



Ministry of the Interior and
Kingdom Relations



**Meeting on the Study on the Work Programme 2012 of
the European Commission: Highlighting potential
impacts**

Barcelona, 25 January 2012

“Analysis of the independent national analysis of the annual working plan 2012 of the European Commission”

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Introduction

EIPA has been assigned to perform an analysis of the independent national analysis of the annual work plan 2012 of the EU Commission

Four Member States have submitted their analysis to EIPA: The Netherlands, Austria, Sweden and Norway. After members of the High Level Group (HLG) had screened the Commission work programme for 2012 and highlighted the priority policy dossiers having an impact at regional and local level, a shortlist of priority dossiers was forwarded to EIPA.

The list proposed is enclosed in this report and EIPA has focused its attention in those policy dossiers pre-selected by all members of the participating group. Those dossiers have been highlighted in green colour (see below).

The dossiers have been grouped by policy areas, and in some occasions analyzed in packages (for example the case of State Aid dossiers).

EIPA herewith provides its preliminary scientific input of the dossiers listed and highlights four policy fields most relevant as regards both their impact on Local and Regional Authorities (LRAs) as well as the feasibility for any sort of deeper analysis at this stage (year 2012) of the policy making process.

EIPA inputs aim at giving a general overview on the content and potential impact of the measure under scrutiny. It places the potential role of the HLG within the context of its mission statement. In order to provide an advice on whether the dossier might be of interest for the group the phase of the policy making cycle in which the initiative stands has been given a high importance.

The overall aim of this exercise is to present at the Meeting to be held in Barcelona on 25 January 2012 with the Dutch Ministry of Interior (contracting party) and the representative of Austria (hosting partner of the next HLG meeting) an oral presentation on the analysis made, together with the preliminary list of four policy dossiers which might be of relevance for the Group. It will be during that meeting that group discussions will allow further progress in the pre-definition of the dossiers to be considered for a more in depth analysis in the coming months.

Methodology

We have sorted the policy dossiers indicated by the high level group as follow:

- By category / policy sector;
- The policy dossier all members agreed upon are highlighted in green*.

Gathering the files chosen by all participants in the group, we take into consideration the mission statement of the HLG on Governance as approved in Godollo last year:

Mission statement

The High Level Meeting on Governance and the EU (HLM) is the informal governmental platform for dialogue and knowledge-sharing on how Member States deal with administrative (multilayered) governance of European policy making. The group is formed by the central ministries responsible for regional and local affairs. It aims to early identify “new” policy areas with an impact on local and regional governance, and convey a coordinated opinion within the group to feed into the construction of both the national positioning process and the Commission impact assessments.

As result the dossiers we have selected those policy fields with an expected impact on local and regional government that require active participation and coordination among the MS, on good partnership with their regional and local levels, in order to profit the opportunities arising form the different consultation processes, legislative revisions, public hearings etc, which are directly affecting the daily lives of the citizens

The general indicators to be taken into consideration are:

- 1.- Affecting multi-level governance MLG (no exclusive competence)
- 2.- Legislative measure (or non legislative measure)
- 3.- Upcoming/ongoing
- 4.- Type of impact *ex ante* (during decision making) (economic governance, multilevel governance or both, and administrative burdens)
- 5.- Implementation burdens and impacts – especially *ex post* administrative and financial impact

At a second stage we have prepared a more concrete detail analysis. We have started by justifying why this field/sector has a great importance for local and regional level

LRA's competences in the field?

Are the CoR and the ECOSOR consulted in this policy field? Did they publish an opinion?
 Does that imply administrative burden for LRAs?
 Will LRAs have to implement those policies?
 Political opportunities for decentralisation and the application of the proximity principle?

Then continue by justifying why those policy measures may have an impact on the local and regional level

Is this a legislative or non legislative measure?
 Is this imminent or for later?
 Does this measure imply national (and regional) transposition?
 Does this measure foresee cross-border cooperation, instruments such as EGTC, partnership contracts...?
 Is this measure likely to have an impact on administrative settings and coordination mechanisms (local administrative burden)?
 Is this measure likely to have impact competitiveness between European regions?
 Is this measure likely to foresee implementation at the local and regional level?
 May this measure have an impact on mobility of people?
 May this measure have an impact on local and regional funding? on the finance of the LRAs?

What’s the legal extent of the measure? How constraining is the measure?

Is the measure legislative or non-legislative?
 Is it a regulation or a directive? (If this is a directive, the MS enjoys more freedom in its implementation)
 Is the CoR consulted during the legislative process?

The result of this preliminary analysis

The list of priority dossiers 2012 after the preliminary screening includes:

p. 34 Freedom of movement for workers within the Union	
p. 30 Partnership contracts with MS (2013)	
p. 45 Review of the Environmental impact assessment (EIA) Directive	
p. 26 Energy efficiency	

The present list will be submitted for discussions during our 25 January meeting in Barcelona and subject to scrutiny by the participant members.

Steering Group Meeting 21 February 2012
List of dossiers for EIPA input
By category

In green the policy agreed upon all the MS

√Competition	Category
10 Review of the state aid guidelines for broadband networks	
11 Council regulations on Strategic initiative in the field of substantive State aid rules	1
12 Review of the State aid rescue and restructuring guidelines	
15 Review guidelines on national regional aid	1
P24 Initiative in the field of substantive State aid rules: Review of the State aid general block exemption regulation (2013)	
P25 Review of the State aid de minimis Regulation (2013)	
Development	
20 Communication on Civil Society and Local Authorities	
Digital agenda	
21 Pan European framework for electronic identification, authentication and signature (2012)	
23 European Strategy for Internet Security	
25 Digital Agenda for Europe – Next steps	
√Employment, social affairs and inclusion	
34 Freedom of movement for workers within the Union	
P30 Partnership contracts with MS (2013)	
Environment	
45 Review of the Environmental impact assessment (EIA) Directive	
P32 Environmental liability (2014)	
Internal market and services	
81 Follow up to the Performance check for services: Deepening the single market for services	1
√Energy	
37 Renewable energy strategy (RES)	
P26 Energy efficiency	

Preliminary Assessment

√Competition
11 Council regulations on Strategic initiative in the field of substantive State aid rules (2012)
15 Review of the guidelines on national regional aid (2012)
P25 Review of the State aid de minimis Regulation (2013)

The Competition package has been analyzed and the conclusion reached advises to wait for further developments. While there is a clear need to be attentive to any further steps by the European Commission, for the HLM is at this stage too early to launch a study on the topic. The Commission has the competence in the area, which makes the influence of MS and regions in the policy making weaker than in other fields.

EIPA will be willing to investigate as soon as further developments are made.

Digital agenda
21 Pan European framework for electronic identification, authentication and signature (2012)

Investment costs needed for the development of interoperable eGovernment solutions are very high for almost all municipalities, except large metropolitan cities such as London, Berlin, Paris, Marseille, etc.

We are at a very early stage and decision on best policy options will be needed. It will depend on the level of development of the eID systems in each country that the coordination will be more or less urgent.

In our view a study by the HLM could be advisable although perhaps at a later stage.

√Employment, social affairs and inclusion
34 Freedom of movement for workers within the Union
P30 Partnership contracts with MS (2013)

Regarding freedom of movement of workers we are waiting for a legislative proposal from the Commission. Since this will come up in the coming weeks, and in view of the relevance of the issues at stake it could be advisable to deepen on the different requirements to be proposed by the Commission which for sure will have an impact at MS multilevel governance (variable depending on the country).

Regarding the topic of Partnership contracts, the formation of partnership contracts will be crucial, as MS will have to set out their specific national targets and with these a supporting set of indicators to measure progress made on these targets.

