

## COMMISSION LEGISLATIVE AND WORK PROGRAMME 2009

### List of Strategic and Priority Initiatives

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| 35. | <a href="#"><u>Communication on Social protection in health and Reform of the Financing of Health Systems in Developing Countries</u></a> |
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## ROADMAP

Title of the initiative: **Cutting accountancy burdens for small business / review of the accounting directives**

Expected date of adoption of the initiative: October 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Fourth and Seventh Directives were adopted in 1978 and 1983, respectively. The *Fourth Directive* (Fourth Council Directive 78/660/EEC) was created with the aim of coordinating Member States' provisions concerning the presentation and content of annual accounts and annual reports, the valuation methods used and their publication and audit in respect of companies with limited liability. The *Seventh Directive* (Seventh Council Directive 83/349/EEC) coordinates national laws on consolidated (i.e. group) accounts. Article 6.1 of the Seventh Directive allows Member States to exempt companies up to medium-size from these requirements.

The Commission put forward several ideas for simplifying the accounting requirements for SMEs in a *Communication on a simplified business environment for companies in the areas of company law, accounting and auditing* (COM(2007) 394 final). The Communication was followed by a public consultation and then a proposal for a Directive by the European Commission containing measures of simplification. Most of the ideas within the Communication as well as a few other ones were taken up by the *High Level Group of Independent Stakeholders on Administrative Burdens* in their *Opinion*.

The European Parliament has welcomed the objectives of the above-mentioned Communication of reducing the administrative burden for businesses in the EU and enabling them to compete more effectively.

In view of the strong stakeholder support for further measures of simplification for SMEs, on 29 September 2008, Commissioner McCreevy announced in a public statement a review of the Fourth and Seventh Accounting Directives, guided by the "think small first" principle.

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The European Parliament has welcomed the objectives of the above-mentioned Communication of reducing the administrative burden for businesses in the EU and enabling them to compete more effectively.

In view of the strong stakeholder support for further measures of simplification for SMEs, on 29 September 2008, Commissioner McCreevy announced in a public statement a review of the Fourth and Seventh Accounting Directives, guided by the "think small first" principle.

What are the main problems identified?

The Accounting Directives follow a principle-based approach and represent "minimum harmonisation"

beyond which Member States have developed additional requirements. They currently contain around 40 options at Member State level, many of which aim at reducing the requirements for "small" and "medium"-sized companies.

The broader legal environment has evolved with the adoption of international standards in the field of accounting (*Regulation 1606/2002 on the application of international accounting standards*).

The business environment has changed in the last twenty to thirty years with the globalisation of economies and rapid developments in technology.

The main objective of this initiative is therefore to review the 4<sup>th</sup> and 7<sup>th</sup> Council Directives in order to bring them in line with the current accounting needs of companies and users of their financial statements/information.

A revised structure for the Directives could be considered, for instance, dividing their content by company size thereby increasing user-friendliness and ease of reference.

Furthermore, the proposals from the High Level Group and other stakeholders will be taken into account in the update of the technical content of the Directives.

All these are only initial ideas. Whether they will be taken up in the initiative will depend on the feedback received during public consultation.

Is EU action justified on grounds of subsidiarity?

Yes

### **B. Objectives of EU initiative**

What are the main policy objectives?

A revised accounting framework at EU level building on the needs of stakeholders.

Does the objective imply developing EU policy in new areas or of strategic importance?

No

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The initial plan is to revise and update the Fourth and Seventh Accounting Directives. The actual outcome will very much depend on stakeholder reactions and contributions.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No

Do the options respect the proportionality principle?

Yes

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The public will be consulted in order to provide input for the direction of this initiative. The results of the public consultation held as follow-up to the 2007 Commission Communication will be taken into account

when proposing new measures as well as the ideas expressed in the Opinion of the High Level Group and received in the meantime from other stakeholders.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Yes: on simplification/administrative burden reduction.

Based on the findings of a measurement report by a Consortium of external consultants which served as a basis for the conclusions of the High Level Group, if micro entities were exempted in every Member State and no longer had to prepare annual accounts (however continued regular bookkeeping) it would create a cost reduction of approximately EUR 5.7 billion.

Who is affected?

Mainly limited liability companies within the scope of the 4<sup>th</sup> and 7<sup>th</sup> Council Directives and users of their financial statements/information are affected.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

There will probably be a need for further information and/or quantification to be used in a future impact assessment. The exact needs will be assessed following the receipt of the final version of the measurement report, commissioned by DG ENTR. We may need to draw on DG MARKT's framework contract for smaller studies.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Groups of users, preparers and auditors will be consulted in the run up to and in the context of the public consultation. The European Financial Reporting Advisory Group and the Accounting Regulatory Committee will be regularly informed and consulted throughout the process.

## ROADMAP

Title of the initiative: **Recommendation on partnerships in implementing the Single Market**

Expected date of adoption of the initiative: June 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The initiative is one of the concrete deliverables of the Single Market Review (SMR) Communication published in November 2007<sup>1</sup>. In particular, the Communication announces that the Commission "will work with the Member States in the Internal Market Advisory Committee (IMAC) to identify best practices, agree guidelines and provide mutual support" with a view to improving partnerships. As the Communication sets out, this initiative is an essential complement to the many initiatives taken at national and EU level "to improve transposition, implementation and enforcement of EU laws, to spread information, and to enhance cross-border cooperation between Member States." The initiative builds on the 2004 Commission Recommendation on transposition<sup>2</sup> and is based on discussions and agreement from Member States during the Internal Market Advisory Committee (IMAC)<sup>3</sup> meetings.

What are the main problems identified?

The main problems identified during a number of consultations and analyses carried out to prepare the Single Market Review include the following:

- Rules are not properly transposed, applied or enforced, as for instance pointed out in replies to the 2006 consultation on future Single Market policy. There is also still room for improving transposition of Single Market Directives and for diminishing the number of infringement proceedings as shown by the Internal Market Scoreboards;
- There is no sufficient administrative cooperation between the Member States, and Member States and the Commission, and responsibilities for Single Market issues tend to be dispersed across national/regional ministries; and
- Citizens and businesses often do not seize the Single Market opportunities, due to insufficient knowledge about Single Market rights and Commission information systems, as shown by the 2006 Eurobarometer studies<sup>4</sup>.

More detail on those issues is provided in the Staff Working Paper on 'instruments for a modernised Single Market policy', accompanying the SMR Communication<sup>5</sup>.

Explain how EU action is justified on grounds of subsidiarity

This initiative is fully in line with the subsidiarity principle as its output – a Commission Recommendation – will be principles-based. It will set out broad recommended actions (guidelines), so as to respect Member States' freedom to organise themselves internally and to take account of their specific (sectoral) needs. The recommended actions will be accompanied by a list of "good practices", drawing from existing experiences, in particular at the national level. These practices will provide practical examples of successful ways to implement the recommended actions set forth in the Recommendation.

<sup>1</sup> COM(2007) 724 final, [http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007\\_0724en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0724en01.pdf)

<sup>2</sup> Commission Recommendation of 14 July 2004 on the transposition into national law of Directives affecting the internal market, 2005/309/EC, OJ L 98, 16.4.2005, p. 47

<sup>3</sup> IMAC is an advisory body, which brings together national officials (at Director and Deputy Director level) from Ministries responsible for coordination of Single Market related tasks in Member States and EFTA states (including candidate states as observers).

<sup>4</sup> [http://ec.europa.eu/internal\\_market/strategy/index\\_en.htm#061204](http://ec.europa.eu/internal_market/strategy/index_en.htm#061204)

<sup>5</sup> SEC(2007) 1518, [http://ec.europa.eu/citizens\\_agenda/docs/sec\\_2007\\_1518\\_en.pdf](http://ec.europa.eu/citizens_agenda/docs/sec_2007_1518_en.pdf)

Having said this, the objectives of this initiative will be better achieved at the EU level given the cross-border nature of many of the issues it seeks to tackle (e.g., cross-border administrative cooperation), and the positive "learning effects" of examining and sharing "good practices" developed in Member States.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The principal aim of this initiative is to identify "good practices" and formulate recommended actions to be implemented by the Member States and the Commission, as the case may be, in the various tasks falling within Member States' responsibilities (flowing, broadly, from Article 10 of the EC Treaty), such as:

- Transposing Single Market rules;
- Applying Single Market rules;
- Informing citizens and businesses about their rights and opportunities in the Single Market (and how to exercise them);
- Supervising compliance with Single Market rules (by market participants);
- Enforcing Single Market rules (in and out of court)
- Preventing problems in the implementation and application of Single Market rules and promoting problem-solving;
- Monitoring markets and sectors to detect remaining barriers; and advocating changes to the national legal systems and/or administrative practice to overcome these;
- Advocating Single Market-friendly policies and ensuring internal coordination on Single Market issues;
- Improving cooperation with each other and with the Commission.

Does the objective imply developing EU policy in new areas or of strategic importance?

No

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

There are three main policy options:

- no action;
- a legislative initiative; and
- a soft law initiative taking the form of a Recommendation, accompanied by cooperation process between the Commission and national authorities.

The no action option can be discarded as it would not sufficiently address the problems relating to the functioning of the Single Market mentioned above.

The legislative option can also be discarded given that the exercise will need to achieve first of all a change of behaviour and enhance cooperation between Member States, something that can better be achieved by making recommendations, fostering "good practices" and facilitating cooperation. Moreover, since the initiative essentially deals with matters falling within Member State competence (transposition, implementation, enforcement), attempts to legislate would meet with strong resistance (legal basis / subsidiarity concerns).

The 'soft law'/cooperation option is to be preferred since it would allow for a non-prescriptive, principle-based approach to addressing the problems described. The recommended actions (guidelines) and "good practices" are being developed in a bottom-up process - in close cooperation with Member States within the Working Group established within the framework of the Internal Market Advisory Committee (IMAC Working Group) and on the basis of their national experiences. Furthermore, Member States will be free to implement these recommended actions and follow 'good practices' as they see fit – as long as the general objectives are met. Member States have signed up to this approach during discussions held within IMAC and its Working Group in 2007 and 2008. A useful precedent in this context is the 2004 Recommendation on transposition, which introduced a number of good practices on transposition and laid the foundation for the very good transposition performance we have reached now (cf. the current Internal Market Scoreboard).

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

This will be an overarching and horizontal initiative and to this extent it will cut across various Single Market related policy areas. However, although it will draw on the sectoral experiences, it will not contain guidelines affecting specific policy areas. It follows from the Single Market Review of November 2007 and has links with Better Regulation policy and Commission communication and information policy.

Explain how the options respect the proportionality principle

The identified options do not go beyond what is necessary to improve the functioning of the Single Market, in particular given that the initiative will take a "bottom-up" approach, will be principles-based, and will reflect to a large extent existing "good practices".

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

1. Impact of no action: The above-mentioned imperfections in the functioning of the Single Market are likely to continue due to fragmentation of responsibilities for Single Market issues nationally and no sufficient cooperation between Member States and Member States and the Commission.

2. Impact of Recommendation on partnerships: the Recommendation would:

- clarify the respective roles of the Commission and Member States, and their shared responsibilities for making the Single Market work; and encourage Member States to assume a more pro-active role;
- improve the way Single Market rules are transposed, applied and enforced within Member States – among others through fostering a better coordination at the national level, better cooperation between administrations belonging to different Member States, enhanced competences of and training for national administrators and judges in charge of applying Single Market rules etc.;
- give more transparency and political visibility to good initiatives developed by Member States and enable national officials to cooperate better;
- respond to repeated calls of Member States for more clarity, more exchange of best practice and more assistance – to help them better implement and enforce Single Market rules.

3. Impact of a legislative initiative: as explained above, this would be an ineffective and a too "heavy-handed" approach as the matters the initiative aims to deal with fall within Member State competence (transposition, implementation, enforcement), and would most likely meet with strong resistance (legal basis / subsidiarity concerns).

