

Single Market News

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New Rules on Supervision

- Member States establish Points of Single Contact
- New Directive on defence and security procurement
- Seconded National Experts in DG MARKT: real assets

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Editor

Panayotis Stamatopoulos
European Commission-Internal Market and Services DG
Unit A-4
B-1049 Brussels
Tel. +32 22961772
Fax +32 22954351

Deputy Editor

Jacqueline Tordo
Tel. +32 22985663
Fax +32 22954351

Subscriptions

Brona Meldrum - Internal Market and Services DG
SPA2 1/008
B-1049 Brussels
Fax +32 22954351
E-mail: Markt-smn@ec.europa.eu

Layout

Dati Bendo

Online

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Dati Bendo and the European Commission



Jörgen Holmquist Director General for Internal Market and Services, European Commission

Very important news in this year's third edition of Single Market News is the Commission's adoption of a package on draft legislation to strengthen the supervision of the financial sector in Europe. In less than one year since the establishment of the reflection group under Jacques de Larosière, the Commission has produced a concrete set of measures to deal with the present crisis and to help prevent future financial crises (p. 6).

On 24 and 25 September, the Pittsburgh G20 Leaders summit was held focusing on the need for a global coordinated response to the financial crisis. The summit was a success; it added another milestone to a globally coordinated financial services reform process. But much work still lies ahead. DG Internal Market and Services will continue to represent the Commission in the Financial Stability Board as an active and committed participant. A coordinated, quick and consistent implementation of the G20 commitments is of paramount importance (p.24).

Another major milestone is the new Directive for defence and security procurement that recently entered into force. There are challenging times ahead as most defence and security authorities, but also companies operating in these sectors are not used to applying Community rules. At the same time, Commission services are not always fully acquainted with the specificities of defence and security matters either. Consequently, all parties involved will have to go through an important learning process during the transposition of this Directive (p. 22).

Over the last year, DG MARKT has prioritised reaching out to more stakeholders. In an interview with UEAPME, a major European SME network, you can read how this organisation represents the interests of SMEs at EU level and how the Small Business Act and the Services Directive has facilitated cross-border trade for their members (p. 12). Furthermore, the 'Points of Single Contact', at the heart of the Services Directive, to be launched by the end of this year, will help SMEs even more in doing business abroad (p. 8).

In the field of auditing, in November 2008, the Commission launched a public consultation on possible ways forward to open up the audit market in the EU. On the basis of the responses received, the Commission will carefully consider what actions can be taken at EU level to encourage new-smaller-market players, while ensuring that auditors' independence and audit quality will not be undermined (p. 11).

Member States continue to perform well in implementing agreed Internal Market rules into national law on time, according to the European Commission's latest Internal Market Scoreboard (p. 17). The Single Market is crucial to the recovery of the European economy. But for the Single Market to work effectively, its rules need to be correctly transposed, applied and enforced at national level. The Commission has issued a Recommendation entitled 'Measures to improve the functioning of the Single Market' with concrete steps on how to ensure this (p. 16).

Finally, featured in this Single Market News, interviews with some of DG MARKT's Seconded National Experts (SNEs), who were asked to tell their stories on the expertise they bring to DG MARKT and the knowledge and experience they hope to take home after their spell in the Commission.



Parliament says 'yes' to Barroso

In its plenary vote on 16 September, the European Parliament re-elected José Manuel Barroso for a second term as Commission President. Despite facing some heavy opposition from both the Social Democrats and the Greens, the Portuguese leader could still count on a comfortable majority of 382 votes against 215 out of a total of 736. Mr Barroso had already been unanimously appointed by the European Council in June, but needed the support of the Parliament to confirm his election. In his Political Guidelines for the next Commission, presented two weeks before the vote, Mr Barroso promised to make a strong case for the Single Market, reform the EU budget and work more closely with the European Parliament.

New Members of the Commission appointed

In its September plenary, the European Parliament approved the appointment of three new members of the European Commission. They are: Karel de Gucht (Belgium) for Development and Humanitarian Aid; Algirdas Šemeta (Lithuania) for Financial Programming and Budget, and Paweł Samecki (Poland) for Regional Policy. The three will replace Louis Michel, Dahlia Grybauskaitė and Danuta Hübner respectively. Mr Michel and Mrs Hübner left the Commission after having been elected to the European Parliament in June, while Mrs Grybauskaitė was elected President of Lithuania in May. The three will remain in office at least until the end of the current Commission's mandate ending on 31 October, with a possibility to be reappointed under Mr Barroso's second term.

Roadmap ready for SEPA



September has been a busy month for the Single Euro Payments Area (SEPA). The objective of SEPA is to make cashless payments in euros throughout the whole of the EU as easy, safe and efficient as payments at national level today. At the start of the month the Commission adopted a Communication on completing SEPA: a Roadmap for 2009-2012 in response to the Communication on 'Driving European recovery'. The Roadmap identifies a series of actions to be undertaken by the EU and national authorities as well as industry and users over the next three years, to achieve a full implementation of SEPA. Full details in the next issue of SMN, but for those who cannot wait, please see the DG MARKET site (http://ec.europa.eu/internal_market/payments/news_en.htm)

Commission tables plan to finance the battle against climate change

According to Commission plans adopted on 10 September, developing countries could receive EU funding of up to €2 to €15 billion a year to help them combat climate change, assuming that an ambitious agreement is reached on climate change in Copenhagen. With less than 90 days before the UN Climate Change Conference, the Commission has calculated that by 2020, developing countries could face annual costs of around €100 billion in order to mitigate the effects on climate change. While much of the finance needed will have to come from domestic sources and an expanded global carbon market, the Commission finds that industrial countries and emerging economies, including the EU, should also carry part of the burden for them. The Commission has invited the European Parliament and the Council to consider the plans in the run-up to Copenhagen.

EU to revise copyright laws for Internet

In a joint-statement, Internal Market Commissioner Charlie McCreevy and Information Society Commissioner Viviane Reding said that the EU needs to revisit its copyright rules to cover online book publishing. The statement follows after the Commission organised a number of hearings on the Google Books Settlement in the US. There, Google settled a deal with publishers to scan 'orphaned' or out-of-print books. Orphaned books are still theoretically under copyright but the owners cannot be identified and the books have usually been out of print for years. The settlement will only apply to users in the US, while the EU does not have such provisions. Mr McCreevy and Mrs Reding stated that Europe needs to adapt its fragmented copyright legislation. 'We believe that such a European solution should breathe fresh life into this issue and could give every citizen with an internet connection access to millions of books that today lie hidden on dusty shelves', they said. Orphaned and out-of-print works represent 90% of the contents of European libraries.

Search

Parliament sets up Temporary Crisis Committee

Following the recent financial market turbulence, the European Parliament has decided to create a Temporary Committee on the Financial Crisis. The Committee will consist of 45 Members. Its main task will be to analyse and evaluate the effects of the financial crisis in Europe as well as look at the EU measures taken 'in all relevant fields'. Where it considers necessary, the Committee will propose appropriate measures to the European Commission. The Members also expect to organise hearings with numerous actors involved in the financial crisis. The Committee will be chaired by Mr Wolf Klinz (ALDE) from Germany and Mrs Pervenche Berès (PES) from France.

EU clamps down on websites selling consumer electronic goods

On 9 September, EU Consumer Commissioner Meglena Kuneva announced the results of an EU-wide investigation into misleading advertising and unfair practices on websites selling consumer electronic goods. The clampdown covered 369 websites selling six of the most popular electronic goods to consumers in the EU, including digital cameras, mobile phones, personal music players, DVD players, computer equipment and game consoles. It covered 200 of the biggest websites selling electronic equipment in the EU as well as more than 100 websites which were targeted on the basis of consumer complaints. The results of the checks carried out in May this year show that 55% of the websites investigated showed irregularities, in particular relating to: misleading information about consumer rights; misleading information about the total cost of the product and incomplete contact details of the trader. Mrs Kuneva said 'This is a Europe-wide problem which needs a European solution. There is a lot of work to be done in the months ahead to clean up this sector, Europe's consumers deserve better.'