Learning on how the new system will work and how best profit of it could be of high relevance to the members of the HLM.

Environment

45 Review of the Environmental impact assessment (EIA) Directive
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P32 Environmental liability (2014)

The review of the Environmental Impact Assessment (EIA) Directive is very likely to have an important impact on LRAs (EIAD Directive is a key instrument for local and regional environmental policy; Role of the LRAs in the transposition and implementation processes; potential costs and burdens impact, etc.). Therefore, it could be of high relevance for the HLM.

The real extent of the impact on LRAs is still to be determined by the upcoming IA, but varies from no impacts to significant impact on public administration. 3 options out of 6 are likely to create difficulties at the transposition and implementation stage for the MS.

As regards the Environmental liability Directive, although this initiative may be of interest for the HLM, it seems to be too early to deal with it at this stage.

Internal market and services

81 Follow up to the Performance check for services: Deepening the single market for services
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The work on the performance check will be open to input from the stakeholders (a dedicated web page created by DG market). The issue is in itself very important and in need of a close follow up. The result will be a Communication which will constitute the starting point for discussions in the “performance check, which will provide at the same time data from MS and analysis by the Commission.

Nevertheless in comparative terms the need for a concrete study on the topic might be less urgent than in other dossiers.

Energy

37 Renewable energy strategy (RES)

P26 Energy efficiency

Regarding the renewable energy strategy, since the consultation is now ongoing it might prove a bit early for an analysis. Nevertheless a close follow up of the results of this consultation is advisable.

Regarding Energy efficiency, this topic is high in the agenda and ready for revision in 2013. Since it includes very concrete proposals touching on sensitive items such as Public Procurement rules, private buildings, etc and since all levels of administration are affected by the Action plan, a close analysis by the HLM could be of interest at this stage.

Analysis per Policy Dossier (pre-selected by all)

Competition

√ Competition
11 Council regulations on Strategic initiative in the field of substantive State aid rules (2012)
15 Review guidelines on national regional aid (2012)
P25 Review of the State aid de minimis Regulation (2013)

Council regulations on Strategic initiative in the field of substantive State aid rules (2012)

CWP: Legislative Modification of Council Enabling Regulation 994/98 to allow for the enlargement of the scope of the General Block Exemption Regulation (GBER in 2013).

ACT

Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 87 (former Article 92) and 88 (former Article 93) of the Treaty establishing the European Community to certain categories of horizontal State aid. [Official Journal L 142, 14.05.1998, pages 1-4](#)

In recent years, the Commission has started a process of modernization and simplification of State aid procedures. To this end, the Council adopted Regulation No 994/98 of 7 May 1998, which enables the Commission to adopt so-called Block Exemption Regulations for State aid. With these regulations, the Commission can declare specific categories of State aid compatible with the Treaty if they fulfil certain conditions, thus exempting them from the requirement of prior notification and Commission approval. As a result, Member States are able to grant aid that meets the conditions laid down in these regulations without the formal notification procedure and only have to submit information sheets on the implemented aid.

Brussels, 05/10/06

COMMISSION STAFF PAPER (PRELIMINARY DRAFT)

Proposal for a **COUNCIL REGULATION Amending Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal state aid (presented by the Commission)**

As indicated in the state aid action plan, the Commission intends to considerably broaden the scope of the exemption regulations and thereby reduce the Member States' administrative workload associated with notifications. However, removing the notification requirement will entail a loss of visibility for the Commission before the aid is granted. The Commission should therefore carry out appropriate, but effective retrospective checks to ensure actual compliance with the relevant Community law provisions. The checks should be conducted on a random basis in the different fields of activity covered by the exemption regulations.

For these checks to be effective, the Commission must be able to request information from the Member States concerning the conformity of certain aid measures even if it does not possess evidence leading it to doubt whether a regulation is being applied properly. The Commission therefore considers that the abovementioned provisions in Article 3(3) should be amended accordingly.

Article 3(4) of Regulation 994/98 states that "At least once a year, Member States shall supply the Commission with a report on the application of group exemptions, in accordance with the Commission's specific requirements, preferably in computerized form." In view of the development of new electronic communications media, the Commission believes that the fastest and most effective way to transmit the abovementioned report to the Commission now is to send it in electronic form. Instead of having the option of sending the annual report electronically, in accordance with the Commission's specific requirements, the Member States should therefore be required to transmit the report to the Commission in electronic form.

Consistency with the Union's other policies and objectives

This proposal is consistent with the overall objectives of the Union, particularly implementation of the Lisbon strategy. It is also in keeping with the state aid reform process covering the period 2005-2009, drawn up in answer to the new challenges arising under the fresh start for the Lisbon Strategy. In its state aid action plan, the Commission outlined the guidelines of the state aid reform and indicated how it proposed to use the state aid rules in the EC Treaty to encourage Member States to contribute to the strategy for growth and jobs.

In order to achieve the objectives of the strategy, the Commission proposes simplifying and rationalizing the current rules and cutting red tape so as to reduce the number of aid measures that have to be notified and speed up the decision-making process. . This proposal is accordingly fully consistent with the goal of better regulation.

Legal aspects

The legal basis of this proposal is Article 109 of the TFEU which allows the Council to make any appropriate regulations, in particular so as to determine the conditions in which Article 108(3) shall apply and the categories of aid exempted from this procedure. The Council must decide by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

Subsidiarity and proportionality

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply. The present initiative does not go beyond what is necessary to achieve its objective and, therefore, complies with the proportionality principle.

Choice of instruments

The regulation is the only appropriate legal instrument for the purposes of amending Regulation (EC) No 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of State Aid.

Budgetary implication

The proposal has no implication for the Community budget.

Role of LRAs	Subsidiarity	No – exclusive competence of the EU
	Role of LRAs in the implementation	To be assessed
	Potential costs and burden impacts	To be assessed
Formal procedure	Legislative measure	Yes
	Mandatory consultation of the CoR	No
	Opinion of the CoR	No
Progress of the initiative	IA carried out	Not known
	Public consultation	Not known
	Roadmap published	No
Time constraints	Imminent measure	2012

Review of the Guidelines on national regional aid (2012)

This legislative initiative is aimed at defining the conditions under which the objectives of State aid policy can be linked with the principle of economic development of EU regions. This requires establishing the rules according to which the positive effects of State aid aimed at economic development of certain region outweigh its negative effect in terms of distortion of competition and impact on trade among Member States.

Road map of the European Commission December 2010: The IA started in December 2010.

Consultations foreseen between January 2011 and September 2012

It will be preceded by IA and several consultations.

It concerns types of regional aid that will be allowed and needs a lot of coordination with the Future Multiannual Financial framework post 2013, and more specifically on Structural funds...

In the present times of crisis this revision seems to be of major importance and the consultation processes should be streamlined in the measure possible...

Need to do further research on the consultation process already launched...

The main policy objectives can be summarized as follows:

- Ensuring that financial support given to economic operators aimed at promoting the economic development of certain areas does not create distortions of competition that would be contrary to the common interest.

- Providing a clear and effective legal framework so as to enable a proportionate administrative treatment of the aid measures according to their potential effects on trade and competition. The revision of the rules laid down in the RAG will follow these guiding principles:

First, the Commission will set the conditions for considering whether companies located in a given region may be eligible to regional State aid: (i) socioeconomic and geographical conditions and (ii) conditions linked to the effect of the aid as regards the economic development of that region.