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

They would not have significant impact. They might have small impact in the short-term by requiring Member States to introduce some changes in the way they govern the Single Market nationally. These would, however, be offset by significant simplification gains and reductions of administrative burdens due to better transposition / implementation / cooperation / enforcement in the longer term.

Who is affected?

Directly: The national, regional and local administrations of Member States responsible for managing the Single Market in their country;



Indirectly: all EU citizens and businesses who should get better access to the rights and opportunities offered by the Single Market.

### **E. Planning of further impact assessment work**

What information and data is already available?

There is a substantial amount of information and data available about how the Single Market functions, in particular from the following sources:

- 2006 public consultation on future Single Market policy;
- 2006 Eurobarometer studies on views of businesses and citizens about the Single Market;
- Fact-finding carried out in 2007 in the IMAC Working Group on some specific governance tasks (enforcement and problem-solving, and market/sector monitoring);
- Data from the regularly published Internal Market Scoreboard;
- Feedback received from information, assistance and problem-solving tools (such as e.g. SOLVIT, Citizens' Signpost Service).

What further information needs to be gathered?

Further information about national and also Commission-wide experiences and "good practices" in managing the Single Market.

How will this be done (e.g. internally or by an external contractor) and by when?

The information is being gathered internally, through desk research, and also through cooperation with Member States - on the basis of replies to the questionnaires and discussions within an IMAC Working Group.

**What type and level of analysis will be carried out (cf. principle of proportionate analysis)?**

This initiative is atypical in that it focuses on the way Single Market rules are applied and enforced, rather than on substantial policy issues. For this reason it takes a non-prescriptive and principles-based approach. The initiative is evidence-based as the recommended actions (guidelines) and "good practices" are being developed in a "bottom-up" process in close cooperation with the Member States and other concerned Commission services. Three meetings with Member States (out of four) have already taken place during 2007-2008 and a significant amount of information has already been gathered through questionnaires. The information received from Member States and other Commission services undergoes a thorough analysis to identify those areas where improvement is needed.

Given the specificity of this initiative, the evidence-based and "bottom-up" approach it follows, and in light of the principle of proportionality, we do not think a formal Impact Assessment is mandated.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The work on this initiative closely involves experts from national ministries involved in Single Market policy issues (through discussions within the forum of IMAC and its Working Group). Other stakeholders (e.g., BusinessEurope, consumer associations) may also be involved in due course, as may be members from the European Parliament.

**ROADMAP**

Title of the initiative: **Communication on Enforcement of the consumer acquis**

Expected date of adoption of the initiative: June 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The communication will reflect on the status and future of consumer enforcement in Europe. It will address the major challenges and opportunities that the Union faces, it will put the situation into international context. Enforcement is a priority of the Commission and the Communication will provide a good basis for comparison of consumer enforcement to other EU enforcement areas.

What are the main problems identified?

Trade is getting increasingly international and consumers have more and more choices from across the borders. In order to ensure that they are able to secure the benefits of the internal market, strong, co-ordinated and uniform intra-Community enforcement is necessary. The European Consumer Enforcement network – which started operating at the beginning of 2007 - is a good tool to address these challenges. In order to ensure that the network fulfils its potential, it requires adequate resources and reinforced political support.

Explain how EU action is justified on grounds of subsidiarity

Enforcement in this field is the exclusive responsibility of the Member States. However to ensure that consumers feel confident buying goods and services from another Member State and thus take full advantage of the Single Market, national action can usefully be coordinated and supported at EU level.

**B. Objectives of EU initiative**

What are the main policy objectives?

- To ensure efficient cross border enforcement across the EU
- To build political consensus on the importance of enforcement
- To ensure that Member States allocate the necessary resources to meet their legal obligations

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

The Communication is intended to contribute to the development of enforcement which is a strategic goal for the Commission.

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

This is a soft instrument. It does not foresee further legal initiatives.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes. The Consumer Protection Cooperation Regulation (EC 2006/2004) covers other policy areas (TREN, INFOS, MARKT) and therefore any action on the enforcement will have an impact on those policy areas as well.

Explain how the options respect the proportionality principle

This is a soft law instrument and will not have direct legal consequences on the interested parties.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

- EU consumers will be better protected in a very visible area
- EU wide enforcement will be faster and more efficient
- International ties will be established

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No. The all the costs have to be borne by the Member States – based on the CPC Regulation (EC 2006/2004)

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No impact on administrative burden. The communication will propose to conclude international agreements with third countries - based on the CPC Regulation (EC 2006/2004)

Who is affected?

Governments, enforcement authorities, third countries, consumer NGOs.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

All the necessary data will be available directly for the Commission. Member States have a legal obligation to report on the implementation of the CPC Regulation at the beginning of 2009. Based on those reports and the Commission's own analysis the Commission will prepare the report.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Member States through the CPC Regulatory Committee, Consumer NGOs through the European Consumer Consultative Group and the European Consumer Centres through their regular meetings.

**ROADMAP**

Title of the initiative: **Communication on the Monitoring of the Retail Sector**

Expected date of adoption of the initiative: November 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

This Communication will set out findings of the market monitoring announced by the Single Market review (SMR) in retail distribution markets (including e-commerce). It is an integral part of the Lisbon agenda. The objective of the monitoring exercise is to identify possible market malfunctioning of the retail sector both from consumers' and suppliers' perspectives. Retail services shall be analysed as key intermediary services in the modern EU economy, acting as a conduit between thousands of product suppliers and final consumers. The Communication will cover both the retail sector and its associated upstream and downstream markets. On the basis of its findings it will set out: (i) a commonly agreed and updated economic and regulatory evidence base that will be used to underpin (ii) policy priorities seeking to resolve the identified market malfunctioning to the benefit of EU citizens.

What are the main problems identified?

The monitoring report will identify in an exhaustive manner market malfunctioning in this key sector. One set of issues has been identified following the Commission's work on food prices and in particular the food supply chain. This has indicated the possibility that differing national rules on sales below costs and on commercial practices between retailers and suppliers can be potentially undermining the performance of the EU retail sector. Moreover, in its initial screening of sectors the Commission found that the EU retail service sector was suffering from lower levels of productivity than its rival sectors in third countries and notably the U.S. the Single market review also.

Is EU action justified on grounds of subsidiarity?

The Communication will fully account for the principle of subsidiarity when concluding on policy priorities by suggesting whether the relevant responses fall to Member states to undertake through national reforms or whether EU action is required.

**B. Objectives of EU initiative**

What are the main policy objectives?

To achieve a sustainable Internal market in retail services that encourages qualitative competition and meets the requirements of EU suppliers and EU consumers.

Does the objective imply developing EU policy in new areas or of strategic importance?

The Communication's conclusions will be able to answer this question.

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

At this stage no legislative proposals are foreseen. The Communication will assess whether such proposals are required.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes. Eleven DGs are working on this project. DG MARKT is co-ordinating the work.

Do the options respect the proportionality principle?

Not applicable since this is not a legislative proposal.

**D. Initial assessment of impacts (Not applicable since this is not a legislative proposal).**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

NA

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

NA

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

NA

Who is affected?

NA

**E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Data are to be collected from Member States authorities, stakeholders and from various reports already commissioned by the Commission's services.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The consultation for the retail market monitoring has begun in the context of the Commission's work on food prices. Further consultations will be undertaken in the first four months of 2009 using a variety of consultation tools.

## ROADMAP

Title of the initiative: **Revision of Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions.**

Expected date of adoption of the initiative: February 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The revision of Directive 2000/35/EC on combating late payment in commercial transactions is one of the initiatives announced in the communication “Think Small First - A “Small Business Act” for Europe” [COM(2008)394].

Combating late payments in commercial transactions is the main objective of Directive 2000/35/EC and contributes to the achievement of the broader and overarching competitiveness goals enshrined in the renewed Lisbon Partnership for Growth and Jobs [COM(2005)24]. It also facilitates the smooth functioning and the completion of the internal market via the elimination of related barriers to cross-border commercial transactions.

In its communication “A “Small Business Act” for Europe” [COM(2008)394 final], the Commission announced that facilitating SMEs’ access to finance and developing a legal and business environment supportive to timely payments in commercial transactions is one of the 10 principles to guide the conception and implementation of policies both at EU and Member State level. The communication also indicated that, as part of the “Small Business Act”, an amendment to the Directive 2000/35/EC on late payments would be prepared with a view to ensuring that SMEs are paid on time for any commercial transaction.

This initiative will be part of the Simplification Programme.

What are the main problems identified?

Notwithstanding Directive 2000/35/EC, many payments in commercial transactions between businesses or between businesses and public authorities are made later than agreed in the contract or laid down in the general commercial conditions. These practices impinge on creditors' liquid assets and complicate the financial management of enterprises. They can also affect their competitiveness and profitability when creditors, and in particular SMEs, need to obtain external financing because of late payments. They also have a negative effect on intra-Community commercial transactions.

The main causes of these problems can be summarised as follows:

1) The creditors in commercial transactions, and especially SMEs, do not necessarily have the internal means and/or the right incentives to take action against a debtor who is not paying on time

Many businesses, and in particular SMEs, do not charge interests when entitled to do so. Possible reasons are fear of damaging commercial relationships with the client, the administrative burden of claiming interest, insufficient resources (in particular of SMEs) to take action against the debtor and lack of knowledge on how to calculate late payment interest. In many cases, the expenses of the extra-paperwork cannot be recovered. Chasing late paying clients or charging interests for late payments generate administrative costs that many businesses wish to avoid.

In addition, several key provisions of the Directive are unclear or difficult to implement in practice. For instance, diverse interpretations are conceivable for the calculation of the applicable interest rate, the nature and extent of “retention of title”, the types of commercial transactions covered by the Directive, the definition of “relevant recovery costs” and the possibility of compound interest. Moreover, the Directive specifies that Member States may exclude claims for interest of less than €5.

2) Paying late has limited or no consequences for debtors in many cases

There are few incentives for debtors to pay within the deadline. Many debtor enterprises and public authorities consider late payment as an efficient and cheap way to finance their own business and activities. Furthermore, the debtors know that they are unlikely to be sanctioned for paying late. This builds on a series of factors, notably the awareness that most creditors are hesitant to take action to preserve their commercial relationships, the slowness and prohibitive cost of legal procedures to claim payment and the corresponding interests, as well as, for some debtors, the non-detering level statutory interest rate.

Explain how EU action is justified on grounds of subsidiarity

Payment delays can constitute an important impediment to intra-EU trade, especially for products and services to be sold in Member States where payment delays frequently occur. The absence of any national rules combating late payments or their unsatisfactory effectiveness could therefore unfairly protect national economic operators against products and services coming from other Member States. Subsequently, it could have a negative effect on flows of imports in intra-Community trade of products and services. The fact that a Member State abstains from taking action or, as the case may be, fails to adopt adequate measures to prevent obstacles to the free movement of goods or services that are created, in particular, by late payments by private individuals or national authorities aimed at products or services originating in other Member States is just as likely to obstruct intra-Community trade as is a positive act.

Consequently, the objective of this action, namely to ensure the functioning of the internal market by reducing the obstacles to intra-EU trade that arise from late payments, cannot be sufficiently achieved by Member States. It would therefore be appropriate, by reason of its scale and effects, to achieve it at Community level.