Commission calls on Member States to end double taxation regime

Taxpayers working or trading cross-border should no longer be faced with double taxation, according to a Commission Communication adopted on 15 September. The Commission recommends that Member States constantly monitor problems that occur in practice, as this would lead to a swifter resolution of many cases. While direct taxation is primarily a case for EU Member States, differences in pricing rules between the countries can lead to inconsistencies in the Single Market, not least causing a burden for taxpayers. Commissioner Kovacs for Taxation and Customs Union urged Member States therefore to endorse the recommendations and implement them in their national administrations as soon as possible.

Commission adopts financial supervision proposals



On 23 September, the European Commission adopted an important package of draft legislation to significantly strengthen the supervision of the financial sector in Europe. The aim of these enhanced cooperative arrangements is to sustainably reinforce financial stability throughout the EU; to ensure that the same basic technical rules are applied and enforced consistently; to identify risks in the system at an early stage; and to be able to act together far more effectively in emergency situations and in resolving disagreements among supervisors. The legislation will create a new European Systemic Risk Board (ESRB) to detect risks to the financial system as a whole with a critical function to issue early risk warnings to be rapidly acted on. It will also set up a European System of Financial Supervisors (ESFS), composed of national supervisors and three new European Supervisory Authorities for the banking, securities and insurance and occupational pensions sectors.

Internal Market and Services Commissioner Charlie McCreevy

said: 'This package represents rapid and robust action by the Commission to remedy shortcomings in European financial supervision and will help prevent future financial crises. In less than 12 months since the establishment of the reflection group under Mr de Larosiere, we have been able to bring forward these far reaching proposals to strengthen the EU supervisory framework. This shows our determination to learn from the crisis and take the necessary action.'

What came before: the 'de Larosière Report'

In June of this year, **Single Market News** in an extensive interview with David Wright, Deputy Director General of DG Internal Market and Services¹, outlined and explained the importance of the 'de Larosière report'² covering financial supervision and regulation and the subsequent Communication of the Commission to the European Council. The de Larosière group identified serious shortcomings in the existing system of financial supervision in Europe. It reported that although a Single Market exists and financial institutions operate across borders, supervision in the EU has remained uneven and often uncoordinated.

The subsequent financial supervision proposals adopted by the Commission have been the subject of extensive consultation both after the publication of the de Larosière report and after the Commission outlined its proposals to the European Council in June. The June EU Summit endorsed the new supervisory framework and called for a rapid adoption of the necessary legislative texts.

Stronger supervision on macro- and micro levels

The adopted legislative proposals address weaknesses both at the macro- and micro-prudential supervision levels by creating:

- a **European Systemic Risk Board (ESRB)** to monitor and assess risks to the stability of the financial system as a whole ('**macro-prudential supervision**'). The ESRB will provide early warnings

on systemic risks that may be building up and, where necessary, recommendations for action to deal with these risks. So if a risk emerges in one or more of the Member States, the ESRB's task is to issue recommendations and risk warnings to the Member States and to the European Supervisory Authorities, upon which they should act. Member States (including the national supervisors) will have to comply or else explain why they have not done so. The creation of the ESRB is in line with several initiatives at multilateral level or outside the EU, including the creation of a Financial Stability Board by the G20 on financial stability.

Central Banks will play a significant role in the ESRB. In most Member States, Central Banks have some degree of responsibility for macro-prudential oversight of the financial sector, so they are well-placed to contribute to the analysis of the impact on financial stability of the inter-linkages between the financial sector and the broader macroeconomic environment. European Supervisory Authorities, the European Commission and national supervisors will also participate in the ESRB.

- a **European System of Financial Supervisors (ESFS)** for the supervision of individual financial institutions ('micro-prudential supervision'), consisting of a network of national financial supervisors working in tandem with new 'European Supervisory Authorities', created by the transformation of the existing Committees for the banking, securities and insurance and occupational pensions sectors³.

The current financial services committees at EU level have advisory powers and can issue non-binding guidelines and recommendations. National supervisors of cross-border groups must co-operate within colleges of supervisors, but if they cannot agree, there is no mechanism to resolve the issue. Many technical rules are determined at Member State level and there is considerable variation between Member States. Even where rules are harmonised, application can be inconsistent. This fragmented supervision undermines the Single Market, imposes extra costs for financial institutions, and increases the likelihood of failure of financial institutions with potentially additional costs for taxpayers.

¹ Single Market News N° 54, 2009-2

² Report of 25 February 2009 on financial supervision by a high-level group of experts chaired by Jacques de Larosière, former IMF Managing Director. The report was mandated by President Barroso.

³ CEBS (Committee of European Banking Supervisors), CESR, (Committee of European Securities Regulators), CEIOPS, (Committee of European Insurance and Occupational Pensions).

For these reasons, the de Larosière group recommended that these committees be given more power and transformed into supervisory authorities. There will be a European Banking Authority (EBA), a European Insurance and Occupational Pensions Authority (EIOPA), and a European Securities and Markets Authority (ESMA).

Powers of the new ESFS authorities

The new authorities build on the existing powers of these committees, with a number of additional technical powers, including the following:

- Developing draft proposals for technical standards – to help to ensure more consistent rules within the EU, working towards a common rulebook;
- Facilitating exchange of information and agreement between national supervisory authorities, and where necessary, settling any disagreements, including within colleges of supervisors – to ensure supervisors take a more coordinated approach;
- Contributing to ensuring consistent application of Community rules – to ensure incorrect or inconsistent application is dealt with quickly and effectively;

- Exercising direct supervisory powers for credit rating agencies;
- Co-ordination and some decision-making in emergency situations.

The proposed system is a ‘hub and spoke’ type of network of EU and national bodies. The new authorities will act only where there is clear added value, such as the development of technical standards which will apply throughout the EU, and settlement of disagreements between national supervisors on matters which require co-operation. The areas where the authorities can act will be strictly defined by Council and Parliament in co-decision. The Commission’s approach is based on common rules applied at national level, with consistency and co-operation ensured by Community bodies. The European System of Financial Supervisors will be evaluated after three years. While it is not possible to pre-judge the outcome of the evaluation, this will be the opportunity to take stock of how well the ESFS is working and to look at whether further steps are needed.

It is to be hoped that the Council and Parliament will adopt this package in time for the new Authorities and the ESRB to be created by the end of 2010, so that they can contribute to improving supervision in Europe and to preventing future financial crises.

“This package represents rapid and robust action by the Commission (...) and will help prevent future financial crises.”

Commissioner Charlie McCreevy



Points of Single Contact: Doing business made easier



By the end of this year, Member States have to fully implement the EU Services Directive. This should give a boost to services, the biggest and most dynamic sector of the EU economy, accounting for around 70% of GDP and employment. The Services Directive should stimulate cross-border trade and facilitate life for SMEs through a range of simplification measures. Among these, the 'Points of Single Contact', designed to help businesses with all administrative procedures involved in going cross-border, should make the biggest difference. With a huge amount of effort and cooperation, Member States have made considerable progress in tackling the challenges of setting up these contact points.

With less than four months to go until the transposition deadline, the implementation process of the Services Directive is nearing the finishing line. By the end of this year, Member States have to simplify the regulatory environment for businesses and abolish unjustified or excessive administrative requirements. SMEs should benefit from simpler procedures and have less paperwork to deal with. If done properly, the implementation of the Services Directive should enhance the overall economic performance in services - the sector in which the EU can compete best at international level.