Second, in line with the general principles underlying State aid rules, which require that aid does not exceed what is strictly necessary to achieve its purpose and that distortions of competition are avoided or minimized as far as possible, aid measures have to be:

- well-targeted in order to be able to achieve effectively the objective of contributing to the economic development of certain areas;

- proportionate to the challenge faced, not going beyond what is required to attain this effect, and;

- well-designed so as to minimize negative effects on competitors, other sectors and other Member States.

Finally, it is necessary to take account of other EU policies in particular given the recognized importance and relevance of:

- ensuring continued linkage with EU regional policy;
- taking greater account of EU horizontal and sectoral policies, in the context of the priority themes of the Europe 2020 Strategy;
- ensuring further clarity and simplification of State aid rules as part aid the EU initiatives on Better Regulation.

Who will be affected by it?

- Aid granting authorities at various levels of government in the Member States
- Aid beneficiaries and their competitors (undertakings involved in an economic activity)

CONCLUSIONS

Role of LRAs	Subsidiarity	No – exclusive competence of the EU
	Role of LRAs in the implementation	Yes
	LRAs directly affected by the initiative	Yes
	Potential costs and burden impacts	Yes
Formal procedure	Legislative measure	No – implementing/delegated act
	Consultation of the CoR	No
	Opinion of the CoR	No
Progress of the initiative	IA carried out	Started in December 2010 IA Steering group set up during the first quarter of 2011
	Public consultation	Foreseen between January 2011 and September 2012
	Roadmap published	Yes (December 2010)
Time constraints	Imminent measure	September 2012

Review of the State aid *de minimis* Regulation (2012)

Background

The *de minimis* rule, first introduced in a Notice published in 1996, was established by Regulation (EC) No 69/2001. The experience gained in applying that regulation as well as trends in inflation and the growth of gross domestic product (GDP) justify updating its rules.

The new *de minimis* Regulation forms part of the Commission's [State Aid Action Plan](#) and complements the guidelines on risk capital investments and the framework for state aid for research and development and innovation.

De *minimis* rule

Article 108(3) of the Treaty on the Functioning of the European Union (TFEU) (ex-Article 88(3) of the Treaty establishing the European Community (TEC)) requires state aid to be notified to the European Commission so that it can assess whether the aid is compatible with the common market in the light of Article 107(1) TFEU (ex-Article 87(1) TEC). However, under Regulation (EC) No 994/98 certain categories of aid can be exempted from the notification requirement.

The *de minimis* rule was introduced in order to exempt small aid amounts. It sets a ceiling below which aid is deemed not to fall within the scope of Article 107(1) TFEU and is therefore exempt from the notification requirement laid down in Article 108(3) TFEU.

Legal basis: Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid.

This regulation updates the *de minimis* rule, extending its scope and doubling the *de minimis* ceiling.

De *minimis* ceiling

Aid of no more than EUR 200 000 granted over a period of three years is not regarded as state aid within the meaning of Article 107(1) TFEU.

A specific ceiling of EUR 100 000 applies to road transport.

The three-year period corresponds to three financial years.

The ceiling, set initially at EUR 100 000 in Regulation (EC) No [69/2001](#), has thus been doubled.

Transparent aid

In order to prevent any abuse, the regulation applies only to transparent de *minimis* aid.

Aid is regarded as transparent when the amount can be calculated precisely in advance without needing to carry out a risk assessment.

The following count as transparent aid:

- aid comprised in loans when the amount has been calculated on the basis of market interest rates prevailing at the time of the grant;
- aid comprised in capital injections if the total amount of the public injection does not exceed the de *minimis* ceiling;
- aid comprised in risk-capital measures if the risk-capital scheme concerned provides capital only up to the de *minimis* ceiling to each target undertaking;
- aid provided under a loan-guarantee scheme when the guaranteed part of the underlying loan does not exceed EUR 1 500 000 (or EUR 750 000 in road transport). However, European Union (EU) countries can provide loan guarantees on amounts of more than EUR 1 500 000 if they can show, using a methodology accepted by the Commission, that the aid element does not exceed EUR 200 000.

Scope

The regulation does not apply to aid for fisheries and aquaculture, the primary production of agricultural products, export-related activities, the coal sector, the acquisition of road freight transport vehicles or firms in difficulty, or to aid tied to the use of domestic over imported goods.

It applies to aid granted to firms in all other sectors, including transport and, on certain conditions, for the processing and marketing of agricultural products.

Cooperation by the EU member countries

EU countries are required to check that the total amount of de *minimis* aid granted to a firm over a period of three financial years does not exceed EUR 200 000.

When they grant de *minimis* aid, EU countries must inform the undertaking concerned of the amount of aid and of its de *minimis* character, making express reference to Regulation (EC) No 1998/2006. This regulation expires in December 2013.

Role of LRAs	Subsidiarity	No – exclusive competence of the EU
	Role of LRAs in the implementation	To be assessed
	LRAs directly affected by the initiative	To be assessed
	Potential costs and burden impacts	To be assessed
Formal procedure	Legislative measure	Yes
	Mandatory consultation of the CoR	Indirectly, within the frame of SGEI
	Opinion of the CoR	Yes
Progress of the initiative	IA carried out	Yes, completed .
	Public consultation	Yes
	Proposal published	Yes , adopted on 20 December 2011
Time constraints	Imminent measure	2012

PACKAGE CONCLUSIONS

The Competition package has been analyzed and the conclusion reached advises to wait for further developments. While there is a clear need to be attentive to any further steps by the European Commission, for the HLG is at this stage too early to launch a study on the topic. The Commission has the competence in the area, which makes the influence of MS and regions in the policy making weaker than in other fields.

EIPA will be willing to investigate as soon as further developments are made.

Digital agenda

Digital agenda

21 Pan European framework for electronic identification, authentication and signature (2012)
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Pan European Framework for Electronic Identification, Authentication and Signature

Legislative proposal foreseen for the 2nd quarter 2012

Objective:

- Boosting trust on the Internet: a Pan European framework for electronic identification, authentication and signature
 - “Merges” Digital Agenda key actions
 - Coverage:
 - Mutual recognition and acceptance of eidentification across borders;
 - eSignature interoperability and usability;
 - Cross-border dimension of ancillary trusted services such as time stamping, signature archiving, e-seals, registered documents delivery, e-documents.

In December 1999 the European Parliament and the Council adopted Directive 1999/93/EC on a Community framework for electronic signatures. The purpose of the Directive was to establish a legal framework for eSignature and for providers of signature certificates.

For the purpose of the Directive, eSignature means "data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication". The revision of the e-Signature Directive is a key action of the "Digital Agenda for Europe" communication. It is a necessary contribution to the creation of a well-functioning digital single market.

The revision of the e-Signatures Directive concentrates on the legal framework for electronic signatures. It aims at revising the legal framework on electronic signature defined in the directive 1999/93/EC in order to adapt to the new technological and legal challenges of the digital world and to ensure a sound legal environment for electronic signatures used for web-services and online transactions, in particular in the cross-border context.

Part of the pan-European framework will be new legislation on electronic identification in order to create the legal basis for the cross-border recognition and acceptance of national e-Identification means already issued in the Member States for the access to

electronic services, mainly provided by public authorities and e- Authentication. eID-means are understood as "electronic representation of a certain subset of one or more attributes pertaining to an entity in such a way that it can be unambiguously attributed to this entity and for which the Member States takes over liability also if it is used in another Member State". Authentication is the verification of electronic identities when used to access online services. These two actions are complementary.

Numerous studies on the topic:

Regarding electronic signatures, a number of studies have been already carried out on the existing policy such as: "The legal and market aspects of e-signature"² in 2003, "Study on the standardisation aspects of esignatures" 2007, IDABC studies on e-signature⁴ and e-ID interoperability⁵ in 2009-2010 and the CROBIES study on cross-border interoperability of eSignatures⁶ were published in August 2010. These studies detailed technical, organisational, legal and trust issues and provided detailed technical, organisational and legal recommendations for solutions.