## **B. Objectives of EU initiative**

**What are the main policy objectives?**

To provide economic operators involved in a commercial transaction with a business environment that promotes the timely payment of commercial debts whereby:

- The competitiveness of European businesses, in particular SMEs, is improved and more jobs are created by a substantial reduction of late payments for commercial transactions within the EU;
- The discouraging effect of late payments on cross-border commercial transactions is reduced.
- The operational objectives are to
  - a) confront debtors with measures that successfully discourage them to have recourse to late payment; and
  - b) provide creditors with measures that enable them to fully and effectively exercise all their rights when paid late.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No. Subject to the outcome of the impact assessment process, the initiative may imply the strengthening, simplification and clarification of already existing legislation.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

At this moment, the Commission services are evaluating the impact of different options:

- Baseline option (no policy change): this option includes recently adopted EU rules that will make the entire payment process much more efficient and which introduced new possibilities for judicial and extra-judicial claims with respect to the recovery of outstanding payments. Yet, the situation of the commercial debt that is paid too late but which did not require any debt collection measures by third parties, alternative dispute resolution or judicial proceedings remains unaltered under this option. Consequently, any further policy options will only focus on encouraging timely payments, without considering the technical aspects of the payment process or late payments that were made following debt collection measures by third parties, alternative dispute resolution or judicial proceedings
- A series of non-legislative options, such as awareness raising actions targeted at businesses and organisations representing SMEs and publication of information on bad debtors.
- A series of legislative options, such as the repeal of the Directive, full harmonisation of payment periods (for businesses and public authorities), the increase of the "margin" interest rate, strengthening the role of representing organisations, the abolition of the threshold of €5 for charging

interest and/or the introduction of a “Late Payment Fee” and/or a late payment penalty and, finally, encouraging timely payment by compulsory information of debtors.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The IA steering group did not yet identify any options that would cut across several policy areas or that would have an impact on action taken/planned by other Commission departments.

Explain how the options respect the proportionality principle:

Considering the availability of various forms of intervention, the impact assessment will compare the options and will only assess the options which limit the institutions' involvement to what is necessary to achieve the objectives of the Treaties. The form of Community action in the various options will be as simple as possible, consistent with satisfactory achievement of the objective of the measure and the need for effective enforcement. Legislative options will be founded on the principle that the EU should only legislate to the extent necessary. Regarding the nature and the extent of Community action, the options will leave as much scope for national decision as possible, consistent with securing the aim of the measure and observing the requirements of the Treaty. Care will be taken to respect well established national arrangements and the organisation and working of Member States' legal systems.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The main impacts of all options would affect the operating costs and conduct of businesses, for creditors this would be likely to lead to a reduction of transaction and finance costs. A reduction of late payments could particularly lead to reduced finance costs for SMEs and might contribute to reducing their risk of bankruptcy. Debtors on the other hand would be likely to face higher finance costs if recourse to late payment becomes more expensive. However, larger firms tend to have better access to financial markets and therefore lower financing costs than smaller ones. The analysis of the impacts of each option is still ongoing. Potential employment effects that might flow from a reduction of late payments will be further studied.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Subject to the outcome of the IA, the expected impact is the reduction of costs for enterprises, in particular the costs related with cash flow management (cost saved for reminders and enforcement). If the IA would point to a revision of the Directive, a proposal would simplify the current rules by eliminating all ambiguities. Until now, there would be an additional administrative burden for only one option, namely the publication of information on bad debtors. No significant impacts on relations with third countries could be identified.

Who is affected?

National administrations and enterprises.



## **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

A study by an external contractor points to a number of problems and solutions: [http://ec.europa.eu/enterprise/regulation/late\\_payments/further\\_reading.htm](http://ec.europa.eu/enterprise/regulation/late_payments/further_reading.htm). Besides, information and data are already available from businesses and debt collection agencies. More information was gathered through the external consultations (see next box). Another external contractor has prepared a second study, the final report of which has been received in October 2008.

Which stakeholders & experts have been/will be consulted, how and at what stage?

- The Commission launched a public consultation of stakeholders in which it sought their views on current problems with late payment and on possible means of ensuring more timely payment in commercial transactions within the EU. The survey was available in all official EU languages from 29 May 2008 until 31 August 2008. 510 responses were received. The results are published on [http://ec.europa.eu/enterprise/regulation/late\\_payments/index.htm](http://ec.europa.eu/enterprise/regulation/late_payments/index.htm).
- In addition, the European Business Test Panel was consulted from 13 May 2008 till 20 June 2008. 408 responses were received. A report on this consultation has been published on [http://ec.europa.eu/yourvoice/ebtp/consultations/index\\_en.htm](http://ec.europa.eu/yourvoice/ebtp/consultations/index_en.htm).
- The studies mentioned in the previous box are also partly founded on the consultation of experts and stakeholders.

## ROADMAP

Title of the initiative: **Follow-up to the White Paper on Damage Actions for breach of the EC antitrust rules**

Expected date of adoption of the initiative: First semester 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The follow-up measure(s) to the White Paper on Damage Actions for breach of the EC antitrust rules situate themselves in the political context of the Commission's commitment to enhance competitiveness and to put citizens first. Follow-up measure(s) will deliver on the expectations raised by the Commission's Green and White Paper, in particular amongst consumers:

On 19 December 2005, the European Commission adopted a **Green Paper** on Damages actions for breach of the EC antitrust rules. The purpose of the Green Paper and of the accompanying Staff Working Paper was to identify the main obstacles to a more effective system of damages claims, and to set out different options for further reflection and possible action to improve both follow-on and stand-alone actions. The Green Paper was met with broad interest in the antitrust community, and achieved its objective of raising awareness of the obstacles faced by victims of competition law infringements when attempting to enforce their right to damages. Practically all the submissions received accepted the complementary role of private actions in the overall enforcement of the EC competition rules. Also, most submissions agreed that victims of competition law infringements are entitled to damages and that national rules should be such that this right can be exercised effectively.

On 25 April 2007, the **European Parliament** adopted a report on the Green Paper calling on the Commission to "prepare a White Paper with detailed proposals to facilitate the bringing of "stand-alone" and "follow-on" private actions claiming damages (...) which addresses in a comprehensive manner, the issues raised in [its] resolution and gives consideration, where appropriate, to an adequate legal framework".<sup>6</sup> [1] On 20 October 2006, the European Economic and Social Committee (**EESC**) adopted an Opinion on the Commission's Green Paper.<sup>7</sup> The EESC's Opinion is positive about the Commission's efforts to facilitate antitrust damages actions and considers that the Green Paper has opened up a broad and welcome debate on the need to make it easier for those injured by anticompetitive practices to recover damages. The Opinion supports measures at Community level to facilitate damages actions.

On 2 April 2008, the Commission, encouraged by the comments received from stakeholders, the European Parliament, the EESC and the Member States, as well as taking into account the recent case law of the European Court of Justice (ECJ),<sup>8</sup> adopted a **White Paper** on Damage Actions for breach of the EC antitrust rules in order to foster and further focus the discussions by setting out concrete recommendations aimed at creating an effective system of antitrust damages actions in Europe. The follow-up measure(s) to the White Paper will depend, in terms of timing and content, on the reaction of stakeholders and in particular the European Parliament during the ongoing consultation process.

What are the main problems identified?

Various **procedural and technical barriers in the Member States, which prevent undertakings and individuals injured by breaches of EC competition law from taking successful private legal action in order to obtain compensation** from the infringer for the loss suffered. The lack of clear, effective and workable rules governing claims for damages in competition law cases constitutes a possibly insurmountable barrier to undertakings and citizens wishing to enforce the rights guaranteed to them by the competition rules of the Treaty. Consumers and small and medium enterprises who often suffer large amounts of damage are

<sup>6</sup> The resolution of the European Parliament of 25 April 2007 can be found at <http://www.europarl.europa.eu/oeil/file.jsp?id=5378362>.

<sup>7</sup> The EESC opinion of 26 October 2006 (INT/306) can be found at [http://eescopinions.eesc.europa.eu/viewdoc.aspx?doc=\\esp\pub1\esp\\_public\ces\int\int306\en\ces1349-2006\\_ac\\_en.doc](http://eescopinions.eesc.europa.eu/viewdoc.aspx?doc=\\esp\pub1\esp_public\ces\int\int306\en\ces1349-2006_ac_en.doc).

<sup>8</sup> Case C-453/99, *Courage and Crehan*, [2001] ECR I-6297, and Joined Cases C-295/04 to C-298/04, *Manfredi*, [2006] ECR I-6619.

particularly affected by the lack of truly effective redress mechanisms. This situation is also inimical to the functioning of the competition rules in general, since it affects their efficacy, and undermines general incentives to pro-competitive behaviour. Inefficient avenues of redress for injured parties lead to economic and welfare losses to society, a situation which is incompatible with the Lisbon strategy objectives of a competitive EU economy.

Is EU action justified on grounds of subsidiarity?

The Green Paper and the White Paper on damages actions for breach of the EC antitrust rules, the underlying studies as well as the subsequent public consultation and the wide debate amongst stakeholders show that it is appropriate to consider possible measures to ensure that all victims of EC competition law infringements anywhere in the EU have access to effective redress mechanisms in order to be fully compensated for the harm they suffered. Any follow-up measure to the White Paper to be proposed by the Commission will address the issue of subsidiarity in light of the specific content of the measure.

### **B. Objectives of EU initiative**

What are the main policy objectives?

The **main policy objective** is to ensure that victims of competition law infringements, be they consumers or businesses, have access to effective redress for the harm suffered. Ensuring effective redress for all victims throughout the EU would implement the ECJ judgments in which the Court recognised that the full effectiveness of the Treaty would be put at risk if it were not open to any individual to claim damages for loss caused to him by conduct liable to restrict or distort competition, and held that there is an obligation to provide for effective means to exercise the right to damages.<sup>9</sup>

Does the objective imply developing EU policy in new areas or of strategic importance?

This is not so much about developing EU policy as ensuring the possibility that citizens and businesses can effectively exercise their existing rights under Community law. The area is of strategic importance. Competition is a fundamental aspect of the business environment (and indeed the functioning of the internal market) and actions for damages are an important aspect of a well-functioning competition regime.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The **possible options include:**

1. Taking no further action
2. Development of optional practical tools/best practices which would be recommended to the Member States
3. Some approximation of national procedural rules via Community legislation (directive)
4. Full harmonisation of national procedural rules via Community legislation (directive or regulation)

Options 3 and 4 would go beyond routine up-date of existing legislation.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Follow-up measures to the White Paper are likely to address issues which may be relevant for the horizontal work of other Commission Departments. The Directorate General for Competition will therefore ensure close

<sup>9</sup> Case C-453/99, *Courage and Crehan*, [2001] ECR I-6297, and Joined Cases C-295/04 to C-298/04, *Manfredi*, [2006] ECR I-6619.

cooperation with all concerned Commission services in the preparation of any follow-up measure to the White Paper to be proposed.

Do the options respect the **proportionality** principle?

The issue of proportionality will be addressed in relations to the text of any follow-up measure to the White Paper to be proposed.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

##### **Likely impacts ...**

... of taking no action: a change to the current situation would depend on the scope of the adjustment of relevant national legislation and on the number of Member States where the adjustment takes place. There are no signs, though, that absent European action there would be a significant improvement in the position of victims of infringements of the competition rules in respect of the possibilities for effective exercise of their right to damages.

... of recommendations: no formal legal change in the *status quo*, but a clear indication and reminder to the Member States of the legal requirement that provision be made for effective exercise of the right to damages. The possibility for each Member State to facilitate claims as it sees fit is retained. Absent any legal obligation, some Member States may refrain from adjusting the relevant national legislation. Victims of competition law infringements would thus have or would not have access to effective redress depending on the Member State. Parties and other stakeholders (e.g. judges) may benefit from non-binding guidance e.g. in relation to the existing *acquis communautaire* or to the calculation of damages in antitrust cases.

... of Community legislation: a change in the legal regime, requiring compulsory changes to Member State legislation. As a result, throughout the EU, victims of competition law infringements would have access to effective redress for the loss suffered. European minimum requirements of effective redress would also lead to a more level playing field for victims and infringers alike.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

It is not envisaged that follow-up measures to the White Paper would have significant implications for the Community budget.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

It is possible that follow-up measures to the White Paper have impacts on administrative burden,<sup>10</sup> if so, this will be addressed in the Impact Assessment accompanying such measure. There are unlikely to be any significant impacts on simplification or relations with third countries.