The 'Points of Single Contact' (PSCs) are at the heart of the reform package regulated by the Services Directive. PSCs have to be set up in each Member State. They should become a single contact point where SMEs can easily obtain information, submit applications and collect decisions or other replies without having to deal with a multitude of authorities at different administrative levels, as is the case today. They are meant to become the single intermediaries between businesses and public administrations. Furthermore, the PSCs will make it possible to complete procedures at a distance, by using 'e-government applications'.

Modernising the way public administrations work

This is the first time that Member States are under a legal obligation to put in place a comprehensive set of e-government services that can be used across borders. It marks a major shift in the way public authorities deal with administrative formalities and should significantly improve their services towards businesses. The setting up of PSCs has proved to be an extremely complex and challenging task for Member States. They had to make complex choices on technical as well as on policy levels, in order to work out which operational model for the PSC would fit their administrative structure best. Moreover, a huge amount of internal coordination and practical work is involved in getting the PSCs up and running by the end of 2009.

Setting up PSCs differs greatly from the legislative work that is normally required from Member States when implementing EU Directives. To get the implementation right, it was therefore important to put in place new working methods and structures for cooperation from the beginning of the transposition period. The last two and a half years have shown that better results can be obtained when experiences are shared and best practices are exchanged at EU level. There is a lot that Member States can learn from each other.

FOUR FACTS ABOUT THE 'POINTS OF SINGLE CONTACT'

1. Contact points for businesses, to be set up in each EU country.
2. e-government portals accessible via the internet.
3. Businesses can get clear and exhaustive information on administrative procedures and specific requirements.
4. Businesses can complete the required procedures online, such as registration in commercial and professional registers, obtaining permits or licences, submitting notifications by filing requested information online and receiving decisions etc. online.

POINTS OF SINGLE CONTACT A PRACTICAL EXAMPLE

A construction company from Sweden wants to establish a business in Spain. To get the information on the requirements in Spain for opening a branch, they log on to the website of the Spanish Point of Single Contact. The Swedish company then files all the required documents and applications electronically and will receive all decisions, permits etc. by the same route.

WHAT IS THE SERVICES DIRECTIVE?

The Services Directive is a European Directive that **requires all EU countries to lift legal and administrative barriers** to the establishment and provision of services from abroad. It will facilitate:

The establishment of businesses in the services sector

Example: a carpenter from Hungary who wants to establish a business in Sweden, or a Spanish company that wants to set up a new retail store in its own country.

The cross-border provision of services

Examples: an architect established in France who designs a house in Germany, or an event organiser from Finland who wants to run an open air festival in Estonia.

The Services Directive has to be fully implemented in all EU countries **by 28 December 2009**.

Setting up Points of Single Contact: a matter of coordination and teamwork

The Commission committed itself very early to supporting Member States' efforts by coordinating implementation work at EU level. Besides very close and continuous contacts with national administrations, the Commission created a working group, gathering experts from all national governments. Since the beginning of 2007, this expert group has met on a monthly basis to discuss and find a common understanding of practical issues linked to the implementation, including the setting up of PSCs.

But this work coordinated by the Commission is only part of the story. Member States have teamed up in quite an unprecedented manner to take cooperation one step further.

'Jamboree' meeting on PSCs: 'by the Member States, for the Member States'

The Netherlands took the initiative to bring together people working on the practical implementation of the PSCs for an informal meeting at EU level – a so-called 'Jamboree' gathering. The idea was simple: experts from all EU countries met to informally share their knowledge and expertise at a meeting organised 'by the Member States, for the Member States'. It soon received strong support from other Member States and in November 2008 the 'Jamboree' took place in Brussels. Four other countries – Germany, France, Denmark and the UK – joined the Netherlands in organising the event.

The 'Jamboree' was a great success and drew together around 200 experts from all EU countries. The informal setting as well as the organisation of a series of practical workshops allowed for detailed discussions and practical demonstrations of PSC solutions. More importantly, it also marked the kick-off for a new informal network of experts working on the PSCs. Contacts and mutual help between individual Member States intensified after the 'Jamboree'. In June 2009, an equally successful second 'Jamboree' session was organised by Sweden, Austria and the UK. The second 'Jamboree' also saw the presentation of a significant project carried out jointly by the Netherlands, Estonia and the UK.

Joint usability study

SMEs will only take advantage of the PSCs if they are comprehensible and easy to use. To find out what makes a PSC usable, and to make sure the solutions put in place in one country are also clear and straightforward for businesses from other countries, The Netherlands, Estonia and the UK carried out a usability study during the spring of 2009. How was this done? Each country chose, according to certain criteria, a sample of potential PSC users, consisting of owners or senior managers of SMEs from their country. These users were then invited to testing sessions and had a close look at the other countries' PSC prototypes.

The mutual testing pointed towards several areas for improvement and resulted in a set of guidelines on key issues, such as the presentation of information and the handling of online forms. The overall conclusion of the study might seem obvious, but is all too often overlooked in practice: 'when designing a PSC, it is crucial to keep in mind that what is considered logical or obvious by service providers in the PSC's home country, may not be so for service providers from other countries.'

A follow-up to the usability study has already been announced for later this year, and all countries who did not participate the first time are strongly encouraged to join in.

Finding the right PSC: EU webgate and common logo

More is currently being done at EU level to make the PSCs a success. The first important thing for businesses is to be able to find the PSCs easily and to know how to contact them, in their own country or abroad. An architect from Spain needs to know which PSC he can use if he wants to set up an office in France, or if he intends to design a building in Hungary. To give a simple overview of the PSCs existing in each Member State, the Commission is setting up a 'PSC webgate' at EU level. The PSC webgate will serve as central entry point and provide web-links to all national PSC portals.

Trustworthiness and reliability are other crucial aspects when it comes to encouraging businesses to use the PSCs in their daily life. To this end, Member States are currently working together to develop a common logo, which should serve as a 'trust mark' and appear on each national PSC website.



Tina Sommer, President of the European Small Business Alliance

'The internal market is not working for small businesses. With only 8% taking the plunge into foreign countries, we have a great opportunity here to provide the information and facilities to entice many more companies. Fear of expansion can only be overcome with knowledge. Through the PSCs you can provide the facilities for that knowledge.'

The countdown to December 2009: how are Member States doing?

Where do things stand six months before the deadline as regards the setting up of PSCs? And what remains to be done? In almost all countries the key decisions as to the concept and architecture of the PSCs, as well as the responsibilities for setting them up, seem to have been taken by now. In a large majority of countries, practical work to build the PSC work is in full swing, leading to different stages of progress. But in some Member States progress is too slow and work still seems to be at a rather initial stage only. In any event, sustained efforts will need to be deployed in all EU countries during the remainder of this year to meet the deadline.



Results of the public consultation on control structures in audit firms

Currently only four large audit firms (the 'Big 4')¹ perform most of the audits on international companies. In November 2008, DG MARKT launched a public consultation on possible ways forward to open up the audit market in the EU. A summary of the 67 replies received was published on European Commission's website on 15 July 2009².

The consultation is a follow-up to an independent study conducted by the consultancy firm Oxera. The study suggested that in order to reduce audit market dominance by big firms, it could be helpful to adapt Article 3 of the Statutory Audit Directive in order to provide for more market liberalisation to other – smaller – firms. Article 3 requires that auditors hold a majority of the voting rights in an audit firm and that the majority of auditors control the management board.

Respondents to the consultation recognise the need for opening up the market concerning audits of international companies to more suppliers or at least to ensure that the current market structure does not deteriorate further. 90% of respondents believe that the Commission should strive to reduce all potential barriers to entry and in doing so stimulate the growth and survival of more audit firms in the international audit market.

However, most of the respondents judge that changing the current rules on control of audit firms would not be sufficient on its own. Nevertheless, for some of the respondents, allowing external investment in audit firms might help smaller firms to grow. But if the rules on control of audit firms were changed, additional safeguards on independence of auditors would be needed.