The variability of national identification infrastructures was identified by studies on e-ID interoperability as one of the major challenges of cross-border eID and e-Authentication. The CIP-ICT-PSP-Large Scale Pilot STORK (where more than half of the EU-Member States operate together to enable the cross-border use of eIDs and eAuthentication) has demonstrated that at technical level it is possible to recognise and accept eIDs which are used in the Member States for the access to online services, mostly to those of public authorities. As recommended by the studies, STORK makes it possible to connect centralised and decentralised approaches of the Member States to a pan-European eID platform.

The problem for the regions and cities

Whilst eGovernment services have rapidly developed at national level in most European Countries, local governments are quite slow in moving online.

Considering that most of the interaction between government and citizens goes through local governments, this situation is damaging the perception of eGovernment usefulness for citizens.

Major impediments to local eGovernment are the need for local government agencies to interact with many other government agencies to deliver their services and the cost of eGovernment platforms. This motivates the establishment of eGovernment Interoperability Centres that would enable local government agencies to take part in eGovernment processes at low-cost or even for free.

The diversity of local government organisation and of local eGovernment approaches is such across Europe that country-specific business strategies must be defined for establishing eGovernment Interoperability Centres either as regional centres or as national policy-focused centres. An interesting conclusion of the market study performed in 2005 is that the current situation pleads for business strategies that will combine the production and distribution of both Open Source and commercial versions of software, thus making the dispute "Open Source vs. Proprietary Software" irrelevant.

The relevance of these basic drivers everywhere across Europe and the political will has fostered the rapid development of eGovernment services at national level in most European countries. However, the development of local eGovernment – i.e. eGovernment services delivered through local governments – has benefited less from this uniform relevance because of cultural, structural and financial differences in local governments across Europe.

Moreover, local eGovernment requires interoperability mechanisms that will allow numbers of local government (and government-related) agencies to offer online access to their services and to participate in orchestrated procedures involving services provided by multiple agencies.

Focusing on the possible implementation of Interoperable eGovernment solutions for local governments, socio-economic research conducted in 2004 concludes that investment costs needed for the development of interoperable eGovernment solutions are much too high for almost all municipalities, except large metropolitan cities such as London, Berlin, Paris, Marseille, ...

CONCLUSIONS

Role of LRAs	Subsidiarity	Yes
	Role of LRAs in the implementation	Yes
	LRAs directly affected by the initiative	As any public administration
	Potential costs and burden impacts	Yes
Formal procedure	Legislative measure	Yes
	Mandatory consultation of the CoR	No
	Opinion of the CoR	No
Progress of the initiative	IA carried out	Started in 2011
	Public consultation	From 18 February to 15 April 2011
	Roadmap published	Yes (November 2011)
Time constraints	Imminent measure	2nd quarter 2012

We are at a very early stage and decision on best policy options will be needed. It will depend on the level of development of the eID systems in each country that the coordination will be more or less urgent...

A study for the HLG could be considered at a later stage.

Employment, social affairs and inclusion

√ Employment, social affairs and inclusion
34 Freedom of movement for workers within the Union (2012)
P30 Partnership contracts with MS (2013)

Freedom of movement for workers within the Union

Introduction

From 1 May 2011, the entire European labour market will open to Member States who joined the Union in 2004, including the citizens of Hungary, who currently holds the EU Presidency. The fear of many workers migrating from new Member States to the West, have so far proven unjustified; since the opening of the labour market in old Member States has contributed to the economic growth.

Free movement of labour is one of the fundamental principles of the EU's single market, enabling EU citizens to take up employment freely in any other member state. Since certain older Member States of the Union had been wary that workers from countries who joined in 2004 could "flood" their labour markets, so, Member States were given the rights to restrict employment for up to seven years, at their own discretion. This rule was incorporated into the accession document.

Gradual relaxation

Several countries have taken advantage of this option, regarding citizens of eight countries that joined the Union in May 2004, namely the Czech Republic, Estonia, Poland, Latvia, Lithuania, Hungary, Slovakia and Slovenia. Sweden and Ireland have opened up their labour markets from the very start; and Great Britain only required the simple registration of employees. In 2006 Finland, Greece, Spain, Portugal and Italy, in 2007 Luxembourg and the Netherlands, in 2008 France, and in 2009 Belgium and Denmark lifted the restrictions.

Only two Member States – Austria and Germany – maintained the restriction for the longest permissible term, until 30 April 2011, claiming that the authorisation of free employment would cause major labour market disorders. Also, despite the general restrictions, both Austria and Germany were allowed to, under bilateral agreements, the employment of a certain number of citizens coming from the newly accessed countries. Owing to such agreements, approximately 28,000 Hungarian citizens worked in Austria and about 13,000 in Germany from the beginning of 2011. Also, states were already allowed provide free employment in certain sectors, which was effected by a chronic shortage of labour force.

Iceland, Norway, Liechtenstein, Switzerland

The single market also comprises of three countries that are not members of the Union, but hold membership in the European Economic Area (EEA). Of these countries, Iceland lifted the restrictions in 2006 and Norway in 2009, while Liechtenstein will be opening its labour market together with Austria and Germany. Switzerland, which is a member neither of the EU nor of the EEA, will terminate its presently used quota system at the end of April; however, it will be entitled to restore the restrictions until 31 May 2014, in justified cases.

None of these countries imposed any restrictions on Cyprus or Malta, who also joined the EU in 2004; nor did the eight other new Member States have restricted employment to citizens coming from the rest of the Member States.

Bulgaria, Romania

In the case of citizens of Romania and Bulgaria, who joined the Union in January 2007, the other 25 Member States are still allowed to enforce restrictions. Similarly to the enlargement of 2004, a temporary term of up to seven years applies to these two countries; which is due to expire on 31 December 2013. Even so, several Member States have decided not to restrict the employment of citizens from Romania and Bulgaria. Accordingly, they can also freely enter the labour markets from the following countries: Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Poland, Latvia, Lithuania, Hungary, Portugal, Spain, Sweden, Slovakia and Slovenia.

Roadmap June 2011

The Directorate-General Employment, Social Affairs and Inclusion launched a public consultation on possible future initiatives for the enforcement of **EU rules on free movement of workers**. The objective of the consultation was to assess how to best ensure the enforcement of the right to free movement of workers and contribute to the removal of obstacles. The consultation was open until 12 August 2011.

In June 2011 the DG EMPL published its Road Map on **Proposal for an initiative on enforcement of rights of EU migrant workers and members of their families in relation to the fundamental principle of free movement of workers**

Changes in legal culture are needed in order to foster real respect to the principle of free movement.

Several Institutional papers and studies present a situation where protection of rights is very much dependant on national legislation or on its interpretations.

The Commission Road Map analyses the possibility of hard law instrument (mainly a directive) to implement the principle of equal treatment in a more coherent and effective way.

This potential initiative is of major importance and depending on the legislative status in the different MS might have a significant impact. According to the initial assessment of impacts in the Road Map the Commission is inclined towards binding legislative initiative at EU level: adoption of a new legal instrument that could introduce provisions

on legal advice, legal assistance and information for EU migrant workers to help enforce rights conferred under Regulation (EEC) No 1612/68. They could mirror those in the anti-discrimination/equal treatment between men and women fields, for instance:

- a. Identification of elements that would help understanding the concept of discrimination on the basis of nationality
- b. Introduction of certain information obligations
- c. Introduction of mechanisms of legal assistance to migrant workers.
- d. Reversal of the burden of proof so that it would be for the respondent to prove that there has been no breach of the principle of equal treatment
- e. Provisions on sanctions and compensation to victims of discrimination.
- f. Encouraging dialogue with organisations concerned by the free movement of workers and between social partners.