Who is affected?

Follow-up measures to the White Paper may affect (1) all economic actors (consumers and businesses) who suffer injury from anticompetitive behaviour or who infringe the competition rules and (2) all those involved in ensuring effective redress (e.g. judges) .

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

<sup>10</sup>

See in more detail the Impact Assessment Report accompanying the White Paper.

In preparation of the Green Paper, DG Competition had commissioned a preliminary analysis by external experts of the technical barriers in the Member States to private actions for damages. This study on the conditions for claims for damages in cases of infringement of the EC competition rules was published on the DG Competition website (<http://ec.europa.eu/comm/competition/antitrust/actionsdamages/index.html>). Thereafter, intensive public stakeholder consultation took place, culminating in the publication of a Green Paper and a DG competition Staff Working Paper in 2005. Member State governments, National Competition Authorities, the legal profession, academic commentators and private citizens had submitted almost 150 responses to the Green Paper.

With a view to further assistance in the impact assessment accompanying the White Paper, the Commission also commissioned a study to provide an analysis of the potential economic and social impacts of enhanced private enforcement of antitrust rules in the European Union, both in terms of various potential benefits and costs. This study assesses the likely impacts of a range of policy options, including the option of no-action, the option of soft law and non-binding guidance, the option of a limited approximation of the applicable rules in Member States as well as the option of further reaching legislative harmonisation. The impact assessment study was also published on the DG Competition website.

Feedback being received during the public consultation process relates also to the impact assessment exercise carried out for the White Paper.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Intensive public stakeholder consultation has already taken place, notably following the publication of the Green Paper and a DG competition Staff Working Paper. Member State governments, National Competition Authorities, the legal profession, academic commentators and private citizens had submitted almost 150 responses to the Green Paper.

On 25 April 2007, the European Parliament adopted a report on the Green Paper calling on the Commission to "prepare a White Paper with detailed proposals to facilitate the bringing of "stand-alone" and "follow-on" private actions claiming damages (...) which addresses in a comprehensive manner, the issues raised in [its] resolution and gives consideration, where appropriate, to an adequate legal framework". On 20 October 2006, the European Economic and Social Committee (EESC) adopted an Opinion on the Commission's Green Paper. The EESC's Opinion is positive about the Commission's efforts to facilitate antitrust damages actions and considers that the Green Paper has opened up a broad and welcome debate on the need to make it easier for those injured by anticompetitive practices to recover damages. The Opinion supports measures at Community level to facilitate damages actions.

As part of consultations on the White Paper, all these stakeholders are currently again being consulted on the principle and possible content of a possible Community follow-up measure to the White Paper. The public consultation process concluded on 15 July 2008, whilst discussions with other institutions (EP and EESC) and Member States will continue throughout the year.

Commissioner Kroes, Director-General Lowe, Deputy-Director Generals and the staff of the Policy Directorate have already participated in numerous conferences, seminars and symposiums discussing the question of ensuring effective access to the right to compensation in antitrust cases and will continue to do so (since the publication of the White Paper in April 2008 alone, the aforementioned participated in over 50 of such events). These events are widely attended by representatives of industry, consumer organizations, law firms, the judiciary, and national government experts.

**ROADMAP**

Title of the initiative: **Communication on agricultural product quality policy**

Expected date of adoption of the initiative: May 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

On the basis of contributions to the Commission's *Green Paper on agricultural product quality* from stakeholders and the public, the Communication will set out strategic orientations for the development of EU quality measures and policies. These will include simplification of certain CMO marketing standards, streamlining the operation of food quality certification schemes, and bolstering the marketing of quality products throughout the single market.

Therefore, the Communication is a step forward in the process launched by the Green Paper, which was a one of the Commission's priorities for 2008. The Communication will become the "second floor" in the construction of Quality policy — a building to be completed in 2010 with specific proposals responding to the debate resulting from the Communication.

Given this perspective, the Communication has been included among the priorities of the agricultural agenda of the forthcoming Czech Presidency.

The Communication will also contribute to the Commission general goal of simplification.

As Quality Policy is a wide concept, coherence with other EU policies, such as health, trade or enterprise policy, will be ensured by adequate inter-departmental coordination within the Commission.

What are the main problems identified?

Successive CAP reforms have exposed farmers increasingly to market signals and pressures. Quality is the key to help farmers respond to these challenges.

Against this background, a number of problems and opportunities have been identified in the Green Paper:

- Lack of knowledge among consumers of EU farming standards and practices and lack of knowledge of the origin of farm products;
- Lack of flexibility in operation and regulatory development of product marketing standards, such as prohibitions on the retail sale of innovative or sub-standard, but safe and hygienic foodstuffs;
- Lack of consistency concerning use of certain terms to describe the farming practices or type of farming used in production of agricultural products and foodstuffs;
- Lack of regulatory clarity for protection and registration procedures for designations of origin and geographical indications;
- Questions of efficiency and effectiveness in the operation of EU scheme for traditional specialities;
- Possible confusion in the operation of private sector certification schemes.
- Burdens on farmers supplying the EU market and on public authorities, and possible fragmentation of the single market, in the operation of EU as well as private and regional certification schemes.

***Explain how EU action is justified on grounds of subsidiarity.***

In each of the thematic areas addressed by the Green Paper and which the planned Communication will cover, an EU action is only considered where private and national solutions are shown to be inadequate.

**B. Objectives of EU initiative**

What are the main policy objectives?

The main policy objective of the Communication is to set out strategic policy orientations or options in the fields covered, based on the results of the public consultation, to be further discussed with interested parties,

Institutions and stakeholders. The overall objective is to enable farmers to react to market demands for quality, both of baseline/commodity product and for high-value-added quality products.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?  
No.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Policy options will be developed on the basis of the results of public consultation driven by the Green Paper. The strategic policy orientations to be considered will be related to the fields covered by the Green paper and the problems described above. The specific policy options to be discussed are:

- Farming requirements: strategic orientations for development of an EU labelling scheme signifying compliance with EU farming requirements (compulsory scheme; optional scheme; left to private sector [status quo]); strategic orientations for development of a label requirement for place-of-farming of raw materials (compulsory labelling; voluntary labelling [status quo]);
- Marketing standards: strategic orientations for development of product identity and classification rules (liberalise; simplify; maintain [status quo]); preliminary orientations for optional reserved terms relating to farming or first-stage production (maintain existing terms [status quo]; reserve additional terms [traditional, mountain, etc.]; develop a specific instrument; leave to private sector); strategic orientations for future development of marketing standards (EU regulation [status quo]; co-regulation; self-regulation; refer to international standards);
- Designations of origin and geographical indications: level of protection (clarify [status quo+]; strengthen protection concerning ingredients and packaging); terms of specification (status quo; strengthen; liberalise); development of schemes (develop 3 schemes independently [status quo]; harmonise or partly harmonise; develop regional instrument; adopt trademark instrument);
- Traditional specialities: development of scheme (clarify and simplify EU-managed scheme [status quo+]; facilitate operation of national schemes; classify "traditional" as optional reserved term; private sector schemes); EU logo (continue [status quo]; discontinue).
- Food quality certification schemes (covering EU, and private, national and regional schemes): EU oversight of operation of private and national schemes (EU guidelines; EU framework legislation; no action [status quo]); strategic orientations for development of any new EU scheme to meet new challenges (identification of criteria for any new EU scheme)

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The following issues also concern policy areas of other Commission departments:

- DGs ENV and SANCO - farming standards;
- DGs SANCO, ENTR, MARKT and COMP - certification schemes and single market;
- DGs TRADE and DEV - impacts on trade and imports.

Explain how the options respect the proportionality principle:

The strategic orientations to be discussed will be screened for burdens on administrations and stakeholders. Any EU level action will be proportionate to the need for action at the EU level.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

- Options concerning **farming requirements**: impacts on competitive position of farmers who meet the requirements; consumer choice; consumer information of farmers' environmental compliance and animal welfare standards observed; public authorities (for controls).
- Options concerning **marketing standards**: impacts on: competitive position of farmers; operating costs of businesses; consumer choice; consumer information and protection; public authorities (for controls).
- Options concerning **designations of origin and geographical indications**: impacts on competitive position of farmers; property rights (intellectual); consumer choice; consumer information of farmers' environmental compliance and animal welfare standards observed; public authorities (for controls); WTO obligations.
- Options concerning **traditional specialities guaranteed**: impacts on competitive position of farmers; consumer choice; consumer information and protection; public authorities (for controls).
- Options concerning **food quality certification schemes**: impacts on competitive position of farmers; functioning of the internal market; consumer choice; consumer information and protection; public authorities (for controls).

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Yes. The subject matter of this Communication concerns regulatory measures, direct public administration and enforcement of schemes, as well as indirect oversight of schemes. In most cases, the range of options will involve greater or lesser burdens on public administrations, which will be taken into account.

Agricultural product quality policy applies to product of third countries marketed in the EU as well as contributing to the potential for export of product from the EU.

Who is affected?

Stakeholders concerned are farmers and producers of the first stage processed products, traders, retailers and consumers.

Public authorities will also be concerned from the perspective of administrative controls.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Study and research results from the JRC (Food quality certification schemes pilot project, 2007) and RTD-funded research (notably 'SinerGI' and 'Dolphins');

Results of IPM survey of producers of designations of origin and geographical indications (AGRI, 2007);

Commission report to Council and EP on implementation of TSG scheme (2003).



Policy evaluation of designations of origin and geographical indications instrument; to be completed before end of 2008;

Pilot project research (DG AGRI-JRC) into food quality certification schemes (2005-06) and linked Conference papers and conclusions from the Food Quality Certification conference, Brussels, 5-6.2.2007;

Further data and research needs may be identified in the course of the IA to prepare for any future legislation. In this context, a policy evaluation of the TSG scheme and a further study on the content and diversity of private certification schemes is in the initial planning stage.

Which stakeholders & experts have been/will be consulted, how and at what stage?

All stakeholders will be consulted by means of the *Green Paper on agricultural product quality, product standards, farming requirements and quality schemes*.

Although plans are not finalised, we understand the Czech Presidency will organise a significant Conference on Agricultural Product Quality Policy in about March 2009.

EU Advisory group on agricultural product quality to be consulted in plenary meeting October 2008 and February 2009 (planned).

**ROADMAP**

Title of the initiative: **Green Paper on the reform of the Common Fisheries Policy**

Expected date of adoption of the initiative: April 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Some of the fundamental pillars (conservation and fleet policy) of the Common Fisheries Policy (CFP) are to be revised by the end of 2012, in accordance to Council Regulation (EC) N° 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy. In order to ensure such a revision, it is necessary to start now identifying problems and possible, options for change.

In addition, a number of recent developments also point at the need for a reform of the CFP: the findings of the Court of Auditors Special Report N° 7/2007 on the performance of the CFP clearly points to the need of a substantial reform of the control and enforcement of the CFP, as well as to an important change in the way the different pillars of this policy are linked. Finally, the increase in fuel prices, to which the fishing industry is particularly sensitive, and the credit crunch as a result of the financial crisis are changing dramatically the economics of this activity, thus calling for substantial policy changes to face this new situation.

Both for legal and economic reasons, the CFP needs an important reshuffling. It is therefore necessary to start, as soon as possible, the process of consultation leading to the preparation of Commission proposals for change

What are the main problems identified?

The main problems are:

Up to 80% of the fish resources managed under the CFP are overexploited to different degrees. Thus the policy has failed to achieve the objective of sustainable fisheries.

The growing demand for fish in the Community market is being met by growing imports, due to Europe's failure to take the full potential from its fish resources, due to overfishing.

European fleets are still too large for the biological resources available.

The control of the policy by Member States is clearly insufficient.

The economic situation of many fleets is not satisfactory, and too many activities are still too dependent from subsidies.

The policy has become complex and difficult to manage and enforce.

