety report, Poland

Each year before 30 June, all infrastructure managers and railway undertakings must submit an annual safety report on the preceding calendar year to the national safety authority. This safety report contains information on how the safety targets are met, the results of safety plans, the development of national safety indicators and Common Safety Indicators (CSIs) as well as the results of internal safety auditing. The safety report contains a listing and analysis of accidents and incidents that occurred in the previous year, including the number of incidents and accidents per type, persons injured or killed, indicators relating to consequences of accidents and indicators related to technical safety of infrastructure and management of safety.

Not every Member State has a standardised format for the submission of the safety report. There are different requirements from different authorities for the safety report format. Until a standardised format is established, businesses can submit a safety report in accordance with their own wishes. In practice the number of pages of safety reports can be between 3 and 30 pages.

At the beginning of 2008 the Polish Office for Railway Transport sent all entities detailed guidelines on how the report should be prepared, together with an Excel file to calculate the indicators based on the CSIs. This reduces costs by helping businesses know which data to collect and how to adjust this data for the report and avoid over-compliance.

g) Merging processes/permits

When dealing with the administration, companies and citizens alike appreciate if they have a single point of contact and do not need to deal with various authorities and agencies for obtaining different parts of an authorisation or permit. At both the EU and the national level there have been various initiatives to merge processes and/or permits. One of the most prominent initiatives is linked to the Services Directive, and examples have been presented in the eGovernment section. There are numerous examples for initiatives in other areas. For the purposes of this report, the HLG has picked an example from environment, a prominent area for merging processes and permits in recent years.

40 The Environment Agency's Environmental Permits Regime, UK

Tackling air pollution can be a challenge for businesses, both on the cost and on the organisational side, since various pieces of legislation covering different subjects can

make it unclear for businesses how to comply with the necessary requirements. The aim for the Environment Agency's Environmental Permits Regime was to regulate emissions from major (high risk) industrial processes and to ensure compliance with EU obligations and to support local authorities in improving air quality.

The Environment Agency consulted with businesses and other stakeholders from policy development through to the implementation process. They held regular stakeholder fora, several industry-wide conferences, workshops, sought the opinions of external 'critical friend' experts, received regular updates and initiated formal consultations. The Environment Agency also provided a range of guidance documents designed for business, including documents that translate complex EU legislative requirements into simple, practical guidance for business.

Phase 1 of the Environmental Permits Regime radically streamlined and simplified waste management and pollution control regulations by consolidating 11 EU Directives. This move consolidated 41 sets of regulations into just one – which is a third of the length of the original legislation, with the amount of guidance reduced by 14kg. The first phase is expected to deliver savings of £76 million over 10 years.

An example from the regional level is the optimisation and centralisation of the processes involved in commercial plant operation by the Vorarlberg State government in Austria (T23).

h) Examples concerning self-regulation, voluntary cooperation initiatives and codes of conduct as an alternative to legislation in specific cases

In specific cases non-regulatory measures might be used as alternatives for regulation. The Commission, the UK and Germany, for instance, check whether there are non-regulatory alternatives which can achieve the objective of an initiative better within the impact assessments. An example for a not legally binding instrument is the code of conduct approved by the group of coordinators for Directive 2005/36/EC on the recognition of professional qualifications⁶³ which lists national practices falling under the directive and classifies them into best practices, acceptable and unacceptable practices. Factors influencing the functioning of such non-regulatory measures include the commitment of the relevant actors, the knowledge of these measures by relevant stakeholders and media and the practical importance of the issues in everyday life. The HLG recommends that administrations in the Member States aim for best practices to the widest extent possible.

Furthermore, different actors can also join forces on a voluntary basis to comply with general legal requirements. Below is an example from the railway sector.

⁶³ http://ec.europa.eu/internal_market/qualifications/docs/future/cocon_en.pdf

41 Single institution for claiming passenger rights, Germany

Article 27 of Regulation (EC) 1371/2007 on rail passengers' rights and obligations requires railway undertakings to install a complaint handling mechanism for the rights and obligations covered in the Regulation. In Germany, the Federal State owned Deutsche Bahn AG and 44 non Federal State owned railway undertakings representing all relevant railway undertakings in passenger transport have installed an integrative mechanism: the single 'service center passenger rights'.