Article 46 TFEU confers on the European Parliament and the Council the power to issue directives or regulations for measures required to bring about freedom of movement for workers, as defined in Article 45 TFEU.

CONCLUSIONS

Role of LRAs	Subsidiarity	Yes
	Role of LRAs in the implementation	Yes
	LRAs directly affected	Yes
	Potential costs and burden impacts	Yes
Formal procedure	Legislative measure	Both legislative and non-legislative
	Mandatory consultation of the CoR	No
	Opinion of the CoR	No
Progress of the initiative	IA carried out	Yes, an IA will be carried out; IA steering group set up in April 2011 and started to work in May 2011.
	Public consultation	Yes, different consultations. Last one: web public consultation (17-06-2011/12-08-2011)
	Roadmap published	Yes, June 2011
Time constraints	Imminent measure	Second quarter 2012

The legislative proposal is still pending, and it will come up in the coming weeks: in view of the relevance of the issues at stake it could be advisable to deepen on the different requirements to be proposed by the Commission which for sure will have an impact at MS multilevel governance (variable depending on the country).

Partnership contracts with MS (2013)

The partnership contracts between the Commission and each Member State will set out the commitments of partners at national and regional level, as well as those of the Commission. They will be linked to the objectives of Europe 2020 strategy and the national reform programmes. They will establish an integrated approach for territorial development, supported by the funds under cohesion policy, rural development and the maritime and fisheries policy, and will include objectives, strategic investments and a number of conditions.

What are the "contracts" signed between the Commission and the Member States?

In 2013, each Member State will be asked to draw up Partnership Contract where they will assess their development needs and define their national priorities supporting their National Reform Programmes and the achievement of their national targets for delivering on the Europe 2020 strategy. The Partnership Contract will contain notably:

- thematic objectives (Member States can choose out of a menu of 11 objectives in line with the "Europe 2020" strategy);
- Investment priorities for each thematic objective;
- Conditions which will be the pre-requisite to EU funding (see below);
- Targets that the Member States plan to reach by the end of the programming period, as well as performance indicators and milestones.

The Partnership Contract will constitute a firm agreement between the Commission and the Member States regarding the use of funds and performance. Failure to achieve progress may lead to suspension or cancellation of funding.

What categories of regions after 2014?

Regions will continue to receive support within three (3) defined categories:

- less developed regions, whose GDP is below 75% of the Union average, will continue to be the top priority for the policy.
- transition regions, whose GDP is between 75% and 90% of the EU 27 average.
- more developed regions, whose GDP per capita is above 90% of the average.

The second category would cover 51 regions and more than 72 million people, including 20 regions that are forecasted, as of 2014, to move out of the current "convergence" objective (less developed regions), reflecting the success of the policy. The purpose of the new category is to ease the transition of these regions, which have become more competitive in recent years, but still need targeted support. It also ensures fairer treatment for regions with similar levels of economic development.

What will be the co-financing rates after 2014?

For the new category of transition regions the maximum co-financing rate will be 60%

from EU side. The other ceilings for co-financing rates remain unchanged, i.e. maximum 50% for the most developed regions, maximum 85 % for the less developed regions and maximum 85 % for the Cohesion Fund.

Why should there be a specific support for "transition regions"?

The objective of the new transition system, covering regions with a GDP per head between 75% and 90%, is to treat regions at a similar stage of economic development uniformly.

As an example, if the current system would be maintained, the Polish region of Mazovia (GDP per head of 86% of the EU average) and the region of Inner London (GDP per head of 338% of the EU average) would be subject to the same rules. The new transition system allows more flexibility and differentiates between these two regions, in terms of the level of funding available, priority areas for investment, applying different co-financing rates etc.

Are there new funds in 2014-20?

Cohesion policy's investment will be channelled through the same three funds: the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund. Apart from these three funds, the Commission is proposing to maintain and strengthen the European Globalisation Adjustment Fund.

A new facility will be created called the "Connecting Europe Facility" (CEF). It aims to accelerate the development of priority infrastructure that the EU needs in transport, energy and information technologies. €10 billion of the Cohesion Fund will be ring-fenced for this facility which will be managed directly by the Commission.

The Cohesion Fund will continue to support transport infrastructure in Member States with a GNI below 90% of the EU average.

The Commission is proposing the introduction of conditions, which could potentially lead to the suspension of funding. How will this work in practice?

The Commission is proposing:

1) Conditions linked to the direct implementation of the policy:

This would take the form of both 'ex ante' conditions that must be in place before funds are disbursed and 'ex post' conditions that will make the release of additional funds contingent on performance (see next question).

Ex-ante conditions will be defined in the Partnership Contract at the beginning of the programming period. For example, a Member State wanting to use EU funds to invest in

water management will be required to transpose the related EU environmental legislation in full.

If these conditions are not fulfilled at the start of the programming period, each Member State and the Commission will agree when they should be fulfilled. If conditions are not fulfilled by the agreed date, the Commission may decide to suspend all or part of programme payments until such time as the necessary actions are carried out.

2) Conditions linked to macro-economic conditions:

The effectiveness of cohesion policy in promoting growth and jobs depends significantly on the economic environment in which it operates. Past experience suggests that the funds in some instances have not delivered expected outcomes due to unsound macroeconomic framework conditions. Establishing a tighter link between cohesion policy and the European semester of economic policy coordination would, therefore, ensure coherence between macroeconomic policies at national level and investments through European programmes. Thus, the Commission is proposing that when a country faces economic difficulties, the Commission can invite the Member State to revise its strategy and programmes. Only if the economic situation becomes so serious to undermine the effectiveness of cohesion investment, continued support from the Cohesion Fund, the ERDF the ESF, the EAFRD and EMFF will become dependent on the fulfilment of certain fiscal or economic conditions. This "conditionality" has already existed for the Cohesion Fund, but the process of the suspension of funding will now be more automatic and extended to all funds.

How will the best-performing programmes be rewarded?

In order to strengthen the focus on results and the achievement of the Europe 2020 objectives and targets, 5% of the cohesion budget will be set aside and allocated, during a mid-term review, to the Member States and regions whose programmes have met the milestones fixed in the contracts.

CONCLUSIONS

Role of LRAs	Subsidiarity	Yes
	Role of LRAs in the implementation	Yes
	LRAs directly affected	Yes
	Potential costs and burden impacts	Yes
Formal procedure	Legislative measure	Yes
	Mandatory consultation of the CoR	Yes
	Opinion of the CoR	No
Progress of the initiative	IA carried out	No
	Public consultation	Not known
	Roadmap published	Not known
Time constraints	Imminent measure	2013

The formation of partnership contracts will be crucial, as MS will have to set out their specific national targets and with these a supporting set of indicators to measure progress made on these targets.

Learning on how the new system will work and how best profit of it could be of high relevance to the members of the HLM.

Environment

Environment
45 Review of the Environmental impact assessment (EIA) Directive
P32 Environmental liability (2014)

Review of the Environment Impact Assessment (IEA) Directive

ACT - Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (85/337/EEC) (OJ L 175, 5.7.1985, p. 40).

Definition

The EIA Directive is in force since 1985 and applies to a wide range of defined **public and private projects**. The EIA procedure can be summarized as follows: the developer may request the competent authority to say what should be covered by the EIA information to be provided by the developer (scoping stage); the developer must provide information on the environmental impact (EIA report – Annex IV); the environmental authorities and the public (and affected Member States) must be informed and consulted; the competent authority decides, taken into consideration the results of consultations. The public is informed of the decision afterwards and can challenge the decision before the courts.