In order to improve the situation, respondents identify a need for more harmonisation at EU level concerning independence rules, qualification requirements, liability limitations and auditing standards for auditors. They call for closer cooperation between public oversight systems and the possibility to provide statutory audit services without multiple registrations across the EU. Respondents also suggest measures to address the current lack of recognition by audit clients of the actual audit capabilities of firms other than the four largest audit firms. Tender procedures need to be more frequent and transparent, and there needs to be more involvement of companies' audit committees and of shareholders in the tendering process.

Following the consultation, the Commission will carefully consider what actions can be taken at EU level to encourage new market players, whilst ensuring that auditors' independence and audit quality are not undermined.

¹ Deloitte&Touche, Ernst & Young, PricewaterhouseCoopers and KPMG
² http://ec.europa.eu/internal_market/auditing/market/index_en.htm

Stakeholder's corner: Single Market News meets UEAPME



Andrea Benassi, Secretary General of UEAPME, the European Association of Craft and Small and Medium-Sized Enterprises, calls on the future Commission to really think small first when designing policy. 'As SMEs are the biggest providers of employment in Europe, why not talk to them first?'; Benassi argues. SMN discusses the role of UEAPME in Europe, its relation with DG Internal Market and Services and its view on the Small Business Act as well as other recent legislation.



Tell us a bit about UEAPME

UEAPME is the employer's organisation representing the interests of European crafts, trades and SMEs at EU level. With a 22-strong secretariat, UEAPME is a recognised European Social Partner and acts on behalf of crafts and SMEs in the European Social Dialogue and in discussions with the EU institutions. It is a non-profit seeking and non-partisan organisation.

As the European SME umbrella organisation, UEAPME incorporates 83 member organisations in 36 countries consisting of national cross-sectorial SME federations, European branch federations and other associate members.

Across the whole of Europe, UEAPME represents over 12 million SMEs out of a total of 23 million SMEs in the EU27 with nearly 55 million employees.

How long have you been Secretary General of UEAPME?

I was appointed in November 2007. I was previously Director for European affairs and international relations for one of the 4 national Italian members of UEAPME, the Italian crafts and SMEs organisation Confartigianato.

How is your relation with DG MARKT?

We have an excellent relationship with DG MARKT. Although our views sometimes differ, we feel that DG MARKT is always willing to listen and open to discussion and that its staff is extremely talented and competent.

How does UEAPME represent the interests of its members in Brussels?

We are a unique organisation insofar as we only speak on behalf of SMEs. In this respect, we are different from all the other European networks representing businesses in Brussels. In our organisation, we do not have to compromise with big businesses. We have a very clear mission that only covers SMEs and we strictly look at their interests. People do not always realise that more than 67 out of 100 workers are employed by SMEs.

We are also a social partner and we are very aware of the responsibility that this entails. For instance, this allows us to negotiate at European level on topics such as labour markets and parental leave, although other issues such as minimum wage are better negotiated at national level.

We have been around for a long time; we are celebrating our 30th anniversary next year. Over the years we have grown as an organisation and we have developed our expertise. We are recognised as a serious player at European level and we are regularly invited by the Commission and the other EU institutions to give our views at round tables and at other meetings and events on a wide range of topics, most recently on the financial crisis, for instance.

“People do not always realise that more than 67 out of 100 workers are employed by SMEs.”

You mentioned the financial crisis. What is UEAPME doing about it?

We are conscious of the effects of the financial crisis on our members. It is easier for big businesses to be more visible and to influence policymakers, so we have to compensate for this by doubling our efforts to represent our members at European level.

During the French Presidency of the EU, in the second half of 2008, we decided to set priorities in order to support our members in dealing with the financial crisis. The three important issues we are now concentrating on are: 1) access to finance, 2) late payments and 3) social plans for SMEs. The latter lie under the responsibility of Member States and are an important, but complicated issue. Small companies and subcontractors often lose out when it comes to social benefits for their workers. This is what we are now trying to address.

Moreover, our Study Unit has recently conducted a survey on the effects of the crisis for businesses of different sizes. The results

reconfirmed that the smaller the business, the more reluctant it is to lay off workers. Small businesses keep going because they realise that once they let go of their skilled workers, they will be gone forever, not to mention of course the closer, dare I say more human, owner-worker relationship in a small business. For big businesses it is much easier to lay off people and they are much quicker in doing so. Our conclusion is that to help SMEs means saving the economy.

Finally, access to finance in order to help small businesses sustain their efforts is what we lobby for as a priority. This year we succeeded in convincing DG Competition to consider allowing state aid on guarantees for working capital, so that SMEs can have access to other means of financing their business. In her temporary framework of December 2008, Commissioner Kroes did not only consider investment capital, but also working capital. This is of great help to support SMEs in paying their salaries.

How in your opinion does the Small Business Act affect business?

We believe that with the Small Business Act (SBA), the European institutions have finally recognised the central role played by SMEs in our economies.

Our Study Unit has produced a 'Think Small Test' and 'Small Business Act' scoreboard, which we issued to follow the implementation of the SBA in Member States (see: <http://www.ueapme.com/spip.php?rubrique121>). We intend to produce the results once a year. The scoreboard checks the implementation of commitments by Member States for ten priority areas, such as: SME finance, better regulation, innovation etc. Of course, the results as they stand now are just a still picture; we will need to observe at least one full business cycle to be able to comment on the real dynamics.

However, an early conclusion we have drawn is that a significant discrepancy exists between the measures taken for the different areas and the effects these measures actually had. Good policy intentions do not automatically lead to better results for those supposedly affected by them. The main task now is to address implementation at national level, where our members are reporting huge differences as regards the efforts made by their governments.

What do you expect from the implementation of the Services Directive?

My organisation has been quite active from the early stages of the discussions on the Services Directive, and I would say that the end result of our dialogue with EU policymakers is 99.9% in line with the needs of European SMEs. The Directive as it stands has a huge potential in delivering simplification for SMEs and in cutting red tape. I would in particular like to mention the removal of barriers to trade and the setting up of 'Points of Single Contact', which should facilitate the completion of administrative steps. But these benefits can only be reaped if all national governments live up to their responsibilities and properly implement the Directive. We are concerned that some Member States have so far not done their homework properly and need to considerably increase their efforts. This means first and foremost respecting the deadlines, but also making sure that the national implementation does not result in SMEs being worse off. Member States should resist the temptation to simply repeal legislation deemed to be incompatible with the Directive, but focus on finding workable adaptations. UEAPME and our member organisations will continue to follow implementation work closely. And we count on the Commission to put the necessary pressure on Member States lagging behind.

“Good policy intentions do not automatically lead to better results for those supposedly affected by them.”

What DG MARKT proposal do you look forward to most, if any ?

The further simplification and modernisation of accounting rules is extremely important for micro and small enterprises, while respecting the achievements of the Internal Market.

We are also closely following the excellent work done in the field of Intellectual Property Rights, the creation of the Observatory on counterfeiting and piracy and of course the Internal Market Information system (IMI), which will play a key role in the smooth functioning of the services directive. It goes without saying that we also welcome the general initiative of better regulation, but we must warn that there cannot be a better regulation if it does not include SMEs.



Otherwise, we want to react to the best of our ability to DG MARKT's consultations. However, the consultation periods must be extended. UEAPME acts on a mandate by our members; therefore we need more time to be able to consult all of them properly. It takes time to explain the impact European measures have on the national level and for them to research the possible impact and to form an opinion, before getting back to us. It also takes time to find a common position, which can only increase the degree to which new legislation will be accepted. We want to help the Commission by contributing with quality comments to consultations, so the necessary conditions for this need to be put in place and be respected.

We very much welcome services like SOLVIT at national level, which we have supported from the beginning.

What is your message to the new Commission ?