This single institution assures that every passenger travelling with one of the participating railway undertakings can claim his passenger rights without having to find out what railway undertaking has to be contacted under what address. A form has been developed which helps passengers to express complaints with the necessary data. This form is used by all participating railway undertakings, but it is not obligatory. In delayed trains giving right to compensation, the conductor distributes the form including the confirmation of the delay, which admits the claim for compensation.

The described application of Article 27 of the Regulation has contributed to reducing the administrative effort for passengers and railway undertakings by setting up one single institution.

In 2006 the European Economic and Social Committee set up a database on self- and co-regulation in cooperation with the Commission which facilitates exchange of information and identification of best practices.⁶⁴

i) Other ideas

An interesting way of accelerating procedures that has been applied in some Member States for some time is the presumption of authorisation or tacit consent by authorities in case they do not react within a prescribed period of time. The report by the Swedish Presidency mentioned above quotes an example of a recent introduction of this concept in Hungary⁶⁵ (T24). An in-depth examination of this concept would go beyond the remit of this report, but the HLG recommends an exchange of practices for this concept in order to identify further areas of eventual application.

42 Data on time needed to complete statistical forms, Lithuania

As a general practice, from 2006 Statistics Lithuania (Department of Statistics of Lithuania) includes a question in statistical forms on how much time a company dedicates to prepare the data that is necessary to fill in a statistical form. The question is

⁶⁴ Cf. <http://www.eesc.europa.eu/?i=portal.en.self-and-co-regulation>

⁶⁵ Cf. p. 32 of the Swedish Presidency Report

optional, thus respondents are not obliged to answer. In practice, more than 50 percent of respondents indicate the time they needed to fill in the form. The responses are collected in a database and analysed by a working group to reduce the response burden. When the results from 2008 showed time savings between 21% and 45% for different questionnaires by switching from paper to electronic questionnaires, it was decided, for instance, to implement electronic forms of all statistical questionnaires and encourage their use. On the basis of the data collected an indicator of statistical response burden is calculated every year.

The US is going even further, since the Paperwork Reduction Act requires federal agencies to provide an estimate of the burden of data collection to the person receiving the information request. This entails that the authorities provide estimates in the forms on how much time is needed to complete the forms and thus allow the respondents to verify the estimates (and the eventual calculation of burdens). In Germany, the public database 'WebSKM'⁶⁶ (T25) provides extensive overviews on information obligations and the respective burdens for citizens, companies and public authorities. For instance, citizens can check how much time is needed according to the measurement on different applications such as an application by EU citizens for admission to the electoral register; companies can check the amount of burden and the number of occasions linked to certain information obligations. The database also includes estimates for EU legislation which has been transposed into German law.

The approaches presented above showing estimated time (and costs) for information requests improve transparency. This allows respondents to see before starting to complete forms how much time they will most probably need to spend on a task. Furthermore, it is evidence that the authorities have considered the time required for completion of the forms and ideally also examined ways of keeping the time to a minimum by asking only for the essential information etc. Finally, it allows respondents to verify estimates and possibly also to send suggestions for simplification.

j) Prominent areas

In principle areas such as company law, statistics, taxation and working environment which concern more or less all companies rather than only companies in specific sectors have received more contributions than sector specific areas such as financial services, fisheries, food safety, pharmaceutical legislation, public procurement or transport. This can be explained by their wider application and greater target groups, which on the one hand makes them more prone to complaints if things do not work well, on the other hand it allows for bigger savings potential via administrative burden reduction initiatives and thus often also for greater visibility of reforms. In addition, a significant number of eGovernment projects, e.g. on one-stop-shops, can be found in these areas, in particular in the area of company law (e.g. for the implementation of the Services Directive).

For the area of environment as a more sector specific area a comparably high number of contributions for best practices were received as well. This might *inter alia* be caused by

⁶⁶ Cf. <https://www-skm.destatis.de/webskm/online>

the perception of being a rather burdensome area in parts of the business community, although the results of the EU measurement of administrative burdens had shown that the administrative burdens for this area both in terms of total amount and in share of burdens across areas had been lower than expected. On the other hand this perception might also have led to increased efforts in this area to come up with the least burdensome implementation of the respective legislation. In addition, with IMPEL an organisation has been established which also promotes the exchange of best practices in this area. Finally, it is an area where eGovernment solutions are gaining momentum.