EC report of July 2009 (COM(2009)378)

The report of July 2009 on the application and effectiveness of the EIA Directive concluded that the principal objective of the EIA Directive had been achieved.

However, the report also identified **several weaknesses in the application of the Directive and pointed out the main areas where improvements are needed** (e.g. screening procedure, public participation, quality of the EIA process, EIA transboundary procedures, coordination between the EIA and other environmental directives and policies). Moreover, after 25 years of application the EIA Directive has not considerably evolved (apart from targeted amendments) while the policy, legal and technical contexts have changed.

Conclusion of the report: the EIA Directive needs to be revised.

Consultations and Impact Assessment (IA)

- Wide and open public consultation

In 2010 (28 June to 27 September), the **Commission consulted the public and the stakeholders**. The consultation covers a broad variety of issues (e.g. quality of the EIA process, harmonisation of assessment requirements between Member States, assessment

of transboundary projects or projects with transboundary effects, role of the environmental authorities, and development of synergies with other EU policies).

- Targeted consultation of 200 stakeholders at Leuven Conference

The consultation phase was concluded with a Conference at Leuven (18-19 November 2010). This was a complement to the wide public consultation, as it looked for the views of specific and specialised stakeholders. **200 representatives from the EU and international institutions, from the public authorities - at national, regional and local levels** - from industry, from environment organisations, and from the academic community were present at the Conference. On 19/11, the Conference concentrated on three key themes: scope of the EIA Directive, quality of the EIA process and links of the EIA with international conventions.

- Results of the consultations

Generally speaking, the respondents consider positively the EIA Directive.

The public consultation shows that stakeholders believe that measures should be taken to improve the EIA process. They nevertheless reject radical changes (e.g. regulation, merging of EIA/SEA). There is no unanimously preferred policy option for the review of the EIA.

- The inter-service steering group

The inter-service steering group **accompanies all phases of the IA procedure and the proposal for amending the EIA Directive.**

- 1st meeting (9 December 2009): to discuss the draft roadmap and the draft questionnaire for the public consultation.
- 2nd meeting (4 May 2010): focused on the policy options for the review of the EIA Directive.
- 3rd meeting (24 June 2010): discussed the Directives and provisions potentially affected by the introduction of a coordinated/joint EIA in relation to sectoral assessments and permits required by other environmental Directives ("one stop shop" option).
- 4th meeting (19 October 2010): discussed the results of the public consultation.

Opinion of the CoR on improving the EIA and SEA Directives¹

Considers the EIA Directive to be a key instrument for local and regional environmental policy, insofar as it prevents the likely consequences for the environment of public or private investment programmes, plans or projects;

Application of the directive may impose additional costs on businesses and public administrations;

There still are gaps that need to be filled, specifically regarding the beginning of the public consultation stage, the form of public information and access to it:

¹ Opinion of the CoR on improving the EIA and SEA Directives, 84th plenary session, 14 and 15 April 2010, CdR 28/2010 fin.

Need to have formal links with the Habitats Directive, particularly its Appropriate Assessment Impact, and the biodiversity Action plan, and to contain a well-established methodology to determine the impacts of climate change.

Objective of the review

The global objective is to improve environmental protection at national level by ensuring a more consistent and effective application of the principles of environmental assessment. In particular, the Review aims at:

1. **Improving the functioning of the EIA Directive** (increase the degree of harmonisation of national laws; simplify existing EIA procedures (i.e. screening); reinforce the quality components of the EIA process (e.g. content of the report, alternatives, review of EIA information, monitoring, validity EIA); clarify legal and technical issues (i.e. ECJ case-law, quality of the EIA report)).
2. **Improving the synergies between the EIA Directive and other EU environmental legislation:** (ensure consistency with the international obligations deriving from the Aarhus Convention and the Espoo Convention (including the Protocol on Strategic Environmental Assessment); ensure better coordination with sectoral policies and assessments required by other Directives (SEA, Habitats and Birds Directives, IPPC, Water Framework...) and simplify existing assessment and permitting procedures, to the extent possible).

Subsidiarity

1. The Directive defines the principles of the EIA in line with the requirements of the Espoo and Aarhus Conventions by introducing minimum requirements. Ensuring approximation of national laws requires action at EU level in order to achieve better results.
2. The need to amend the existing legal framework, with a view to reducing burdens and addressing overlaps and inconsistencies with other pieces of EC legislation, requires an assessment at EU level so as to identify an optimal policy mix of EU and national measures. The sole action of Member States can not solve these issues.
3. The scale and the effects of several measures have a strong transboundary character (e.g. EIA transboundary procedures, public participation). Thus, action at EU level is necessary.

Who will be affected?

Public administration (at central, regional and/or local levels), industry and enterprises (mainly those related to the sectors and project categories listed at Annexes I and II of the Directive, e.g. enterprises in the areas of energy infrastructure, extractive industry, mineral, chemical and metal industry, construction, agriculture), consultancy firms preparing environmental impact studies, natural or legal persons and their associations.

Extent of the impact on public administration

Six options are envisaged to review the directive: 1) “do nothing” option, 2) technical adaptation, 3) amendments, 4) one stop shop, 5) merging of the EIA and SEA directives, 6) repeal the EIA directive and replace it by a new directive or a regulation on environmental assessments. The extent of Review’s impact on LRAs differs according to the option chosen.

1. Do nothing and update/development of guidance documents: softer option. No impacts would be expected on public administration, as the institutional/legislative framework would not be modified.

2. Technical adaptation: soft option. Limited impact would be expected on public administration (need to progressively adapt the national legislation to the changes of the Annexes

3. Amendment: quite strong option. Significant impact would be expected on public administration (need to transpose the new Directive and adapt the national legislation accordingly). The higher degree of harmonisation (e.g. timescale for consultations) and the improved coordination with other policies/directives would have a positive impact on business, but there may be additional costs and burdens from the introduction of new obligations (e.g. monitoring). The impacts will vary depending on the scope (limited/broad) of amendments.

4. "One stop shop": quite strong option. Significant impact would be expected on public administration (need to transpose the new Directive and adapt the national legislation accordingly, including the creation of mechanisms to ensure coordination or joint procedures for environmental assessments). The higher degree of harmonisation (e.g. timescale for consultations) and the establishment of coordinated/joint assessment and permit procedures with other policies/directives would have a very positive impact on business, but there may be additional costs and burdens from the introduction of new obligations (e.g. monitoring).

5. Merging and 6. New Directive/Regulation: rather radical options. Very significant impact would be expected on public administration (need to transpose the new Directive and adapt the national legislation both on plan/programme and project levels). The higher degree of harmonisation (e.g. timescale for consultations) and the consolidation of licensing procedures would have a major positive impact on business, but there may be additional costs and burdens from the introduction of new obligations (e.g. monitoring).

Options 5 and 6, and some variants of option 4 are likely to create difficulties at the transposition and implementation stage for the Member States. However, the difficulties can be effectively anticipated and addressed, on the basis of the existing implementation experience.

A more detailed assessment of the significant impacts of the policy options will be done in the framework of the upcoming IA.

What are the next steps?

- An IA is carried over from 2011 and is to be published soon.
- The Commission should publish its proposal in July 2012.
- The new directive/regulation should be adopted in 2014.

- The new instrument should enter into force in 2016 (and implementation through Article 290 – delegated acts).