Explain how EU action is justified on grounds of subsidiarity.

The CFP is an integrated EU policy, managed directly through Council regulations.

**B. Objectives of the EU initiative**

What are the main policy objectives?

The Green Paper will identify the main shortcoming of the current policy, and the main reasons why many of its objectives are not being reached. It will subsequently identify possible options for change in order to initiate the public consultation on the CFP reform in 2009.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

The new policy will develop links with other policy areas and, in particular, with the new Integrated Maritime Policy. The future CFP should benefit from synergies with other policies related to the management of the oceans and seas.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The main policy options are legislative, since the CFP is, and will continue to be, an integrated policy to be managed through Council regulations and by co-decision (Council and Parliament) if and when the Treaty of Lisbon will enter into force. However, the use of other instruments, such as soft law, may also be considered as complementary.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The CFP already interacts with other policy areas, in particular with the environmental policy. However, the future CFP will be a far more integrated policy. Thus, links are likely to be developed, beyond environmental policy, with maritime transport, energy, regional policy, and other policy fields, particularly through the development of synergies with all policy areas involved under the umbrella of the Integrated Maritime Policy

Does the option respect the proportionality principle?

Yes

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

1. No policy change. If no major changes are introduced, the current inefficiency of this policy will continue, and the problems identified above will not be solved.
2. Substantial policy change, but keeping the CFP as a common policy based on Article 37 of the Treaty. An important policy change is necessary to address the problems identified in section A above. This change could include some of the traditional pillars of the traditional CFP, such as relative stability or subsidies to the fishing activity.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

One of the main impacts of this reform could be the re-examination of the expenditure both at Commission and even at Member State level. To the extent that this reform will address current subsidies to a number of fishing activities, the reform could have important budgetary consequences.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Another objective of this reform is to design a management system that will be simpler and less burdensome. The current CFP relies too much on micro-management decisions at Council level, thus resulting in a complex maze of regulations difficult to implement and follow up. One of the key objectives of this reform will be to reduce this burden by developing a more streamlined management.

Who is affected?

In principle all interests related to the fishing and related industries. However, since this policy is about the management of public resources, and given the growing awareness of the general public about the challenges of the management of fisheries, this reform can be considered as affecting the whole of society. In addition, to the extent that this reform will address subsidies, this will also be of interest to the European taxpayer.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Much of the information is already available, particularly the biological information on the status of fishery resources, from the reports by the International Council for the Exploration of the Seas (ICES) and other research organisations. Economic and social data are in shorter supply, but are now becoming increasingly available through the implementation of the data collection regulation. The Commission may decide to take further initiatives to fill gaps and complete historical trends as felt necessary, including through external consultants. Finally, the Commission is considering the possible appointment of a 'group of wise men' composed of independent, prestigious experts to aid the Commission on the analytical phase prior to then preparation of proposals.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Commission is informally consulting national administrations. Informal consultations with the fishing industry will be done as of early 2009. And, upon publication of the Green paper in 2009, the Commission will promote a European wide consultation with all stakeholders (i.e.; RACS, ACFA) and with the public at large.

## ROADMAP

Title of the initiative: **Communication on University-Business Cooperation**

Expected date of adoption of the initiative: April 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Knowledge, skills and competences of Europe's citizens are at the heart of the revised Lisbon strategy. Europe cannot compete solely on costs. Only a well educated and well trained work force that practices lifelong learning and updates its skills during the whole lifetime will allow Europe to stay competitive, to create jobs and to keep so its high living standards.

The revised strategy underlines therefore the importance of a partnership approach: the Lisbon agenda must be owned by all stakeholders at EU, national, regional and local level. All should contribute to construct Europe's future. It is important to get the different players to work together. Mobilisation and collective effort are the key elements of the partnership.

Universities and companies are crucial actors in such a partnership: Universities appear as "providers" of knowledge, skills and competences, companies as "users". It is therefore important to ensure that these partners understand each other, that they operate in synergy and that they support each other in the best possible way. It is crucial that students have the required knowledge, skills and competences when they leave university and enter the labour market (employability). Universities have also to get a more involved in the development of lifelong learning.

In the follow-up of the informal meeting of Heads of State and Government at Hampton Court, the "Education" Council held an exchange of views on *higher education*, focussing on how the quality of higher education could be improved and on promoting top quality universities. The relationship between business, universities and research was identified as one important point.

The Communication of the Commission "Delivering on the Modernisation Agenda for Universities: Education, Research and Innovation" (COM(2006) 208 final) highlights that Universities have to recognize "*that their relationship with the business community is of strategic importance and forms part of their commitment to serving the public interest*". Most stakeholders recognise the potential of closer cooperation between universities and business; however effective implementation does not progress adequately.

In the course of the dialogue to date, the point has often been made that the scope of discussion should not be confined to third level education but should cover other aspects of education and training. The university-business dialogue may therefore also be considered within the larger context.

What are the main problems identified?

- The potential of partnerships between universities and business for modernising higher education in Europe is recognised and shared by the different stakeholders, however implementation seems difficult;
- The cooperation with business is not part of the overall policy and strategy of universities;
- Higher education institutions (HEI) do not or only in a very limited way support the implementation of lifelong learning;
- Many curricula are not sufficiently linked to the needs of the labor market and/or do not prepare the students well for it;
- Governance structures of HEI need to be modernized; they could benefit of the experience and knowledge of companies in managing/steering their organization, in particular in view of a growing autonomy of HEI;
- Insufficient entrepreneurial mindset amongst students;
- Insufficient mobility and exchange between HEI and companies.

Explain how EU action is justified on grounds of subsidiarity

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community

The issue of better cooperation between business and universities is on the agenda of all stakeholders (Member States, universities, companies, intermediary organisations, regional development agencies, foundations). They recognise that an improved cooperation between universities and companies will raise the quality and relevance of university education and is a key element to further the implementation of lifelong learning.

## **B. Objectives of EU initiative**

What are the main policy objectives?

General objectives

- Support the implementation of the Lisbon agenda;
- Improve the quality of the European Education and Training systems;
- Support the implementation of lifelong learning in the EU.

Specific objectives

- Improve curricular development, leading to employability and an entrepreneurial mindset among graduates;
- Improve continuing education, more precisely the cooperation between universities and companies in the provision of training/retraining programmes;
- Support the modernisation of governance structures within universities, with the help of business expertise;
- Support the development of mobility including student mobility, but also mobility of staff of HEI to companies and vice versa.

Does the objective imply developing EU policy in new areas or of strategic importance?

The objectives imply EU policy development in an area of strategic importance, namely improving the education and training systems in Europe, increasing the employability of Students; making lifelong learning a reality to ensure that Europe's citizens have the right skills to benefit of the knowledge economy.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

**Option 1:** The first option would be to take no action, and to continue with the current set-up.

University-business cooperation is considered an important element in the modernisation agenda for higher education. Article 149 of the Treaty is the basis for action on EU level. The possible actions under this article are:

**Option 2:** Communication of the Commission reporting on the results which have emerged from the dialogue to date, addressing how structures for a wider dialogue might be strengthened, and proposing the establishment of a platform on European level for a structured dialogue between the different stakeholders. This platform should support the exchange of best practice and mutual learning but also allow for a follow-up of the implementation of university-business dialogue on national level.

**Option 3:** Recommendation of the European Parliament and the Council on concrete measures to be undertaken in support of the objectives identified above.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The action proposed should relate to Enterprise policy on developing entrepreneurship in Europe. It should also relate to research policy on strengthening the cooperation of universities and companies in the field of

research. And last not least it should relate to Employment policy, in particular in view of lifelong learning and the permanent updating of the skills required.

Explain how the options respect the proportionality principle:

University-business cooperation is an issue and challenge in almost all Member States. Both the field of higher education and most business areas are facing globalisation and there are thus important cross-cutting elements to the problems identified above that can have a significant impact on the future development of these fields. The Commission seeks thereby to support the Member States and the different stakeholders in the most effective and efficient way. Independently of the option chosen, the implementation of measures proposed is at the discretion of Member States.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

**Option 1:** The pilot forum in February 2008 demonstrated very clearly that an action on European level would be welcomed by all stakeholders. Doing nothing would therefore create frustration and would not be understood by the stakeholders. It would thereby continue the negative impacts for the labour market that the lack of dialogue has proven to create.

**Option 2:** This option balances the need for action with its costs. It is a non-legislative approach that has no direct economic or environmental impact but would create positive social impacts due to the improved employability of university graduates. It is expected to be used by a number of stakeholders as a steering instrument. The establishment of a platform on European level for a structured dialogue between the stakeholders would support and facilitate sharing of good practice and mutual learning. It would also allow to support and follow-up on the implementation of measures identified in the communication.

**Option 3:** This option has a soft-law aspect without economic or environmental impacts. The expected positive social impact resulting from this option would be somewhat lower than for the non-legislative option as the main actors in the field at the current stage are autonomous universities and private businesses and not governmental bodies.

In conclusion, it seems at current stage more efficient and effective to support stakeholder dialogue than to intervene with concrete action proposals.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The proposed option 2 would require an annual operational budget of around 1 Mio € starting from 2009 (University/Business Forum; workshops with experts; identification, documentation and dissemination of examples of good practice).

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

N/A

Who is affected?

The initiative would affect both the universities and other higher education institutions as well a whole range of business stakeholders including interest organizations and other representation bodies. The results would have an impact on users of higher education in Europe and contribute to the modernization of the sector.

## **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Some information is available demonstrating that the cooperation between universities and business is not satisfactory in many Member States; discussions with stakeholders show that action is needed and that support from European level would be appreciated. This issue had already been highlighted in the Commission's communication of 2006 "Delivering on the Modernisation Agenda for Universities: Education, Research and Innovation" (COM(2006) 208 final).

A survey undertaken in the framework of an Erasmus project illustrates that ~ 80% of universities recognize that a closer cooperation with business is required.

The pilot forum organised on 28-29 February 2008 demonstrated a strong demand from all stakeholders: politicians; higher education (rectors, presidents, professors, students); business community involving large and small enterprises; public authorities.

A thematic forum on continuing education and lifelong learning on 30 June 2008 made clear that closer cooperation between universities and business is required to make progress in the area. Universities have to play their role as providers of LLL.

Interesting in his context is the forth-coming LLL Charter for Universities, prepared by the European University Association on request of the French Government.

2008 is used to collect additional examples of good practice, surveys, analysis, reports from different Member States, to get a clearer picture of what is on-going in this field in the Member States and to collect additional opinions from the stakeholders.

The thematic forum on Curriculum Development and Entrepreneurship (30-31 October 2008) highlighted the need for closer linkage between universities and business. Universities have to ensure that their study programmes are relevant for the labour market and that their students are learning what they need to face future challenges and to benefit from the knowledge economy. Cooperation between universities and business can substantially contribute to the development of future entrepreneurial students.

The thematic forum on knowledge transfer (7 November 2008) explored in detail questions related to Intellectual Property Rights (IPR). This forum is meant to monitor and support the implementation of the recommendation on the management of IP in knowledge transfer activities, adopted by the Commission in April 2008.

The second European University-Business forum is scheduled to take place in February 2009.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Workshops with stakeholders/experts and projects have addressed the issue in the past; the pilot forum in February 2008 brought together more than 250 representatives of Higher Education, Business and public authorities. The thematic forum on Continuing Education and Lifelong Learning gathered around 70 representatives from the different stakeholders, the thematic forum on Curriculum Development and Entrepreneurship around 120, and the one on Knowledge Transfer around 40 experts. Additional targeted contacts with relevant organisation on European and national levels are established on an ongoing basis.