43 Electronic Data management in the environmental field, Austria

The Electronic Data Management (EDM) in Environmental and Waste Management is the fundamental e-Government initiative of the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management. Starting with waste management, registration and reporting obligations are being computerised. Apart from waste management, EDM also supports notifications to the European Release and Transfer Register (ePRTR), the recording of industrial plants participating in emissions certificate trading (Act on Emissions Certificate Trading) as well as notifications concerning the marketing of fluorinated industrial pollutants (HFC). The Radiation Register and the notifications of emissions into surface water bodies (EMREG-OF Emission Register – Surface Water Bodies) are in the process of being computerised. Both the registration of all natural and legal persons subject to the notification requirement and the input of electronic notifications can be handled via the EDM portal www.edm.gv.at. For authorities, integration into the 'Portalverbund' (Portal Group) has been prepared.

The centre of EDM is the master data register eRAS. It has been designed according to international standards and permits recording master data of industrial plants and persons across legal areas and depicting plant- and person-specific authorisations in a structured form (e.g. content of notices of approval). Development of eRAS also included the integration of a WebGIS solution, which permits the geographical identification (mapping) of recorded industrial plants and operating facilities by their holders. The progressive extension of the functions of eRAS includes the linkage to other eGovernment registers, for example the corporate register to harmonise the master data of enterprises already recorded. Authorities are provided with an efficient tool for recording person- and plant specific authorisations; the generally accessible query tools are improved continuously. Presently about 40,000 people from the environmental and waste management sector, which are subject to registration and notification, are recorded. Recorded master data is available to those registered as well as to the relevant competent authorities; for public, general query tools have been set up. To registered users, EDM offers an IT system, which satisfies the requirements of the portal group concept, with single-sign-on for master data management and various applications from the environmental and waste management sector.

Another sector specific area with a specific target group is the area of agriculture. The higher number of submissions for this specific sector can be explained on the one hand with the extensive EU competence in this area, on the other hand with the intensive efforts backed at high political level for simplification at EU and national level during the last years. For instance, the use of electronic means in this area, in particular for the applications for direct payments, has become a common practice. The main advantages are the immediate capture of the data and a direct verification of the entered data which

decreases the risk of errors. Another interesting possibility going one step further is a so-called 'claimless system' for payment applications.

44 Claimless application system for the beef sector in Spain

In Spain the central database for identification and registration of animals is used as a basis for the livestock aid applications. Before, farmers had to manually fill in individual applications with the ID numbers of the animals; this led to a significant number of errors and consequently reductions in payments. According to Art. 16 (3) of Regulation (EC) No 1122/2009 Member States may decide that some of the information necessary for livestock aid applications need not be included in the aid application, where it has already been communicated to the competent authority. Spain has used this possibility to introduce a claimless system for the payment of certain animal premiums. Farmers just have to apply for aid in respect of all animals which, at a certain date, qualify for aid on the basis of the data contained in the computerised database for bovine animals, and the responsible authority checks the number of eligible animals in the database at the end of the year.

The estimated savings are 50 € per farmer per year. If a similar system was transferred to more important payment schemes, annual savings at EU level for the agricultural sector alone could reach several hundred million euros per year. It should also be checked whether this practice cannot be transferred to other areas.

The HLG has received interesting examples for general and specific electronic solutions in the agricultural sector from various Member States including Belgium, Denmark, Estonia, France, Germany, Greece, Romania (IPA-Online, T26) and the UK/Scotland. The Member States aim at continuously improving the systems, adding new services and increasing their use by farmers. In France, for instance, the use of Télépac (T27) has further increased from 41% in 2010 to 54% in 2011. A survey in Estonia found that 90% of the persons using the e-PRIA-system (T28) were satisfied with the use and would use it again. The number of documents submitted through e-PRIA rose from 673 in 2006 to more than 50,000 in 2010. The Greek government has improved procedures for the electronic submission of applications for agri-environmental measures by using the tax identification number and connecting the online database of agri-environmental measures with the Single Payment database (T29). Some systems provide highly sophisticated technical solutions for specific issues such as the transfer of payment entitlements via the German Central IACS Database (T30), managing almost 500,000 transactions of permanent transfers including more than 4m. payment entitlements and 165,000 transactions of lease transfers. The Commission has actively encouraged the exchange of best practice in this area.