At the risk of sounding banal, I have to say 'Think Small First', now more than ever. But it must be more than a catchphrase; it must become the founding principle of enterprise policy and a guiding attitude in all policy areas and at all levels. SMEs must be the starting point when designing policy, especially micro and small enterprises. A lot of progress has been made in this respect, but we are not quite there yet.

“Think Small First”, it must be more than a catchphrase; it must become the founding principle of enterprise policy”



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Measures to improve the functioning of the Single Market



In its Recommendation of 29 June 2009, the Commission has put forward a set of practical measures aimed at improving the functioning of the Single Market at national, regional and local levels, so that all citizens and businesses can make full use of their Single Market rights and opportunities. It has called on Member States to actively use these new guidelines for improving the Single Market.

The Recommendation entitled 'Measures to improve the functioning of the Single Market' is a direct response to the Single Market Review¹. In order to make the Single Market work better in practice, the Single Market Review called for closer partnerships, both between Member States, and between Member States and the Commission. The recommendation sets out concrete steps for national administrations to improve the functioning of the Single Market at national level and encourages Member States to take a more active role.

The recommendations are based on research that Member States and the Commission jointly carried out during 2008, in order to identify good national practices as well as potential problems with transposition, application and enforcement of Single Market rules. In many cases, recommendations reflect good practices that have already worked well in some Member States.

In launching the Recommendation, Internal Market and Services Commissioner Charlie McCreevy said: 'The Single Market is crucial to the recovery of the European economy. But for the Single Market to work effectively, its rules need to be correctly transposed, applied

and enforced at national level, and national authorities need to cooperate more closely with each other. The Recommendation we have adopted today sets out concrete steps on how to ensure this, and I urge Member States to actively implement the recommendations at national level.'

The Commission and national administrations will jointly monitor the progress in introducing the recommended measures. After four years the Commission will report on the overall progress achieved.

Two Staff Working Documents, accompany the Recommendation, and provide a non-exhaustive list of activities currently undertaken by the Commission in the areas covered by the Recommendation² and an overview of the main existing networks established by the Commission for administrative cooperation in the area of the Single Market³.

On 24 September 2009 the Competitiveness Council adopted Council conclusions on 'How to make the Internal Market Work Better'. The Council welcomed the Commission's Recommendation and underlined the importance of an effective implementation.

Examples of Measures to improve the functioning of the Single Market:

- Make practical information on Single Market rights and work, study and business opportunities in other EU countries easily available;
- Ensure that civil servants are properly trained and have access to advice on Single Market rules;
- Encourage close cooperation and information exchange on all issues related to the Single Market between national, regional and local civil servants within each country;
- Encourage civil servants to cooperate closely with colleagues from other EU countries as well as keeping tight links with the EU. This is particularly important when citizens and businesses move across borders. Problems arising when people are exercising their rights should be resolved quickly;
- Ensure that relevant EU legislation is quickly and correctly introduced into national law;
- Do more research to understand problems in the EU's markets.

Info

http://ec.europa.eu/internal_market/strategy/index_en.htm#recommendation
For further information contact MARKT-B1@ec.europa.eu.

¹ Commission Communication 'A single market for 21st century Europe', COM(2007) 724 of 20.11.2007.
² Staff Working Document 'Commission activities to improve the functioning of the single market', SEC(2009) 881, 29.06.09.
³ Staff Working Document 'Administrative cooperation in the single market', SEC(2009) 882, 29.06.09.

Internal Market Scoreboard July 2009: Member States still on target

Member States continue to perform well in implementing agreed Internal Market rules into national law on time, according to the European Commission's latest Internal Market Scoreboard. For the third consecutive time, 1.0% of Internal Market Directives for which the implementation deadline has passed are not currently written into national law. This means that Member States are again in line with the 1.0% target agreed by Heads of State, which was to be achieved by 2009 at the latest. This Scoreboard also devotes particular attention to the effective application of public procurement rules, recognising the importance of this area at the present time.

For the third consecutive time, the EU average transposition deficit is at 1%. In total, 18 out of 27 Member States are in line with the 1% target: Once again, Denmark and Malta are the best overall performers, being only 3 directives away from a perfect score. A further 2 Member States (United Kingdom and Belgium) are close to reaching the 1% target. At the other end of the spectrum, Greece, Poland, Portugal, the Czech Republic, Italy, Luxembourg and Estonia are far off the target. The transposition deficit in 6 out of these 9 Member States has increased even further, compared to six months ago. This is a serious source of concern. Only Belgium and Luxembourg managed to reduce their deficits.

However, the functioning of the Internal Market does not depend just on timely transposition. Adding the number of directives not correctly transposed to the number of directives not fully transposed results in an EU average deficit almost double the 1% transposition deficit. Moreover, the number of long overdue directives remains stubbornly high. In 22% of directives not transposed, the transposition deadline expired already more than 2 years ago. Finally, the fragmentation factor on Internal Market legislation remains at 6%, which translates into 100 Internal Market directives not producing their full effect in the whole EU.

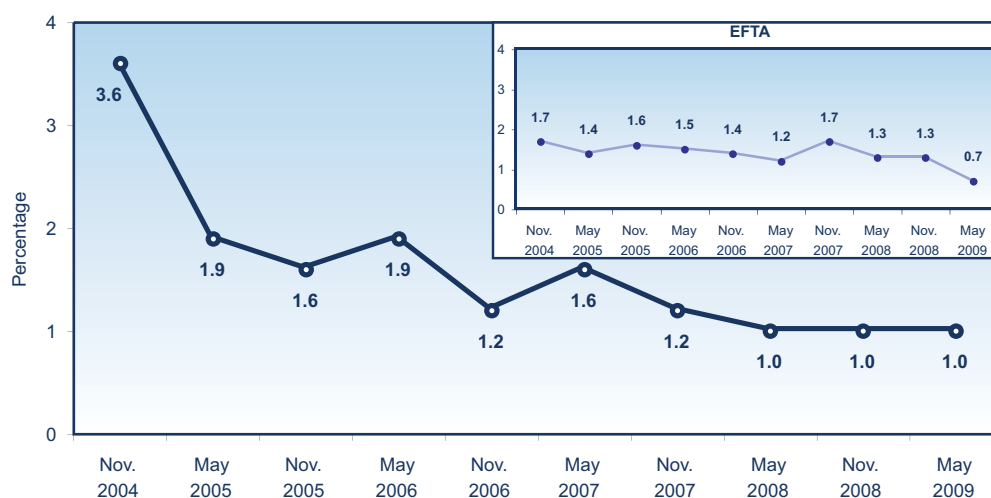
Infringements

Once transposed, it appears that Member States pay less attention to applying directives correctly. Even where Member States have managed to reduce the number of infringement procedures, those efforts are marginal and the Member States in question continue to have a significant number of infringement proceedings. Italy accounts for more than double the average amount of infringement proceedings for incorrect transposition or incorrect application of Internal Market legislation. Spain, Belgium, Greece, France and Germany are also way above the EU average of 47 cases.

Public procurement

Public procurement accounts for an important proportion of economic activity – over € 2,000 billion or around 17% of EU GDP in 2007. Local and cross-border competition in this area is delivering savings, with contracting authorities spending on average between 5-8% less than they had originally earmarked. This could translate into increases in GDP of between 0.08-0.12% (equivalent to 160,000-240,000 jobs) if continued over the next decade.

http://ec.europa.eu/internal_market/score/index_en.htm



The transposition deficit shows the percentage of Internal Market directives not yet communicated to the Commission as having been transposed, in relation to the total number of Internal Market directives which should have been notified by the deadline. The current Scoreboard takes into account all notifications of directives with a transposition deadline until 30 April 2009 which have been notified by 11 May 2009. As of 30 April 2009, 1606 directives and 897 regulations relate to the Internal Market as defined in the EC Treaty.