## ROADMAP

Title of the initiative: **Green Paper on new approaches to promoting cross-border mobility of young people**

Expected date of adoption of the initiative: June 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Commission promotes the mobility of workers and citizens both as a means to create a mobile and flexible workforce and as a way of breaking down barriers and building European solidarity. It operates a number of programmes in support of mobility, of which Erasmus in the university sector is best known. In its December 2007 Communication on the strategic orientation for the EU's Lisbon Strategy 2008-2010, the Commission wrote that "*Learning abroad can be an important stimulus for personal development and language skills. The Erasmus programme has enabled almost two million young Europeans to study abroad. More young people should be able to benefit from it so that, in time, it becomes a standard part of university education*" and further invited Member States to "*link up national and regional programmes to the Erasmus programme to increase the number of students participating in international exchanges*".

The proposed new initiative would build on the success of Erasmus. It would explore not only how to further extend the reach of Erasmus in the direction suggested above but also how to build mobility in other areas, among young people more generally, for example in vocational training, adult learning and voluntary activity and among young entrepreneurs and the culture sector.

An expert forum chaired by Madame Maria Joao Rodriguez has produced a strategic report in June 2008, with recommendations on how cross border mobility for learning and skills can become a basic element in the knowledge society and contribute to a more competitive and attractive Europe. The French Presidency has made this issue one of the priorities in the field of education including Council Conclusions on this matter adopted by the Council in November 2008. The proposed Green Paper would build on this and touch upon possible approaches to implement the ideas outlined in the Forum's report and the political reflection in the Council Conclusions.

What are the main problems identified?

Despite the considerable success of Erasmus, we are still very far removed from the objective stated in the Commission's December 2007 Lisbon Communication (quoted above) of making mobility "*a standard part of university education*". In relation to other target groups, the incidence of mobility is even lower. If we set the objective of substantially increasing such moves, it is clear that the policy response cannot simply consist of increasing funding via Erasmus and other relevant programmes. It is necessary to address barriers; it is also appropriate to examine how the Member State and regional policies can promote mobility in complement to Erasmus and the other EU programmes.

Explain how EU action is justified on grounds of subsidiarity

The EU has always taken the lead in promoting and in supporting cross-border mobility as an issue of general EU-level interest and the proposed initiative would continue in this way. Having said that, the initiative would also seek to develop and build on the role of national and regional policies in support of mobility, building on the fact that some MS and regions have developed policies to do so.

**B. Objectives of EU initiative**

What are the main policy objectives?

As stated above, the objective is to increase the incidence of structured mobility moves ("mobility for learning") among students and other young people. This is primarily to make a contribution to labour market flexibility as part of growth and prosperity objectives – there is clear evidence that people who have

undertaken mobility moves as students are more likely to be open to mobility within the workforce. But there are also important objectives related to promoting European citizenship and to using mobility as a means to break down barriers between institutions and sectors still locked in national patterns.

Does the objective imply developing EU policy in new areas or of strategic importance?

This will involve an exploration of options for the future structuring of policies and programmes which already exist. However, it could involve development of measures in areas not currently addressed.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

**First option** is to do nothing.

**Second option** is to create a new framework for mobility funding that goes beyond the existing Community tools including larger target groups.

**Third option** is to review how Community programming is organised and how it can best work, within the framework of policy exchanges, alongside national and regional measures.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Other DGs have an interest, e.g. DG RTD (mobility of researchers; DG Enterprise (entrepreneurs). The Social Fund has the capacity to support mobility actions in certain spheres. An examination of constraints may involve looking at issues related to the regulations on free movement (JLS, EMPL). Finally, the broad objective of these actions is that they should prepare people to be mobile within a modernised, knowledge-intensive European labour market – one of the core objectives of the Commission Lisbon strategy and the European Employment Strategy.

Explain how the options respect the proportionality principle?

The initiative will be based on the premise that mobility brings strong benefits, in terms of boosting the human capital of beneficiaries and thereby Europe's competitiveness, in terms of breaking down barriers between people and thereby boosting European citizenship and also in breaking down barriers between institutions locked in national patterns. It will be argued that mobility can play a part in all learning experiences. Given the claim that the benefits are substantial, the case will be made that a substantial policy response is fully justified.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

**First option:** the observed problems persist as no change can be expected without targeted action. In addition, a response to the political demand for action would not be possible.

**Second option:** An immediate expansion of existing community programmes such as Erasmus, Leonardo or the extension of such programmes to other areas would have a positive impact on the mobility rate. More significant negative impacts are however expected in relation to the desired links with national, regional and local funding schemes as their inclusion would remain unexplored.

**Third option:** The existing political interest is expected to lead to a demand for follow-up action during 2009. An initiative focusing on examining/addressing barriers to mobility and on ensuring that national and regional public funding and other sources are mobilised in support of the relevant EU programmes would allow for the positive impacts of mobility to be increased without the negative impacts of isolated Community action.

The Commission therefore envisages issuing a **Green Paper on Mobility** in a first attempt to invite

stakeholders in the field to contribute to initial reflections.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Given that this exercise will address several different programme instruments, possibilities for simplification should be explored.

One issue which might be explored is the degree to which mobility programmes are open to the wider world (Erasmus Mundus already opens elements of the Erasmus exchange to external partners, albeit on a very small scale).

Who is affected?

Stakeholders expected to participate in the reflection debate will be representatives of national and regional authorities with competence in education, training, youth, and culture, as well as relevant interlocutors and experts from institutions and organisations active in those fields and from business.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Existing studies and statistical data on mobility will be explored; expert networks currently working in the context of the Education and Training work programme 2010 will be consulted. The work of the High Level Expert Forum on Mobility will be an important input as well as the Council Conclusions under the French Presidency.

Which stakeholders & experts have been/will be consulted, how and at what stage?

It is envisaged to conduct a consultation of stakeholders (representatives of national and regional authorities as well as organisations and institutions in the fields), possibly including current beneficiaries within existing mobility schemes as well as the larger public and business.

## ROADMAP

Title of the initiative: **Communication on ICT R&D and Innovation**

Expected date of adoption of the initiative: April 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The objective of the Communication is to propose a series of policy actions within a strategy that enables Europe to lead ICT developments, to support the growth of new businesses and to make better use of ICT innovations to address key socio-economic challenges.

To support these objectives, Europe must increase the intensity and impact of its ICT investments: we must invest more and better and stimulate wider uptake and better use of ICT across the economy and society. A strategic, sector-specific approach needs to be followed that cuts across demand- and supply-side measures, covering the range from R&D and stimulation of technology uptake to procurement and deployment of solutions, and implying cross-involvement of procurers, providers and policy-makers.

The proposal will build on and cut across several existing initiatives/actions:

- *ICT policy*: The i2010 policy framework, in support of the Lisbon agenda, aims at developing an open and competitive information society in Europe in which all citizens can benefit from the development and use of ICT across the society and economy. The Communication on ICT R&D and innovation comes in support of the second pillar of i2010 that focuses on innovation and investment in research, setting priorities for cooperation with the private sector to promote innovation and technological leadership in ICT.
- *Innovation policy*: The Communication on 'Putting knowledge into practice: A broad-based innovation strategy for the EU' adopted in 2006 pointed the way forward to accompany industry-led and society-driven innovation with competitiveness and public policies. Several follow-up communications have been issued which all contain important elements for the ICT area: The Communications on the "Lead Market Initiative" and on "Pre-commercial Procurement", the "Small Business Act", the upcoming Communication on "Clusters" and the Communication on "Removing the obstacles for cross-border investments".
- *Research policy*: The five ERA Communications (to be) launched in 2008 set general policy lines which also have important ICT elements. Especially the Communication on "Joint Programming" and the Communication on "Research Infrastructures" are of immediate interest. In addition, the Communication on ICT R&D and innovation will contribute to the ongoing discussions about the ERA vision and governance issues.
- *Ex-post evaluations*: The evaluation of ICT research under FP6, carried out by the Aho panel, has identified a number of opportunities to improve the environment for innovations from ICT research. The panel recommends that greater synergies are established with venture capital investment, with regional innovation strategies and with public procurement, and that a more strategic, European level, approach is needed to standardisation, research infrastructure development, lead market development and the mobilisation of public-private partnerships, as in the Joint Technology Initiatives (JTI).
- In addition the communication will build on a number of recent communications addressing societal challenges through ICT such as the contribution of ICT to energy efficiency. The first experiences of the Joint Technology Initiatives in the field of ICT (ARTEMIS and ENIAC) and of the Ambient Assisted Living initiative based on Treaty Article 169 will also be taken into account.

What are the main problems identified?

The major problems identified are:

- Slow exploitation of the potential of ICT-based innovations to address key socio-economic challenges
- Underinvestment in ICT and in ICT R&D and innovation which undermines Europe's capacity to seize the opportunities ahead in the sector.
- Fragmentation of the ICT R&D and innovation effort
- Slow growth of innovative SMEs in the ICT sector

- Limited attractiveness of Europe to investments and to world best skills in ICT R&D and innovation

ICT is recognised as a crucial factor underpinning economic growth, innovation and sustainable development. ICT can also play an increasing role in helping to solve important societal challenges, e.g. providing greater quality, efficiency and safety of our healthcare systems, reducing the energy intensity of the economy, and supporting a more dynamic participative society. In parallel, new transformations and technology waves in ICT open up a range of new opportunities that European organisations need to seize. The "Future Internet", overcoming current structural limitations in terms of scalability, mobility, flexibility and trust of the Internet and the Web; the next generations of ICT components and systems continuing the trends in miniaturisation and diversification; and the management of increasing amounts of digital content are just some of the challenges that will lead to new opportunities to be taken advantage of.

The relatively slower uptake of ICT-based innovations in the public sector in Europe and the fragmentation of the public demand are major weaknesses that are affecting the quality and efficiency of our public services. These are also identified by industry as important deficiencies to be addressed in order to strengthen Europe's innovation capacity, to shorten time-to-market of innovations and to improve Europe's attractiveness to investment in innovation and research. Although businesses in the EU devote 20% of investment to ICT, this is still relatively low, in particular in market services, compared to business uptake of ICT in other parts of the world.

The ICT business sector stands as one of the largest R&D investing sectors in Europe, contributing to more than a quarter of all business R&D investments of all economic sectors combined. Even so, the EU ICT business sector spends only about half as much on R&D as in the US. This holds true both in absolute amounts and relative to the size of the economy. Indeed, the ICT sector alone is responsible for as much of the economy-wide R&D investment gap between the EU and the US as all other sectors combined. Public funding of ICT R&D in the EU is also significantly lower than elsewhere, and there are considerable gaps between the Member States.

This ICT business sector R&D gap from the macro-economic data reflects two aspects: the ICT business sector is a smaller part of the economy in the EU than in the US, and R&D intensity (business R&D/value added) of the ICT sector is lower in the EU. Resulting from this is a clear need for the European ICT sector to expand through the development of new businesses and to facilitate growth of SMEs into larger companies.

Finally, a major problem concerns the limited attractiveness of the European ICT R&D and innovation environment. The EU is today the world's largest economy (30% of the world's wealth) and the world's largest market for ICT (32% of the world market). This is not reflected in the world ranking of its research and higher education centres in ICT as well as in other key science and technology fields. This is affecting both the attractiveness of ICT to young students and researchers as well as to private investments in innovations in these sectors. The problems are many including the intensity of public investments in excellence centres, the fragmentation of the investments and the weak public private partnerships, as well as the lack of mobility of researchers across the EU.

Underlying these major problems are causes related to fragmentation and lack of investment intensity.

Explain how EU action is justified on grounds of subsidiarity

In the face of globalising markets, shortening innovation cycles and more interdependencies in ICT and ICT-based solutions, it is increasingly beyond the reach of any single organisation or country to master critical parts of the value chains. Partnering at European level is essential to provide the strategic direction, to integrate the necessary critical mass of know-how, capabilities, skills and financial resources to pursue common goals, and to ensure that ICT and ICT-based solutions are applicable across Europe and beyond.

Actions with Community financial support must remain focused on initiatives of significant scale and duration, and they must continue to build on, leverage and add value to national, regional and private initiatives and funds.