The analysis of prominent areas shows that factors such as a high number of end-users and their perception of burden, strong commitment to simplification on high political level and the promotion of best practice exchange can influence good implementation of EU legislation.

k) Addressing barriers to best practice exchange

This report has presented a number of best practices and thus aimed at addressing one of the barriers to the sometimes slow process of spreading best practices, i.e. the lack of knowledge about current best practices. Further barriers to quickly spreading best practices can be: a lack of motivation to make changes involved in the adoption of best practices which encompasses negative staff attitudes and beliefs, a limited integration into organisational structures and processes, time and resource constraints and a lack of knowledge and skills to implement the best practices.⁶⁷ These barriers need to be addressed when organising an exchange of best practices, so that the exchange can generate a useful outcome. Expert groups and websites for best practice exchange can support this process by providing opportunities to discuss challenges linked to the implementation. The lack of motivation could be addressed by providing incentives both monetary as well as non-monetary. Regular opportunities for voicing suggestions for improvements or brainstorming events could be organised alongside training opportunities for interested staff. All barriers should be addressed in comprehensive best practice implementation strategies which are tailored to the specific subject matter and organisational context.

In addition, factors supporting and promoting the implementation of best practices need to be strengthened. Such factors include positive staff attitudes and beliefs, leadership support, champions, teamwork and collaboration, professional association support, and inter-organisational collaboration and networks.⁶⁸ One of the decisive factors already mentioned in the context of the simplification and administrative burden reduction programmes is the need to ensure political backing or corporate commitment at the onset of the programme or the implementation of best practices respectively.

The HLG suggests that groups already dealing with the exchange of best practice also collect some challenges encountered when implementing best practices more in general, in order to compile advice on addressing barriers to the implementation of best practices.

Finally, the incentives for Member States to follow other Member States' examples should be strengthened. A comparative overview on national performances in certain areas (e.g. public procurement, time and cost for setting up a company) can be a strong incentive for improvements, but there might also be more positive incentives. The Commission might play a role in this respect by publicising good examples and encouraging other Member States to take up that example. A similar role could be undertaken by the CoR regarding subnational authorities.

⁶⁷ Cf. <http://searchsoftwarequality.techtarget.com/definition/best-practice;>
<http://www.ncbi.nlm.nih.gov/pubmed/18076464>

⁶⁸ Ibid.

V. CONCLUSIONS AND RECOMMENDATIONS

Based on the many good practice examples received by the HLG, a number of which have been presented in this report, the HLG has drawn up the following conclusions and recommendations.

1. Exchange of best practice

The HLG recommends that Member States develop a framework for a regular and structured exchange of best practice in relation to the implementation of EU legislation.

This exchange should not be limited to national better regulation experts, but should be extended to the relevant ministries, sectoral and regional experts to ensure that those working on a day to day basis on drafting legislation are involved in the exchange of best practices.

The Commission has a clear role to play in this exchange of best practice. It should not only act as a facilitator between the Member States, but should consider creating a database that provides easily accessible information about the transposition of European legislation in the Member States in a standardised way and further develop the information already available on EUR-Lex. This database should enable civil servants in the Member States to find out how other Member States have transposed a certain piece of European legislation, and could thus promote least burdensome transposition.

2. Common focus from all EU Institutions

The HLG would like to stress the need for concerted action from the Commission, the European Parliament and the Council with respect to promoting smart regulation and implementing this approach in relation to specific pieces of legislation. The CoR and the European Economic and Social Committee should also continue to promote the objectives of smart regulation in their activities.

With the Action Programme for Reducing Administrative Burdens in the EU the Commission and the Council have instigated better regulation programmes in the Member States. This was an important first step. As the programme ends in 2012, the Commission should adopt a follow-up programme to keep the momentum of the better regulation agenda.

All EU institutions should commit themselves to an acceleration of the legislative process. In recent years the Commission has worked hard on significant improvements of the EU's regulatory environment, and there are signs that the European Parliament and the Council are picking up. Nevertheless, there is still scope for improvement in all institutions to ensure that the final EU piece of legislation is indeed the least burdensome way to achieve the set objectives and moreover avoids any obstacles to smart implementation of EU legislation. The EU must lead by example in order to enable good national implementation, since "few things are harder to put up with than the annoyance of a good example" (Mark Twain).

3. The National Smart Regulation set-up

a) Change of Culture – involving stakeholders and end-users

All Member States should encourage the development of a national 'Smart Regulation Agenda' promoting the need for regulation to be implemented in the least burdensome way keeping in mind the overall policy objectives. Regional and local authorities should actively participate in the design and delivery of this agenda, wherever possible. Regions with legislative powers have a particularly important role in this process.