CONCLUSIONS

Role of LRAs	Subsidiarity	Yes
	Role of LRAs in the implementation	Yes
	LRAs directly affected	Yes, explicitly mentioned in the EC Roadmap
	Potential costs and burden impacts	Yes
Formal procedure	Legislative measure	Yes
	Mandatory consultation of the CoR	Yes
	Opinion of the CoR	Yes
Progress of the initiative	IA carried out	Yes, ongoing process
	Public consultation	Yes, different consultations in 2010
	Roadmap published	Yes, August 2011
Time constraints	Imminent measure	Proposal to be published in July 2012

The review of the Environmental Impact Assessment (EIA) Directive is very likely to have an important impact on LRAs (EIA Directive is a key instrument for local and regional environmental policy; Role of the LRAs in the transposition and implementation processes; potential costs and burdens impact, etc.). The real extent of the impact on LRAs is still to be determined by the upcoming IA, but varies from no impacts to significant impact on public administration. 3 options out of 6 are likely to create difficulties at the transposition and implementation stage for the MS.

Environmental liability (2014)

ACT – Directive 2004/35/EC of the European Parliament and Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2005, p. 56-74)

Objective established by the EC Work plan:

To assess the implementation of the Directive on environmental liability and revise it if necessary.

Definition of the existing Directive

The Directive is the first EU legislation including the application of the “polluter pays” principle. Its main objective is to prevent and remedy "environmental damage" (damage to protected species and habitats (nature), damage to water and damage to soil).

The liable party is in principle the "operator", i.e. the one (natural or legal person) who carries out an occupational activity. The operator, who carries out certain dangerous activities as listed in the Directive, is strictly liable (without fault) for the environmental damage he caused. He might though benefit from certain exceptions and defences allowed by the ELD (for example force majeure, armed conflict, third party intervention) or by transposing legislation of the Member States (for example permit defence, state of the art defence). All operators carrying out occupational activities are liable for fault-based damage they cause to nature as defined by the ELD.

EC Report of October 2010 (COM(2010) 581 final)

On 12th October 2010, the Commission adopted a [Report](#) on the effectiveness of the EU Environmental Liability Directive in terms of remediation of environmental damage and on the availability of financial security to cover environmental liability.

The long delay in transposing the Directive in several Member States (the transposition of ELD was completed by the last Member State by July 2010) means that little practical experience is available yet on its implementation. Authorities often did not have rules compliant with the ELD in place on time. Operators were often unaware of the specific legal obligations. Insurers and other institutions offering financial security were not sufficiently familiar with the requirements their products had to meet to be ELD-compliant. Thus the available information does not yet allow for concrete conclusions to be drawn about the effectiveness of the Directive in remedying environmental damage.

Report of 8 November 2011, ‘Stakeholder and Practitioner Workshop Implementation of the ELD in the EU’,

In order to address the weaknesses of the Directive identified in the ELD Report of October 2010 and to boost its implementation through improved information exchange

between stakeholder/practitioner groups, awareness raising for operators, insurers and competent authorities, working towards guidelines and establishing ELD case registers, the Commission will carry out studies, launch information campaigns and induce training measures in 2012. The report on [‘Stakeholder and practitioner workshop implementation of the ELD in the EU’](#) was adopted within this frame.

Conclusions of the report relating to the EC’s action:

With a view to its 2014 Report on the ELD, the Commission plans within 2012, to:

- Create an information leaflet on the Directive and an explanatory brochure that will be available on the web page for all interested stakeholders and practitioners to get information on the Directive. The leaflet will be made available in all official languages.
- Provide training material on the ELD that will be available for all key stakeholders to be used for awareness-raising and training of their members. This will help inform the key players including industries and SMEs that potentially can be liable under the ELD.
- Explore the inter-linkages between the Environmental Liability Directive and other environmental legislation, like the Habitats Directive and the Water Framework Directive.
- Address further issues related to Risk assessment and determine risk levels of European industry in EU or the most risk prompt activities.
- Make a scoping study about the possibility to create a fund or use similar type of instruments to address financial security of European business and industry in the context of ELD.

CONCLUSIONS

Role of LRAs	Subsidiarity	Yes
	Role of LRAs in the implementation	Yes
	LRAs directly affected	-
	Potential costs and burden impacts	Yes
Formal procedure	Legislative measure	Not in the short term
	Mandatory consultation of the CoR	Yes – consulted for the 2004 Directive
	Opinion of the CoR	Not recently (for the 2004 Directive)
Progress of the initiative	IA carried out	No
	Public consultation	Yes
	Roadmap published	No
Time constraints	Imminent measure	No

Although this initiative may be of interest for the HLM, it seems to be too early to deal with it at this stage.

Internal Market and Services

Internal market and services

81 Follow up to the Performance check for services: Deepening the single market for services
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Follow up to the Performance check for services: Deepening the single market for services (2012)

The Commission plans to issue a Communication (non binding) aiming at identifying and proposing measures /actions that are necessary to remove remaining obstacles to the functioning of the Single Market for services.

Background

As foreseen in the Services Directive, a process of mutual evaluation has been carried out by the Commission and Member States throughout 2010. The mutual evaluation of the Services Directive has shown that, despite major progress achieved thanks to the implementation of the Services Directive, a number of barriers to the single market for services remain and further action at EU level is required in the area of services. In January 2011, based on the results of the mutual evaluation, the Commission adopted a Communication in which it put forward a number of priority actions to be carried out in the period 2011-2012 to further deepen the single market for services. These priority actions have been endorsed by the Competitiveness Council in March 2011.

In particular, as announced in the Communication, the Commission has launched a "performance check" of the single market for services with the objective to assess the interaction and the practical functioning on the ground of a series of EU instruments which apply to services. The "performance check" is based on information gathered in discussions with Member States and is open to contribution of stakeholders. From the Commission's side, it gathers several Commission departments under the coordination of DG Internal Market and Services.

The process, which should also be seen as a part of the renewed Commission's "smart regulation" agenda, focuses on the sectors of construction, tourism and B2B services and covers EU instruments in areas as diverse as e-commerce, consumer protection, climate change, etc. Work on the "performance check" also allows to discuss a number of specific regulatory barriers identified in the Communication of 27 January 2011 which, despite the Services Directive, still appear to create serious difficulties for businesses and consumers: in particular restrictions on legal form and shareholding imposed on certain service providers (in particular in the area of regulated professions), problems caused by insurance obligations imposed in a cross border context and the issue of reserve of activities linked to professional qualifications.

Based on the results of the performance check and of other various strands of work on remaining barriers, the Commission, in this Communication will propose solutions, including, as need be, legislative initiatives to address the identified remaining malfunctioning of the single market for services.

CONCLUSIONS

Role of LRAs	Subsidiarity	Yes
	Role of LRAs in the implementation	Yes
	LRAs directly affected	Yes, as service providers
	Potential costs and burden impacts	Yes
Formal procedure	Legislative measure	no
	Mandatory consultation of the CoR	no
	Opinion of the CoR	no
Progress of the initiative	IA carried out	To the extent that the initiative will determine follow-up measure, the Communication would be subject to a proportionate IA
	Public consultation	Not yet, a dedicated webpage will be created on DG MARKET's website
	Roadmap published	Yes, November 2011
Time constraints	Imminent measure	4 th quarter 2012

The work on the performance check will be open to input from the stakeholders (a dedicated web page created by DG market). The issue is in itself very important and in need of a close follow up. The result will be a Communication which will constitute the starting point for discussions in the “performance check, which will provide at the same time data from MS and analysis by the Commission”.

Energy

√Energy
37 Renewable energy strategy (RES)
P26 Energy efficiency

Renewable Energy Strategy

This initiative will build on the Energy Roadmap 2050 and present policy measures to accelerate development of renewable energy. It would be integrated with electricity market design discussion and ongoing infrastructure policy, including external policy aspects.