It is only through better coordination, joint planning and collaboration across the EU that many of the causes of the above mentioned problems can be addressed, notably:

- The critical mass needed can often only be reached through collaborations at EU level e.g. for de-fragmentation of the markets, resources needed for investment in infrastructure and creating the framework for an attractive large European R&D area for researchers and students.
- Coordination and joint planning can optimise the use of available resources and avoid overlaps and duplications
- Risk can be shared between national authorities to implement innovative solutions
- Experience and knowledge can best be shared to raise awareness about opportunities offered by ICT, on how to create a holistic approach in public policies and on how to encourage uptake of ICT in businesses

and the public sector.

- The framework conditions for growth and development of SMEs can no longer be tackled only at national level in the current context of globalisation and international markets.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The main policy objective is to propose a series of ICT specific policy actions within a strategy that enables Europe to lead ICT developments, to support the growth of new businesses and to make better use of ICT innovations to address key socio-economic challenges.

To support these objectives, Europe must increase the intensity and impact of its ICT investments: we must invest more and better in ICT R&D and innovation and stimulate wider uptake and better use of ICT across the economy and society. A strategic, sectoral approach needs to be followed that cuts across demand- and supply-side measures, covering the range from R&D and stimulation of technology uptake to procurement and deployment of solutions, and implying cross-involvement of procurers, providers and policy-makers.

A balanced strategy, respecting the principles of subsidiarity, proportionality and additionality: Planning of actions needs to be shared by relevant stakeholders: private and public, at Community, national, regional and local levels. Actions would be implemented in variable configurations at different levels. In most cases the role of the Community is to facilitate multi-lateral trans-national collaborations between actors. Community actions must focus on initiatives of significant scale and duration, and they must continue to build on, leverage and add value to national, regional and private initiatives and funds.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

The objective implies cutting across several policy areas including information society policy, research and innovation policy, sustainability policy, as well as specific sector policies such as for health, environment, energy and security.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Four policy options are considered. In all of them private-public partnerships are essential and it is implicit that industries are key stakeholders together with academia and public authorities. It is also implicit that the intensity of investments in ICT R&D and innovation must increase.

- “*Business as usual*” - this options contains actions with the main weight on Community-level actions (FP, CIP) and mostly on the supply-side (FP), with a very limited number of new initiatives involving national and industry funds (JTIs etc.) and a few "soft" measures on demand-led innovation (Lead Markets Initiative etc.).
- “*Community and MS increased collaboration but only on supply side*” - this options implies a stronger coordination and collaboration between Community and MS on supply-side aspects (FP for research, JTIs, Joint National Programmes, multi-lateral transnational R&D programmes etc).
- “*Community alone, working on demand and supply side*” - this option foresees that the Community strengthens its actions mainly on the demand side (CIP/IST-PSP, regulatory frameworks etc) without much further involvement/links to MS/regional actions.
- “*Community and MS increased collaboration on demand- and supply-side*” - this policy option allows the involvement of a large set of stakeholders (Community, MS, regions, industry, academia etc) and the development of actions which cut across the innovation chain – from support to R&D projects and infrastructures and stimulation of ICT uptake through piloting of existing innovative solutions to evaluate feasibility and cost-efficiency – to facilitation of procurement of R&D and innovation, testing and validation against performance targets and deployment under operational conditions.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The actions will cut across several policy areas including information society policy, research and innovation policy, sustainability policy, as well as specific sector policies such as for health, environment, energy and security.

Explain how the options respect the proportionality principle:

Interventions must be of significance, i.e. the actions should make a difference, without distorting well-functioning markets, competition or trade. For instance, when we finance industrial-led R&D we need to target the type of research challenges that will encourage firms to launch projects that explore more innovative options than they might otherwise have pursued. Actions should leverage additional spending, increase the scope and the speed of on-going projects, and influence the direction and conduct of the work. Implementation should be as simple and cost-efficient as possible.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

- “*Business as usual*” - the major problems identified above (slow/conservative ICT-based responses to socio-economic challenges, underinvestment, slow growth of SMEs, lack of attractiveness) would remain. There are currently no signs that continuing “business as usual” would help overcome any of these.
- “*Community and MS increased collaboration but only on supply side*” - a more coordinated use of resources for R&D which would already be a step in the right direction and would increase the visibility of European ICT R&D. However, there is an increasing risk that we shall be investing in research which will be exploited outside Europe. The demand side will still not be taken into account and the time to market for new products, tools and services will not improve, failing thus to boost the development and growth of SMEs. Users will not benefit fully from the advantages of ICT innovation and the innovation capacity of Europe will be at risk. Europe will become more attractive for researchers and students but not for the innovation linked investors.
- “*Community alone, working on demand and supply*” - in this case only a limited part of the total research effort will be touched upon. There would be no increase in attractiveness as there would be no internal market, nor a structured large-scale R&D environment. Demand side actions are, to a large degree, under the responsibility of the MS and their regions, and in this case only a very limited set of actions could be taken at EU level to trigger a better link between demand- and supply. There would be no demand-pull for new markets allowing SMEs to grow; procurements for R&D would be scattered amongst the MS; and only socio-economic challenges for which the EC has a mandate to take action could be addressed.
- “*Community and MS increased collaboration on demand and supply side*” - this option is expected to achieve the largest impact on markets, new business developments and increased investments in ICT R&D and innovation in Europe by allowing for cross-cutting actions in policy areas and on the demand and supply sides. As a result the R&D and innovation landscape in Europe will become more attractive to investors, companies, researchers and students. New markets will develop with a clear demand from users allowing for faster responses to socio-economic challenges and opening up new possibilities for industry, in particular SMEs.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The Communication will put forward proposals for strengthening Europe's ICT R&D and innovation ecosystem. This includes proposals for a number of supply-side and demand-side programmes and initiatives, proposals for a more systematic pooling and coordination of resources, and a proposal to undertake a set of European scale projects that would target the development and uptake of innovative ICT-based solutions of vital importance to address specific societal challenges. Each project would span from R&D to innovation and deployment.

The Communication would give examples of such specific European scale projects, but detailed action plans would only appear in follow-up Commission Communications/Proposals. Therefore, the April 2009 Communication on ICT R&D and innovation will not have a direct impact on the current EU financial envelope, but could have a substantial indirect one if its proposed approach is endorsed.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The investments in ICT R&D and innovation must be well managed. We need to continue to make improvements in the governance, planning and operations of the instruments at our disposal. Areas to be further explored includes notably simplification measures such as financing based on lump sums and flat rates for overheads, reduction of administrative burden through relationships that are more firmly based on trust, and more flexibility through greater management autonomy of consortia.

The relations with third countries and the international ICT community will also be discussed in the Communication, highlighting the main challenges.

Who is affected?

Outside the Commission: the ICT stakeholders (academia, industry and public authorities) as well as public authorities and industries in charge of public services in the areas of health, energy, environment, security etc.

Within the Commission the principal DGs affected would be: DG INFSO, DG RTD, DG ENTR, DG REGIO, DG SANCO & DG ENV. Other DGs such as DG MARKT, DG COMP, DG EMPL & DG EAC would be indirectly affected.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Several reports on innovation and R&D both at general level as well as ICT specific exist today. In addition, a large number of studies in different thematic areas of ICT exist as well as a whole series of studies run under the i2010 heading. Public consultations have been run on various aspects touched upon by the Communication. The current challenge is to bring together all the available information and knowledge in a clear strategy for ICT R&D&I.

According to the Guidelines for Impact Assessment the Communication falls under the section “Broad policy-defining documents”, The analysis will therefore be kept at a broader level the proposal of clear distinct objectives and actions. The actions will be underpinned by a description of the tools needed to carry them out. The assessment of impacts will be preliminary based on existing documents and will not provide detailed quantitative data.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The National ICT Research Directors Forum, the ICT European Technology Platforms and the IST Advisory Group have already been consulted on several aspects of the Communication and will continue to be in the loop. A public consultation is planned for July-September.

Several other High Level Groups exist in thematic areas covered by DG INFSO and the outcomes of these groups are taken as input to the Communication.



## ROADMAP

Title of the initiative: **Second Communication on ICT for Energy Efficiency: Making the Most of Information and Communication Technologies: Facilitating the *transition to an energy efficient, low carbon economy***

Expected date of adoption of the initiative: January 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

DG INFSO prepared a first Communication adopted by the Commission on 13 May 2008 (COM 241) which highlighted the potential of ICT to contribute to the Union's energy efficiency goals.

A second Communication has been announced, which based on extensive consultation should identify the areas of highest potential and more targeted actions and recommendations where public policy, notably at the level EU can make a difference.

What are the main problems identified?

There is consensus<sup>11</sup> among stakeholders; businesses, Governments and civil society, that ICT has a potentially crucial role to play in enabling energy efficiency; at all levels of the economy and in multiple functions.

However, evidence also points out that the potential of ICT is far from being maximised, although many of the investments are profitable : While the consultation has revealed many detailed sectoral issues, a class of common problems has emerged that seems to be at the root of many other problems hindering investment into ICTs for energy efficiency. Consequently, these have to be addressed first. Similar conclusions have been found in the Impact Assessments on the Energy Efficiency Action Plan (2006) and the on the Sustainable Consumption and Production Action Plan. (2008):

- There is a significant information deficit at all levels: consumers, businesses and cities are unaware of the magnitude and source of their energy usage, thus costs. They are therefore also unaware of potentially wastefully managing energy, as only what is measured can be managed.

- ICT could not only provide the tools to gain detailed information on usage, but using this information can enable a series of other functionalities - also supported by ICT, leading to better management and design and to unlocking market forces to reward energy efficiency. These are for instance information aggregation and reporting tools, resource management and optimization systems, visualisation and design software. Much discussed carbon reporting and labelling systems can only be called into life once information on energy use is systematically collected and processed. - There seem to be, however several causes for these ICTs not taking up sufficiently fast, such as: investment intensity, principal agent problems where investments are not made by the ones reaping the benefits and the general difficulty and slowness of introducing technology, especially new technology into people's and businesses lives. (ICT as a general purpose technology and the innovation adoption S-curve).

It is acknowledged that ICT is also part of the problem, consumer electronics sector is the most rapidly growing product market and ICT's total footprint is expected to increase from 2% of total emissions to 3% in 2020. Consequently, if policy intends to facilitate the wider use of ICT in EE, parallel to that focus should be on the reduction of ICT's own footprint.

Explain how EU action is justified on grounds of subsidiarity:

Proposed actions are fully in line with the principle of subsidiary: The energy efficiency issue is a global one, concern and challenges not only affect Europe. The above problems prevail in all Member States, to a varying degree, but the solutions proposed should involve stakeholders independently of their Member States.

Action should not be taken by Member States alone, industry, cities and civil society will be the main actors.

Increasing energy efficiency has already been subject to a set of Community policies that this initiative intends to complement. The tools applied are also in use already such as research and development and public procurement, best practice sharing and coordination

<sup>11</sup> McKinsey study, WWF, Biointelligence, Forum for the Future, AeA, ACEEE, etc.

The market is visibly not remedying the information inefficiencies, the investment or agency problems; therefore, public intervention is needed.

It has been acknowledged that international institutions have a role to play: in providing independent platforms for exchange for stakeholders and assuming a role for leadership.

European co-ordination in certain areas offers economies of scale and synergies (as concerns replicating solutions and building on others' work). In addition, the internal market would benefit of commonly agreed methods (e.g. metrics for efficiency or calculation of carbon footprints for comparability among Member States) and standards (for reducing equipment cost and enhancing interoperability). And also more initiatives in certain areas have to happen on European level in order to avoid any distortions of the internal market (e.g. ICT tools for the measurement of carbon footprints).

## **B. Objectives of EU initiative**

What are the main policy objectives?