Specific focus should be on an open and transparent procedure for the implementation of EU legislation with a focus on stakeholder involvement and an integrated end-user perspective. This entails a continued focus on changing the culture within government from one where the rules are simply created to fulfill a given policy objective to a situation where the first question being asked is whether new regulation is really necessary at all. If the answer remains 'yes', a whole series of preliminary questions need to be answered before new regulation is proposed in order not only to fulfill the policy objectives, but to do so in the least burdensome way and in a way that makes sense to stakeholders and end-users.

As a minimum stakeholders should be given sufficient opportunity to respond to a public consultation, and whenever possible end-users should be actively encouraged to voice their opinion on the practical ramifications of the implementation proposal.

b) Institutional set-up

The HLG recommends that all Member States ensure that the political responsibility for the national smart regulation agenda is placed at the highest level of government with a ministry or an agency that has a clear mandate for coordinating this function across government agencies.

In some cases additional pressure for smart regulation might come from outside government. This can e.g. take the form of a regular and structured exchange of views between regulators and stakeholders or via the establishment of independent oversight committees advising on the impact of legislation to ensure that legislation is drafted in the least burdensome way given the policy objectives.

c) A structured approach to impact assessments

The HLG recommends that all Member States establish clear rules of procedure whereby all proposals for transposing EU legislation that are potentially burdensome to businesses have to be subject to an impact assessment taking into account the results of the impact assessment carried out by the Commission. This impact assessment should involve a calculation of administrative burdens by using the Standard Cost Model and of other regulatory costs such as compliance costs. The aim of this impact assessment is to

provide decision makers with a clear picture of the implications of the proposed legislation on *inter alia* the administrative burdens on businesses.

d) Taking perceived burdens seriously (the end-user perspective)

Perceived burdens are – by nature – difficult to measure using a quantitative model like the Standard Cost Model. All Member States should address the question of perceived burdens when transposing EU legislation e.g. by involving end-users in testing the practical implications of the legislation prior to tabling the final piece of legislation.

e) Specific focus on SMEs or micro enterprises

Whenever a transposition is drafted, it should be subject to a litmus test in order to consider the implications of the legislation on the daily lives of SMEs, and in particular micro enterprises. This is in accordance with the 'Think Small First' principle introduced by the Commission in the 'Small Business Act for Europe'. Can the legislation be drafted in a way that is not disproportionately burdensome to SMEs? Or can it be drafted with a lighter version for SMEs or micro enterprises or even include a derogation below a certain threshold?

f) Set new targets to replace the old

Following a recommendation from the European Council in 2007 all Member States set up national targets for reducing administrative burdens on businesses. For some Member States this first set of targets has been achieved. While commending the Member States on their efforts, the HLG recommends that they keep introducing new sets of quantitative targets in order to keep up the momentum. New targets could specifically address the burdens deriving from the transposition of EU legislation or other burdens like compliance costs.

g) In general – try to make life as easy and predictable as possible for businesses

A number of ways have been mentioned in which life can be made as easy and as predictable as possible for businesses. One way is to introduce common commencement dates at the national level. If e.g. all legislation relevant to businesses enter into force at only two possible dates per year, it becomes easier for businesses to plan ahead. A number of other proposals are included in the Small Business Act for Europe⁶⁹ presented by the European Commission in 2008 (and reviewed in 2011).

⁶⁹ Cf. COM(2008)394 - "Think Small First"- A "Small Business Act" for Europe

4. The issue of Gold-Plating

Although only a small part of the burdens deriving from the national implementation of EU acts can be attributed to gold-plating, the HLG does, however, find it an important area to focus on. Gold-plating in the sense of creating unnecessary administrative requirements and burden for companies by e.g. introducing an increased frequency of reporting, requesting more information than necessary, requesting information that has already been delivered to other authorities or including more businesses than required etc. should be avoided in any case.

EU legislation can in principle have a positive net effect on administrative burdens by replacing or harmonising 27 different sets of national legislation – or even more taking into account additional layers of legislation on regional or local level. When proposing a transposition or implementing measure, Member States should always identify clearly which provisions are required under EU law and which provisions are proposed at the initiative of the national government, together with a clear explanation of the reason for these 'additional' provisions. If Member States decide to maintain or introduce requirements going beyond EU minimum requirements, the HLG recommends that national governments apply a 'comply or explain' approach similar to corporate governance, as explained above. When transposing EU legislation into national legislation, governments should either copy fully the substance of the EU act, or explain why they have deemed it necessary to 'gold plate'. In such cases, stakeholders and end-users should be involved in an open and transparent public consultation of the proposal. This should also apply to regional and local levels of government.