Background

According to Article 4 of the Treaty of the Functioning of the European Union (TFEU) “shared competences” mean the EU and Member States are authorized to adopt binding acts. Energy policy and climate change policy fall under shared competences.

For the first time with the Treaty of Lisbon, energy policy has its own article 194 (TFEU). This article describes the central goals of EU energy policy: security of supply, the functioning of an internal market, support for interconnectivity and sustainability. Decisions are taken according to the ordinary procedures² (meaning co-decision and qualified majority voting). The special environmental and climate change objectives of the European Union are laid down in article 191 (TFEU) explicitly mentioning the fight against climate change.

Many renewable energy techniques are most appropriate for decentralised, local application. Therefore, competences in the field land-use planning, town-planning, and the application of nature conservation law are decisive for many new policies. Very often the combination of national legislation (subsidy schemes, planning legislation etc.) and regional (local) provisions and policies are becoming more important.

Front-runner municipalities show that LRAs have today become a decisive stakeholder in energy policy.³ Energy efficiency and energy saving measures are essential element of current policies. For instance applications as local combined-heat and power systems or the stimulation of zero-emission housing are dependent on regional and local initiatives. That means as well that there is a relation between new technologies and legal competences. New sustainable technologies will offer new opportunities for LRAs and the decentralisation of energy policy.

Concrete EU objectives in the field of energy policy are also related to international obligations of the EU at the level of the United Nations (UNFCCC, i.e. Kyoto protocol

² However, there are exemptions to the ordinary procedure. Questions related to the exploitation of energy resources in a Member State, the choice between different energies and the general structure of energy systems are exempted and fall under unanimity (article 192,1c and 194, 3)

³ See for instance the examples discussed at the conference of Climate Alliance “Achieving a 100 % renewable goals: a challenge for cities”, Brussels, 24 March 2010

and possible post-Kyoto agreements). As a firm position vis-à-vis the international negotiations, the European Council adopted in 2007 ambitious energy and climate change objectives for 2020 – “to reduce greenhouse gas emissions by 20%, rising to 30% if the conditions are right, to increase the share of renewable energy to 20% and to make a 20% improvement in energy efficiency”.⁴ Beyond that, the European Council has also given a long-term commitment to the decarbonisation path with a target for the EU and other industrialised countries of 80 to 95% cuts in emissions by 2050.⁵

Consultation period - from 20/12/2011 to 07/02/2012

The legislative framework as regards renewable energy is laid down in the Renewable Energy Directive which sets an obligatory target of 20% renewable energy in final energy consumption as well as a 10% target in transport for 2020. Given the long-term perspective of investors it is necessary already now to look beyond that year. Against the background of the EU's ambition to move towards a reduction of 80-95% of GHG emissions in a 2050 perspective, it is clear that a further strong growth in renewable will be needed beyond the 2020 targets.

The public consultation has the aim of soliciting the view of interested parties to assess in how far the orientations of the current policy framework remain valid in the medium term - i.e. until 2030. Interested parties are requested to consider the specific questions addressed in the consultation document.

CONCLUSIONS

Role of LRAs	Subsidiarity	Yes
	Role of LRAs in the implementation	Yes
	LRAs directly affected	Yes, if energy producers
	Potential costs and burden impacts	To be determined
Formal procedure	Legislative measure	No
	Mandatory consultation of the CoR	No
	Opinion of the CoR	No
Progress of the initiative	IA carried out	Yes, currently ongoing
	Public consultation	Yes, still ongoing
	Roadmap published	Yes, October 2011
Time constraints	Imminent measure	No (second quarter 2012)

Since the consultation is now ongoing it might prove a bit early for an analysis. Nevertheless a close follow up of the results of this consultation is advisable.

⁴European Commission: Communication "Energy 2020 - A strategy for competitive, sustainable and secure energy" (COM (2010) 639) p. 1.

⁵ Ibid.

Energy Efficiency

The European Commission adopted in March 2011 a plan for saving more energy through concrete measures. Energy efficiency is a key tool for strengthening Europe's competitiveness and reduces energy dependence, while decreasing the level of emissions. The set of measures proposed aims at creating substantial benefits for households, businesses and public authorities: it should transform our daily lives and generate financial savings of up to €1000 per household every year. It should improve the EU's industrial competitiveness with a potential for the creation of up to 2 million jobs.

Recent Commission estimates suggest the EU will achieve only half of the 20% improvement in energy efficiency it aims for by 2020 if it continues business as usual.

Against this background, the Action Plan proposes several new actions:

- It promotes the exemplary role of the public sector and proposes a binding target to accelerate the refurbishment rate of the public sector building stock. Public authorities should be required to refurbish at least 3% of their buildings each year. It also introduces **energy efficiency criteria in public procurement**.
- It aims to trigger the renovation process in **private buildings** and to improve the energy performance of appliances.
- It seeks to improve the efficiency of power and heat generation.
- It foresees energy efficiency requirements for industrial equipment, improved information provision for SMEs and energy audits and energy management systems for large companies.
- It focuses on the roll-out of smart grids and smart meters providing consumers with the information and services necessary to optimise their energy consumption and calculate their energy savings.

The Commission will monitor the implementation of the Action Plan and translate these actions into a legislative proposal in the coming months.

It will report on progress in spring 2013 in the framework of the new EU 2020 governance. If the review shows that the overall EU target is unlikely to be achieved, the Commission will propose legally binding targets for 2020. For now, the priority is for binding measures to help Member States, companies and citizens alike to achieve their savings objectives and to save on their energy bills.

Impact at regional and local level

During the consultation process several items were brought forward by different MS, regions associations as well as the CoR:

- that the important role of regions should have been made explicit,
- specific commitments concerning the financing and funding of local and regional sustainable energy investments,
- new priorities under the structural funds for specific support,

- the need for binding targets in the field of energy efficiency as a top priority.

Also the response of the Council and European Council to the CoR recommendations was very modest. The final European Council Conclusions (February 2011) endorsed energy efficiency as a top priority which matches the CoR recommendation. However, the role of LRAs, structural funds and specific funding commitments were not mentioned.

The most evident incorporation of LRAs' positions has been found in the Resolution of the European Parliament on the Communication which supports a multilevel governance and decentralised approach to energy policy and energy efficiency. The European Parliament also underlines the need for credible funding, including for bottom-up initiatives and for the involvement of cities and regions (see details in Annex). However, very different from the CoR Outlook Opinion, the European Parliament asked for support for centralised projects such as the Desertec initiative. **Whereas the CoR emphasises the role of regional, decentralised production, the European Parliament stresses the importance of centralised systems in the field of renewable energies.**

CONCLUSIONS

Role of LRAs	Subsidiarity	Yes
	Role of LRAs in the implementation	Yes, according to CdR 188/2011 fin
	LRAs directly affected	Not according to the EC roadmap
	Potential costs and burden impacts	Yes
Formal procedure	Legislative measure	No
	Mandatory consultation of the CoR	No
	Opinion of the CoR	Yes, CdR 188/2011 fin
Progress of the initiative	IA carried out	To be further considered since the precise content of the Communication has yet to be determined.
	Public consultation	Yes, for the Energy Efficiency Directive
	Roadmap published	Yes, (November 2011)
Time constraints	Imminent measure	No (first quarter 2013)

This topic is high in the agenda and ready for revision in 2013. Since it includes very concrete proposals touching on sensitive items such as Public Procurement rules, private buildings, and since all levels of administration are affected by the Action plan, a close analysis by the HLM could be of interest.