Seconded National Experts in DG MARKT: real assets



How do Seconded National Experts (SNEs) fare in the Directorate General for Internal Market and Services (DG MARKT)? Have their views on 'Brussels' changed since they started? What expertise do they bring to the DG and how do they and their ministries benefit from their EU experience when they get back? To answer these and many more questions, Single Market News has interviewed DG MARKT SNEs from many different walks of life. You can read their stories in this and in future editions.

What are SNEs/ENDs?

SNEs, also known as ENDs (Experts Nationaux Détachés) are civil servants seconded from Member States, who come to the Commission to work for contract periods varying from one to four years, or even six years in exceptional cases. The original Commission Decision on the rules for SNEs read: 'Seconded National Experts should enable the Commission to benefit from the high level of their professional knowledge and experience, in particular in areas where such expertise is not readily available'¹.

Recently, in 2008, rules for SNEs were changed. The new rules no longer allow SNEs from the private sector, because of a potential conflict of interest. SNEs now enjoy virtually the same rights as their permanent Commission colleagues with some exceptions, such as for health insurance, where SNEs are not entitled to join the Commission's scheme.

Why come to Brussels?

What attracts SNEs to come and work in the Commission? Many come to Brussels to gain professional experience in European affairs and to learn more about other Member States' policies and practices. Other motives, especially for the younger generation of SNEs, are related to the international nature of the Commission and Brussels; many SNEs enjoy improving their language skills and operating in a multi-cultural environment.

SNEs in DG MARKT

A total number of 58 SNEs work in DG MARKT. Gender is off-balance with only 17 women among them; an END MARKT focus group is looking into the reasons for this and will attempt to redress this balance. DG MARKT SNEs form an important link between the

Commission and the Member States. Most MARKT SNEs view the Commission differently since they started their secondment. Many were surprised to find so many similarities between the workings of the Commission and their own national administrations. Expecting a high level of bureaucracy, many felt it was not better, nor worse than in their home country.

Before coming to Brussels, many regarded the Commission as a large impenetrable institution, but once employed by it, found that information was a lot easier to get by than they had previously expected. The majority of SNEs interviewed are surprised at how transparent the Commission is and how easy it is to access the Commission from the outside. Many felt that lobbyists and interest groups enjoy more of a direct link with the Commission in contrast with practice at home. On the other hand, some are surprised at the decision-making power of the Commissioner compared to that of the DG; they are under the impression that civil servants in their home countries have much more influence.

Some said that before they came, they never really understood how the Commission interacted with other EU institutions and that being in Brussels had meant a huge learning curve. One SNE said: 'Working with the European Parliament is different to working with the parliament at home. In some respects you can get to the powers that be much more quickly than you would be able to do at home.'

Another SNE was pleasantly surprised at the hands-on approach of the Commission: 'I am very surprised that the Commission also directly responds to all kinds of questions from citizens. I think a lot of misunderstanding still exists at the national level about this role of the Commission. The Commission is too often seen as the enemy, whereas I have already seen that it tries to solve problems rather than cause them and that infringement procedures are used as a last resort rather than as a means to an end.'

“The Commission is too often seen as the enemy, whereas I have already seen that it tries to solve problems rather than cause them...”

¹ Commission Decision C(2008) 6866

MEET SOME OF DG MARKT'S SNEs

Name: Phil Lewis

Works in: Counterfeiting (Unit D3)

Arrived in DG MARKT in: May 2008

Seconded from the UK, government agency

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

I worked within the UK Department of Trade and Industry and for many years was involved in company law and dealing with fraudulent companies. In 2000, I joined the UKIPO (UK Intellectual Property Office) and one of my immediate tasks was to look into the problem of *counterfeiting and piracy* and its threat to business innovation and consumers. Private industry was putting huge pressure on government to improve legislation and enforcement due to the massive influx of counterfeited goods from abroad.

I developed a national strategy in 2003 and was consequently pulled more and more into international issues; I was Chair of a UN advisory group and represented the UK in several other task forces. Last year the opportunity came up to join the Commission for 2 years to help the development of the enforcement plans here. At the time DG MARKT, was in the

early stages of developing its work in this area. DG TRADE had traditionally been responsible for *counterfeiting and piracy* on the international scene and DG Enterprise had represented business; there was a need for better coordination, specifically within the EU and DG MARKT took up the challenge.

In terms of *counterfeiting and piracy* itself; it is such an international problem, no single country or organisation is going to crack it on its own. One of the problems for the UK, for example, was that there had been no central EU level platform to engage in in terms of internal market issues. So the new **Observatory for counterfeiting and piracy²** will provide that platform.

What knowledge and experience gained will you take back home?

When I get back, I will be in a position to make sure that the UK can contribute effectively to the Observatory, as I will know exactly how it will function.



Name: Eva Martinicova

Works in: Directorate Services (Unit E2)

Arrived in DG MARKT in: September 2007

Seconded from: Czech Republic, Foreign Office



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

I am a lawyer and I am seconded from the Foreign Office where I dealt with European issues. Since I have started in DG MARKT, I was 'seconded back', for a while to help with the Czech Presidency. Now, I am involved in working on the e-commerce Directive³, which came out in 2000. It is a very important tool in the 'online world', because it strikes a balance between the various players in the field. It is also an interesting area because it touches on both the internal and the external market. The problems that exist on national level do not so much lie in the implementation as in the interpretation of certain provisions of the Directive. The fact that it is a fast-developing area can make it quite complicated.

What knowledge and experience gained will you take back home ?

The experience of having worked with so many different nationalities has showed me how different systems can co-exist. I hope to function as a link between the EU institutions and my country when I go back. The Commission deals with lot of issues electronically, which is a very fast, efficient and transparent way of working. This experience I will take back with me. At home, we still work more in the traditional way.

² http://ec.europa.eu/internal_market/iprenforcement/observatory/index_en.htm

³ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market

Name: Bertrand Legris

Works in: Securities Markets (Unit G3)

Arrived in DG MARKT in: January 2008

Seconded from: France, Autorité des marchés financiers (AMF)



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

I had been an attorney for a little less than 10 years when I joined the AMF, where I was one of the deputies in the enforcement directorate. There, I dealt with questions around the enforcement of the Market Abuse Directive (MAD). Now in DG MARKT, I deal with the revision of the MAD in particular. We are doing some preparatory work on the basis of which we hope to make proposals at the beginning of next year.

There is a lot to do on the MAD: for example we may extend the prohibitions of the MAD for some transactions on multi-lateral trade platforms. We may also propose to widen the scope of market manipulation. We are looking into the powers of competent

authorities to detect market abuse. This review may also lead to a reduction of the regulatory burdens, notably for issuers. Some rules may become clearer or stricter as a response to the financial crisis, but there could also be a softening of rules when they are burdensome and not very useful.

What knowledge and experience gained will you take back home?

A better knowledge of how the Commission works at the 4 levels of the Lamfalussy process. A better understanding of the major importance, but also of the complexity of adopting and even proposing effective EU securities legislation.

Name: Inge Welbergen

Works in: Knowledge-based Economy, Professional qualifications (Unit D4)

Arrived in DG MARKT in May 2009

Seconded from: From the Netherlands, Ministry of Education, Culture and Science

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

I am a lawyer with an expertise in education. At home, I worked on the Bologna process which aims to improve student mobility in Europe.

In DG MARKT, I deal with the recognition of professional qualifications in the EU⁴.

The Directive on the recognition of professional qualifications regulates between Member States; it covers approximately 800 regulated professions. For seven sectoral professions (doctors, nurses, dentists, midwives, veterinary surgeons, pharmacists and architects) the minimum training requirements have been harmonised and automatic recognition applies. In other words: if you are qualified to work in one of those professions and go and work in another Member State, the

authorities of that Member State will have to recognise your qualification automatically. Outside of those seven professions, with a few exceptions, a general system of recognition exists, with a possibility built in to compensate for substantial differences in training.