5. Exemptions or lighter regimes, in particular for SMEs or micro enterprises

In some instances the relevant EU act to be transposed explicitly includes options for lighter versions or exemptions, in particular for SMEs or micro enterprises. This is the case with compulsory audits of annual accounts within the area of company law. The HLG recommends that Member States take note of these options, and are very explicit and transparent when deciding whether or not to implement these in the national legislation. In this instance the HLG recommends applying a 'comply or explain' methodology as well. A public consultation involving end-users and other stakeholders should be a minimum requirement.

6. eGovernment and digital solutions

a) eGovernment portals

The HLG recommends the use of digital solutions whenever possible. Across sectors new technology has provided means of reducing the administrative burdens on businesses. This does, however, require governments to embrace the new technology and – in partnership with businesses and other relevant stakeholders – develop solutions that make it easier to fulfill the information requirements necessary to achieve the policy objectives.

b) Re-use of data

Digital solutions make the re-use of existing data possible to a much larger extent than paper sources as data is more easily accessible. This also facilitates the introduction of 'only once' regimes, whereby businesses are only obliged to submit the same data once.

c) Move towards increased or even mandatory digitalisation

A number of Member States have used the introduction of mandatory digitalisation as a tool to move businesses onto a digital platform. Mandatory digitalisation is a very strong tool where applicable, i.e. in those Member States where it is realistic to demand that all businesses can work in a digital environment within a certain time frame.

A less prescriptive version is to introduce measures which encourage businesses to migrate to a digital platform. This could e.g. be a quicker payout of grants or subsidies, fast track treatment of certain applications etc.

7. Risk-based approaches

Wherever possible, risk-based approaches should be promoted. Risk-based approaches reward those businesses that have a track record of complying with the relevant regulation, thereby easing their administrative burden. At the same time those with a history of non-compliance are penalised, in effect increasing their burden.

With a policy objective of a high level of compliance, a risk-based approach is worth considering.

8. Examples for good guidance to businesses

Some EU requirements turn out to be difficult for businesses to comply with in the way they have been introduced in national legislation. It is therefore important for authorities to take stock of the legislation, e.g. by carrying out *ex post* evaluations and by setting up a close dialogue with end-users to gain an insight into their perspective. Often this will lead to surprising insights into how the regulation has been both perceived and put into practice by businesses in ways not intended or imagined by regulators.

The HLG strongly recommends that regulators engage themselves in a dialogue with businesses – also after EU regulations have been transposed and entered into force. This is an effective way to monitor the actual behaviour of those affected by the regulation and – if necessary – to come up with adjustments and specific guidance that simultaneously eases the burden on businesses and raises the level of compliance.

VI. CHECKLIST FOR GOOD IMPLEMENTATION OF EU LEGISLATION

The HLG has used the preparation of this report to produce a checklist for good implementation of EU legislation which is reproduced below. The Group recommends that authorities responsible for the implementation of EU legislation when working on such an implementation take some time to go through the checklist in order to ensure an implementation that avoids burdensome elements to the widest possible extent.

1. The objective of the legislation

Has a clear understanding of the objective of the EU legislation been established, and has this been communicated to businesses and relevant stakeholders?

Apart from the text of the actual EU legislation, could the Commission's impact assessment (executive summary) be used for clarification of the objectives?

2. Exchange of best practice implementation – looking beyond borders

Has the EU legislation already been implemented in other Member States – and can lessons be learned from their implementation? Is there scope for future improvements via a regular exchange of best practices?

3. The use of impact assessments and evaluations at the national level

Has an *ex ante* impact assessment been carried out *inter alia* showing the level of administrative burden of the proposed regulation against possible alternatives?

Can the experience of previous *ex post* evaluations be fed into the transposition process? Is proper evaluation of the effect of the legislation once introduced explicitly foreseen, e.g. two to three years after entering into force?

4. The extent of leeway for implementation

How much discretion is left to national authorities in the EU legislative act with respect to its implementation?

Depending on the extent of discretion for the implementation:

- Is national legislation already in place that can/must be replaced by the EU legislation?
- Can the requirements be integrated into existing national legislation? Is there scope for alignment or attunement of existing national requirements in the same or other areas?

- How can end-users be actively involved in preparing the national legislation? More specifically, can end-users be actively involved in clarifying scope and terminology to ensure that the transposition 'makes sense' to them?

5. The use of derogations or 'lighter regimes'

Can derogations foreseen in EU legislation be used in order to make the implementation less burdensome?

Should special provisions be made for newly established or micro enterprises or other stakeholder groups exempting them from obligations or providing them with a less burdensome alternative?

6. 'Active' and 'passive' gold-plating

If national authorities decide to implement the EU legislation in a way that goes beyond copying the substance of the EU legislation – either procedurally or by subject matter – thus introducing some measure of 'active' gold-plating, this should be explicitly communicated when the legal act is tabled, and end-users and other stakeholders should be invited to comment on this during a public consultation.

In case EU legislation replaces existing national legislation the authorities should check whether there are excessive or unnecessary national requirements that could be eliminated at the same time, in order to avoid 'passive' gold-plating. If it is decided that additional elements be kept, this should likewise be explicitly communicated and a consultation of stakeholders and end-users should be performed.

7. The use of risk-based approaches

Wherever appropriate, can a risk-based approach be introduced?

8. Implementation with an end-user focus

Is there a least burdensome way to implement the EU legislation vis-à-vis the end-users, e.g. by ensuring sufficient time to adapt procedures and paper-work or by taking sectoral calendars and peak periods into account?

Have 'common commencement dates' been considered thereby ensuring that businesses only need to change reporting procedures at specific dates?

Are any of the other recommendations like applying the SME test or setting up a 'one stop shop' in the Commission's 'Small Business Act' relevant to this implementation?

Can (industry) associations representing the (most) concerned end-users play an active role in informing and involving their members in how best to adhere to the new regulation?

Can specific incentives be set up to ensure a high degree of compliance by end-users? This could be rewarding early compliance, providing extra guidance to businesses participating in pilot projects etc.

9. Digital solutions and re-use of data

Does a digital application exist through which businesses can fulfill their reporting obligations? Is it possible to develop a cost efficient application as part of a general portal already in place, to make it easy for businesses to find the application?

Is there scope for re-use of data from existing sources in order to comply with the information obligations of the legislation?

Are there any obstacles in the legal text so as to prevent the application of digital tools, such as handwritten signatures or demands for a physical presence before the administration?

VII. "EUROPE CAN DO BETTER" – THE ROAD AHEAD

Europe can indeed do better. With this report the HLG has demonstrated that a whole range of tools have been used by those Member States that succeeded in coming up with superior ways of transposing EU legislation into national regulation. Lessons can and should be learned from these examples in all Member States. In the HLG's view it is essential that this is not the end of the road, but that the change of culture evidenced by these best practice examples stabilises and gains further momentum – within public administrations through the tenacious efforts of dedicated civil servants, on the political level by the necessary political commitment, and with the support of stakeholders and end-users who know from experience how specific ways of regulating affect their daily lives.

The HLG recommends that Member States as well as administrations on sub-national level use the checklist for good implementation of EU legislation when launching the implementation of EU legislation. For its part, the HLG for the remainder of its mandate will consider running one or more examples of new directives through the checklist presented above in cooperation with the Commission and the Member States, in order to identify points for further improvement.

The HLG calls on stakeholders and end-users to make use of the examples by testing implementation in the respective Member States against them and – in case an implementation falls short of a better implementation in another Member State – starting a discussion with the responsible national, regional or local administration on improving the respective implementation.

The exchange of best practice must be nurtured in order to expand, and the HLG calls upon the Council and the Member States, the European Parliament and the national parliaments, the Commission, the European Economic and Social Council, the Committee of the Regions, stakeholder organisations, NGOs and other actors to ensure that this important effort is continued – to the benefit of Europe, its businesses and its citizens.

The HLG encourages readers to provide feedback on the report to the following email-address: SG-HLG-AB@ec.europa.eu.

ANNEXES TO THE REPORT

1. HLG members and their reporting areas
2. Questionnaire
3. List of examples taken up in the report and link to website with detailed submissions
4. List of presentations to the HLG in the context of the best practice report
5. Overview of expert groups and websites for best practice exchange
6. Bibliography
7. Overview of institutional set-up