In my unit, we receive all kinds of questions from citizens about the recognition of their professional qualifications. Citizens turn to us when they encounter problems in getting their professional qualifications recognised in another Member State.

What will you bring back home from your Brussels experience?

I will be better informed about how the Commission works and will have a network of contacts. I will be well-informed on European law in general and professional qualifications in particular.



⁴ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255/22, 30.09.2005.

“SNEs: the Commission should benefit from their high level of knowledge and experience, in particular where such expertise is not readily available.”

Name: Daniela Umstaetter

Works in: Payment Systems (Unit H3)

Arrived in DG MARKT in: November 2006

Seconded from: Central Bank Austria

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

I am a lawyer, but worked in the banking sector for several years. Before I came here I worked in the Austrian Central Bank for four years, as a payment expert in the strategy and in the legal department. The Commission was looking for people who could help with the Payment Services Directive. I am currently working on the SEPA (Single European Payments Area) roadmap, a policy paper and communication recently published, which will express the shared view of the Commission and the ECB on the next steps to be taken during the next three years to make SEPA work.

What knowledge and experience gained will you take back home?

I have learned how important it is to keep abreast of what is going on in Europe. 65% of all legislative acts are decided in Brussels. We Austrians, being from a small country, are too easily tempted to say that we cannot influence European policy, but this is not true. The fact that I have been here for several years will help me to counter this thinking when I am back home. I will know how things work and will have built up a network that can be referred to whenever this is necessary.



Name: Per Christian Baeroe

Works in: Financial Services Policy Unit (Unit G1)

Arrived in DG MARKT in: February 2008

Seconded from Norway, Ministry of Finance



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

I worked in the Ministry of Finance in the Financial Markets department, which covers more or less the same areas as the financial services directorates in DG MARKT. I have particularly worked on national implementation of relevant EU financial services legislation. Even if Norway is not a member of the EU, through the EEA agreement we are obliged to implement EU legislation in the financial services field. The EU internal market is extended to the EEA countries so to say. There are for instance Norwegian banks and insurance groups that are operating in EU Member States and vice-versa.

Consequently, the policy which is shaped in DG MARKT is highly relevant for Norwegian authorities and for the Norwegian financial sector.

What knowledge and experience gained will you take back home ?

A better knowledge of the organisation of the Commission, a lot more about how decisions are made. A confirmation of the important role the Commission plays in the drawing up of legislation.

New Directive on defence and security procurement entered into force



On 20 August 2009, the new Directive (2009/81/EC) for defence and security procurement was published in the Official Journal. Member States are now given two years to transpose the Directive into national law. A European Defence Equipment Market is finally becoming reality¹.

However, since security and defence have traditionally been excluded from the Internal Market, the implementation of the Directive will be a challenge. The Commission must therefore closely follow the transposition process and develop a stringent enforcement strategy.

Key Provisions of the Directive

Directive 2009/81/EC is tailored to the specificities of security and defence procurement: the 'negotiated procedure with prior publication' can be used without restriction. This procedure gives contracting authorities the flexibility they need for complex procurement projects, since it allows them to negotiate with tenderers in order to adapt tenders to the requirements they set out in the contract notice. Moreover, the Directive includes specific provisions on security of supply and security of information, that are particularly important in an area where works, supplies and services are often of a sensitive nature. Further key provisions concern sector-specific exclusions, as well as subcontracting and remedies.

All this makes Directive 2009/81/EC a tool which can make a difference: It will streamline the regulatory patchwork of Europe's defence and security markets and finally introduce the principles of the Internal Market into these sectors. While fostering transparency and openness, it will make public procurement more efficient and improve market access for European companies in other Member States. All this will be to the ultimate benefit of taxpayers, industry and not least European armed forces, who will get better value for money.

Implementation, A learning curve for all

However, to fully exploit its potential, the new Directive must be correctly implemented. This is particularly challenging for sectors that have remained to a large extent outside the Internal Market until now. Most defence and security authorities, but also companies operating in these sectors, are not used to applying Community rules. At the same time, Commission services are not always fully acquainted with the specificities of defence and security matters either. Consequently, all stakeholders will have to go through an important learning process.

These are not the only challenges: Certain parts of Directive 2009/81/EC are identical with the existing public procurement Directive 2004/18/EC, and their transposition should therefore be not problematic. The key provisions, however, are new, and there is

no experience on how to transpose, let alone on how to apply them. Even more importantly, these provisions are built on an equilibrium between security interests of Member States and principles of the Internal Market. Since security and defence remain areas of national sovereignty where European integration is at best rudimentary, this equilibrium is inevitably fragile.

Security of information and supply: potential bottlenecks

The issue of security of information perfectly illustrates this fragile balance: Contracting authorities are legally bound to award sensitive contracts only to suppliers who are able to protect classified information. Evidence for such an ability is provided in the form of a security clearance granted by the national authorities of the Member State where the company is located. In general, Member States recognise each others' security clearances, and many of them have anchored this in bilateral agreements. However, since an EU-wide regime on 'Security of Information' is still missing, clearances are not automatically recognised between all Member States, which may constitute a handicap for certain non-national suppliers.

A similar problem exists for security of supply: companies can only deliver defence equipment to another Member State if their own national authorities have granted the necessary export licence. Although licences for transfers within the EU are hardly ever refused, there is no guarantee that they will always be granted (e.g. for additional supplies during a crisis). The new Directive on intra-community defence transfers (2009/43/EC) considerably improves this situation. However, since it still does not establish a licence-free zone, the problem cannot be completely resolved.

These difficulties illustrate that, although safeguards for security of supply and security of information are necessary, the transposition of these provisions must be monitored closely to avoid interpretations to an excessive extent. Otherwise, companies run the risk of being discriminated on the basis of nationality.

¹ See also article: "Adoption of new Directive brings defence and security procurement into Single Market"- Single Market News No 53, 2009-1

EU wide competition for subcontracting

Other sector-specific problems may occur in the areas of offsets and subcontracting. Offsets are economic compensations which many Member States require from foreign suppliers for the purchase of defence equipment. These compensations can take various forms, but the ultimate purpose of offset requirements is always to oblige non-national defence suppliers to generate business for local companies in the country that is purchasing. Since these compensations normally imply discrimination on the basis of nationality, the Commission will have to look during the transposition at Member States' offset legislations to make them compatible with EU law in general and the new Directive in particular.

At the same time, Directive 2009/81/EC offers non-discriminatory alternatives to offsets. For example, many Member States only have a limited defence industry, constituted of Small and Medium-sized Enterprises (SMEs) whose defence business consists of supplies of components and sub-systems to big (foreign) system integrators. These Member States often use offset requirements to impose their local SMEs as subcontractors for the production of equipment they are purchasing abroad. They justify this practice as the only means to counter the big producers' tendency to organise their supply chains on a purely national basis.

Directive 2009/81/EC tackles this concern and allows tender procedures to include requirements that stipulate that a certain share of the main contract has to be subcontracted in competition or that specific subcontracts must be awarded in competition. These provisions will allow contracting authorities to drive EU-wide

competition into the supply chain of foreign suppliers, but not to impose their own local SMEs as subcontractors. As a consequence, SMEs will have to face more cross-border competition for contracts awarded at home, but will gain additional business opportunities when subcontracts are awarded abroad.

These provisions on subcontracting are the result of a completely new approach. They are very important, since they ensure that the European Defence Market becomes a reality at all levels of the supply chain. At the same time, they remain politically sensitive, since the economic stakes are very high. For all these reasons, it is of utmost importance that the Commission closely follows how Member States go about implementing these provisions.

Transposition: A challenging phase

These examples illustrate how challenging the next phase of the Commission's activities in the field of defence procurement will be. Correct transposition of the new Directive is crucial, and a wide range of measures is planned to support Member States in their endeavours. The Commission, for its part, must start to prepare itself for the imminent application of the new rules: case handlers have to be sensitized to the specificities of the defence and security sector in order to prepare for possible infringements. Moreover, an active monitoring system must be established to meet the transparency and reporting obligations of the Directive. All this will take a lot of time and energy, but the benefits are sufficiently rewarding to justify the effort.

Info

Burkard Schmitt
Tel. +32 22991719 - Fax +32 22960962
burkard.schmitt@ec.europa.eu



Promising results at G20 Pittsburgh Summit



On 24 and 25 September, the Pittsburgh G20 Leaders summit was held, focusing on the need for a global coordinated response to the financial crisis. The summit was a success; it added another milestone to a globally coordinated financial services reform process. But much work still lies ahead. The EU and other jurisdictions have to implement the agreed measures quickly and consistently.

The main decisions taken at Pittsburgh are the following:

- On banking prudential rules, the G20 countries have agreed to develop international rules before the end of 2010 to improve the quality and the quantity of bank capital and to discourage excessive leverage. All major G20 financial centres committed themselves to adopt the internationally agreed rules on banking prudential requirements, known as Basel II, by 2011, in order to avoid regulatory arbitrage.
- On compensation in the financial industry, they reached a comprehensive agreement facilitated by the Financial Stability Board (FSB) to align compensation with long-term value creation. Detailed implementation standards were developed on pay structure, corporate governance arrangements and enhanced disclosure on remuneration policies. The strict monitoring of the implementation by all financial firms will now be crucial to ensure a global level playing field.
- On derivatives markets, the G20 decided that standardised contracts should be cleared through central counterparties, trade transactions should be reported to trade repositories and non-centrally cleared contracts should be subject to additional capital requirements. Increased price transparency of different trading centres is also important. The Commission will release detailed propositions on these issues before the end of the year.
- The FSB, created as a result of the London G20 Summit of April 2009, played a key role in preparing the financial services agenda for the Pittsburgh summit.

The FSB will continue to build on this momentum. It will exert a tight monitoring of the commitments, apply peer pressure and report to the next G20 meetings any delays or any incomplete implementation. DG Internal Market and Services will continue to represent the Commission in the FSB as an active and committed participant. A coordinated, quick and consistent implementation of the G20 commitments is of paramount importance.



[Info](#)

Michel.Pinnet@ec.europa.eu

5 – 6 October: EU Charter for Small Enterprises

Co-organised by the European Commission and the Swedish Presidency, the next Charter conference 'From the European Charter to the Small Business Act' is going to take place on 5-6 October in the conference centre Infra-City near Stockholm, Sweden. The event is for government officials and stakeholder organisations in EU Member States, with the aim of addressing important issues and exchanging best practices for small and medium-sized enterprises.

More information: http://ec.europa.eu/enterprise/enterprise_policy/charter/conf2009/

5 – 8 October: Open Days – European Week of Regions and Cities

The 7th annual Open Days – the European Week of Cities and Regions – will offer more than 120 seminars, under the overall heading 'Global challenges, European responses'. This year, more than 250 event partners have joined forces, among them 213 regions and cities from 33 European countries. Special emphasis will be placed on the EU Strategy for the Baltic Sea Region - one of the top priorities of the current Swedish EU presidency.

More information: http://ec.europa.eu/regional_policy/conferences/od2009/index.cfm

12 October: Seminar on Corporate Governance in financial institutions

The Commission will bring together expert panellists to discuss various governance issues relating to internal control and risk management, shareholder control, supervision and external audit. The event will feed into the oncoming Commission report on corporate governance in financial institutions.

More information: http://ec.europa.eu/internal_market/company/ecgforum/index_en.htm#seminar

29 – 30 October: European Council

The October European Council will bring together the heads of state or government of the European Union and the President of the Commission in Brussels to discuss major challenges for the EU. The Swedish Prime Minister Fredrik Reinfeldt will chair the meeting. More information: <http://www.consilium.europa.eu/applications/transparency-council/index.ASP?lang=en&cmsid=1119>

29 - 30 October: Monetary Economics – ECB Conference

The conference brings together leading academics and central bank researchers presenting state of the art theories on monetary economics. The conference papers will present a critical review of the most important developments in this field and indicate interesting directions for future research. This conference is organised by the European Central Bank and will take place in Frankfurt.

More information: <http://www.ecb.int/events/conferences/html/monetaryeconomics.en.html>

4 November: Conference on Consumer Rights

In cooperation with the Swedish Presidency, the Commission is organising a conference in Stockholm on consumer rights in the internal market. The conference will address one or more central issues related to the review of EU consumer regulations.

More information: http://www.se2009.eu/polopoly_fs/1.11722!menu/standard/file/Konsument_ENG.pdf

Info

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

Infringements related to the Single Market



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

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

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

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

Language precondition for teachers: Greece

The Commission has formally requested Greece, by means of a reasoned opinion, to amend its legislation requiring qualified EU teachers to have an excellent knowledge of the Greek language. The general requirement for all foreign teachers to have an excellent knowledge of Greek, independently of the framework in which they are exercising their profession and the scope of their teaching activities, is considered disproportionate. The Commission considers that with this requirement, Greece violates the Directive on the recognition of professional qualifications as well as Article 39 of the Treaty guaranteeing the free movement of workers.



Non-life insurance: Ireland

The Commission has decided to refer Ireland to the European Court of Justice over the exemption of the Irish Voluntary Health Insurance Board (VHI) from certain EU rules on non-life insurance. The Commission considers that, due to the significant changes that have occurred in its business model, the VHI has lost its entitlement to remain exempt from the general insurance supervisory regime, and in particular the exemption which was originally granted under the First and Third Non-Life Insurance Directives.



Toll collection service: Slovakia

The European Commission has decided to send a reasoned opinion to Slovakia concerning the award of the Electronic Toll Collection Service by the National Motorway Company (Národná diaľničná spoločnosť, a.s.). In this case, the Slovak contracting authority excluded three tenderers from the tender procedure. Based on the information available to the Commission, the Slovak authorities could have violated the principles of equal treatment and non-discrimination, as stipulated in the Public Procurement Directive and the EC Treaty.



Procurement of railway radio system: Lithuania

The European Commission has decided to send a reasoned opinion to Lithuania regarding the award of a works contract by Lithuania Railways (Lietuvos geležinkeliai) for the modernisation of the railway radio communication system through the introduction of a GSM-R system. In the Commission's view, the use by Lithuanian Railways of the negotiated procedure without a prior call for competition was contrary to EU public procurement rules.



Public procurement of helicopters: Italy

The Commission has decided to request Italy, by means of a reasoned opinion, to comply with a 2008 judgement of the European Court of Justice. In that judgement, the Court ruled that Italy had failed to fulfil its obligations under EU Public Procurement Directives, by following the long-standing practice of directly awarding contracts for the purchase of helicopters to meet the requirements of several military and civilian corps to Agusta SpA, without any competitive tendering procedure. The Commission considers that the Italian authorities have not taken the necessary measures to comply with the judgement of the Court, which obliges them to put an end to this illegal practice.



Residential development without tender procedure: United Kingdom

The Commission has decided to send a reasoned opinion to the United Kingdom concerning the award of a public works concession contract by the City of York Council relating to the residential development of a piece of land known as 'Osbalwick'. The Commission considers that the contract in question constitutes a public works concession contract and as such should have been awarded, on the basis of the public procurement Directive applicable at the time.

More information on infringement proceedings relating to the Single Market is available at:
http://ec.europa.eu/internal_market/infringements/index_en.htm

The latest information on infringement proceedings concerning all Member States is available at:
http://ec.europa.eu/community_law/index_en.htm



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Subscriptions:
Brona Meldrum
European Commission
DG Internal Market and Services

Unit A4
SPA2 1/008
B-1049 Brussels
Fax +32 22954351
E-mail: Markt-smn@ec.europa.eu

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