The aim of the initiative is to contribute to the EU Energy efficiency target (reduction of energy use by 20% over projection by 2020) by helping to better exploit ICT's potential to increase energy efficiency. Therefore, 5 main operational objectives have been defined: To mainstream the use of ICTs for energy efficiency as widely as possible in energy using industrial sectors, cities, regions and citizens; to strengthen the demand side for ICT for energy efficiency innovations; to focus effort on the information deficit problem, and to promote voluntary agreements in order to reduce the footprint of ICT itself.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No – it fits into an already approved strategic framework

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The considered policy options: The indicative options have possible policy vehicles:

- Do nothing: Several EU initiatives are ongoing to enhance energy efficiency; however, none of them focuses on exploiting the potential of ICT. More and more, civil society and industry associations and international organisations take up the issue, however, their efforts are scattered and many call for leadership. Market forces drive efficiency as well, though investments are not are not favoured by current economic climate. In summary; To a certain extent the economy will become more energy efficient, though not rapidly enough for the 2020 emissions reductions targets to be achieved.

- Regulate: In this present list of preliminary areas for action, there are only a few areas where legislation could play a role. These are mandatory reporting or mandatory open standards or certain aspects of standardisation. However, the markets are still emerging, and the conditions for legislation are often not given (without information tools, reporting obligations could not be met). In addition, legislation cannot deliver on all the objectives (e.g. voluntary agreements cannot be legislated, partnerships either)

- Issue a communication detailing Commission priorities and actions. Existing frameworks could be used to achieve the objectives; such as the 7<sup>th</sup> Framework Programme and the CIP. Member States could be addressed through the i2010 policy framework. The Commission could issue progress reports every year on one selected issue, showcase best practice. Create a platform for discussions, industry exchange and agreements, benchmarking and guidelines. As the latter are rather resource intensive for the European Institutions, such institutions have to be found as showcases or test-beds that can provide a leverage effect. (e.g. engaging the eBusiness community in Co2 disclosure) However, the Commission could work closely with one industry only.

- Recommend specific action to a wider constituency going beyond the co-ordination possibilities of existing policy, research and innovation frameworks. Formulate objectives, to Member States, industries, citizen, and cities on information tools, innovation adoption, leveraging public procurement and creating partnerships and adopting codes of conducts and voluntary targets. Such recommendations are not legally-binding, but represent a stronger intervention, and can address a much wider constituency thus accelerating change. The two above options are not mutually exclusive.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

It acknowledges and complements the work of ENTR, ENV, TREN on the above subject areas.

Explain how the options respect the proportionality principle

It is assumed that when certain conditions established, the market could remedy the problems. Therefore, the main options examined into detail and pursued are soft instruments. When considering realistic options, attention has been devoted to not to impose any compliance cost and administrative burden along options that intend to be enabling rather than obliging.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Exploitation in the first instance of the capacity of ICT's to become "the tools for enabling energy efficiency across the economy, as well as in the sector itself.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No.

Who is affected?

Member States, businesses, citizen, everybody.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

There are a number of studies that are being used and highlight the potentials of ICT for Energy Efficiency (McKinsey, WWF, Forum for the Future, AeA, ACEEE, inter alia.). A study commissioned by DG INFSO under the lead contractor "Bio-intelligence" forms one of the main sources for data .

Which stakeholders & experts have been/will be consulted, how and at what stage?

An ad hoc advisory group has been set up and will meet 3-4 times (Twice before the summer). Set up under the i2010 High Level Member State Committee it consists of industry association representatives, regional representatives, academics and others. The ad hoc group is being assisted by 6 thematic advisory groups – addressing the main themes. An open public consultation was running from May 20 until July 21. There has been ongoing consultation with the EP and the CoR. As well as OECD and ITU initiatives in the field.

## ROADMAP

Title of the initiative: **Communication on Financing Low Carbon Technologies**

Expected date of adoption of the initiative: March 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

This communication was first proposed in the Commission communication 'A European Strategic Energy Technology Plan' (SET-Plan) (COM(2007)723) from 23 November 2007. In its conclusion from 28 February 2008 the Council invited the Commission to prepare this communication.

The SET-Plan recognises the need to match the level of resources dedicated to low carbon technologies with the scale of the challenge posed by the policy targets agreed regarding greenhouse gas reduction, renewables technologies penetration and energy efficiency improvements. While the SET-Plan proposes a comprehensive strategy to contribute to these targets from a technology perspective, it doesn't make an estimate of financial and investment needs for its implementation, but announces the preparation of a Communication on the financing of low carbon technologies to be prepared in parallel with a more detailed definition and assessment of the proposed measures.

In fact, the feasibility of the measures proposed in the SET-Plan, future initiatives like European Industrial Initiatives and the European Energy Research Alliance largely depend on the efficient use of existing resources to leverage private investment, but also on the possibility of raising new funds.

What are the main problems identified?

A very substantial investment (public and private) will be required to progress towards the 20% greenhouse gas emission reduction, the 20% energy efficiency increase and the 20% renewable energy sources target for 2020, as agreed in the Energy Policy for Europe. This is true for both the development of cheaper low carbon energy technologies, as well as for their market deployment and wide spread take-up. Achieving the 2050 vision of a 60-80% cut in greenhouse gas emissions will be even more challenging.

The European Union needs to reap the potential of the internal market and of concerted effort to realise and optimise this investment. For instance, achieving the 2020 renewables target could represent an annual additional cost of €18 billion. A strong research and development effort could pay dividends in cutting the costs of renewables and other low-carbon technologies; however a substantial investment would still be needed.

There is a risk that the needed investment will not materialise in time and our policy goals would be missed. There is a risk as well of not getting the right balance between investment in proven technologies and investment in the development new cheaper and better performing ones, leading to short term achievements and but long term problems.

Private investment is sub-optimal vis-à-vis societal needs – investment only to maximise profit is short-sighted (market myopia). Large companies could play a better role in encouraging R&D intensive SMEs and in driving a faster deployment of acquired technologies into the market, but there seems to be no appetite for such approach. Hence the energy sector is one of the least research intensive high-tech sectors (1% of net sales vs. 4.5% in transport sector, 15% in ICT and 12% in pharmaceuticals).

Furthermore, public energy research budgets in the EU have declined substantially since peaking in the 1980s in response to the energy price shocks. This has led to an accumulated under-investment in energy research capacities and infrastructures. If EU governments were investing today at the same rate as in 1980, the total EU public expenditure for the development of energy technologies would be four times the current level of investment of around 2.5 billion euro per year.

The resources needed to transform the energy system towards its decarbonisation are difficult to estimate, as they depend on the evolution of the market price of current resources and the results of on-going and future research, among many other factors. However, they are certainly larger than the current level of investment.

Recent studies (e.g. the Stern Report, the Intergovernmental Panel on Climate Change reports and the International Energy Agency) confirm that increased investment, to at least double current levels, will deliver substantial benefits. Deployment incentives may also need to increase by two to five times.

A deeper understanding on the needs, possible sources of financing and their limitations would contribute to better planning of research and innovation activities. It would also lead to a more effective design and implementation of market pull measures.

Is EU action justified on grounds of subsidiarity?

Current efforts by Member States are proving to be insufficient to reach the Kyoto objectives regarding CO<sub>2</sub> reduction well as regarding the RES electricity and biofuels market share by 2010.

The Treaty stipulates in article 163 and 165 that the Community should support technological development to achieve its policy objectives and that it may take any useful initiative.

Art 163.- The Community shall have the objective of strengthening the scientific and technological bases of Community industry and encouraging it to become more competitive at international level, while promoting all the research activities deemed necessary by virtue of other chapters of this Treaty

Art 165.- The Community and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and Community policy are mutually consistent. In close cooperation with the Member State, the Commission may take any useful initiative to promote the coordination referred to.

Furthermore, the declaration by the Heads of Government and States on the occasion of the fiftieth anniversary of the signature of the Treaties of Rome, Berlin 2007 states referring to energy and climate change that "we are facing major challenges which do not stop at national borders. The European Union is our response to these challenges.

Hence EU action is justified from a technical, legal and political perspective. However, the subsidiarity principle needs to guide strategic planning as well the implementation of any of the proposed actions, leading to complementary actions by Member States and the Community as well as ensuring efficiency in the use of resources.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The Communication will address resource needs and sources, examining all potential avenues to leverage private investment, including private equity and venture capital, enhance coordination between funding sources and raise additional funds. In particular, it will examine the opportunity of creating a new European mechanism/fund for the industrial-scale demonstration and market replication of advanced low carbon technologies and will consider the costs and benefits of tax incentives for innovation.

Does the objective imply developing EU policy in new areas or of strategic importance?

The SET-Plan objective is to put in place a European Energy Technology Policy to accelerate the development and market up-take of low carbon technologies to contribute to achieve the EU energy and climate change targets.

This Communication on Financing Low Carbon Technologies comes as direct support to this newly established policy on energy technology but doesn't represent a new policy on its own.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

High risks (technological, market and regulatory) and the commodity market character of energy supply provides a double hurdle for investing and financing low carbon technologies. They face a continuum of risk, the level of which varies according to the current status of each technology. The commodity nature of energy supply acts as a brake on innovation and as a clear disincentive to investment in new low carbon technologies that deliver its benefits to society.

In short, there is neither a natural market appetite nor a short-term business benefit for such technologies. This market gap between supply and demand is often referred to as the 'valley of death' for low carbon energy technologies. Public intervention to support energy innovation through the continuum of risk is thus both necessary and justified.

Implementation of the SET-Plan, and the proposed measures, will help overcome the fragmentation of the European research and innovation investment, leading to a better overall balance between cooperation and competition, and better use of scarce resources. Encouraging more focus and coordination between different funding schemes and sources will help to optimise funding schemes and investment, build capacity and ensure a continuity of funding for technologies in different phases of development (bridging the 'valley of death').

However, additional public stimulus and investment is needed to leverage private investment beyond what would happen anyway, given the need to accelerate innovation to curb trends regarding emission and security of energy supply. Such stimulus is needed in different stages of the development process (levels of action: research, demonstration and early market entrance) depending on the technology.

The following options could be considered **to reinforce** the three levels of action:

**Longer-term R&D** - Reinforcing resources in existing programmes at national and Community level - Possible need for a dedicated new EU fund/mechanism - Providing resources for venture capital/ equity investments targeted at low carbon technologies, similar to the existing eco-innovation window under High Growth and Innovative Company Facilities (GIF)

**Large-scale demo projects** - possible creation of a new EU 'demonstration' fund and/or EU instrument to cover technological risk; possible extension/ modification of RSFF (Risk Sharing Finance Facility); combination of risk covering instruments to maximise the leverage of public money.

**Market pull** - EU lead market type instruments - Loans and other financial instruments but avoiding overlap with MS actions.

In addition, alternative options exist as well regarding **how to raise addition funds** either at national or Community level. These are:

- revenues from auctioning emission allowances from the Emission Trading Scheme;
- levy on production or tariffs;
- tax on energy consumption;
- from the general EU budget, either through an increase or a transfer between budget priorities

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The different options, both for the level of action as well as for how to raise funds, would impact across several policy areas and departments. Such impacts would be considered while developing the options.

Do the options respect the proportionality principle?

It is essential to address the mismatch between the sheer magnitude of the energy and climate change challenge and the current levels of research and innovation effort. Proportionality calls for reinforcing efforts, and this Communication will provide the basis for further action to reinforce investment at the right level.

The Communication proposals would be based on credible estimates of future financing needs and possible means of addressing the needs for combinations. However, it is very difficult to estimate. For example, the

IEA 'Energy Technology Perspectives 2008' estimates that the additional global spend needed for R&D lies in the range 10-100 bn USD per year – a wide range of uncertainty. But figures will be based on the costing of concrete SET-Plan actions, such as the European Industrial Initiatives, and by benchmarking current European efforts against other world regions.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The ultimate expected impact is to create the dynamics that would lead to a significant ramp-up into the market of competitive low-carbon technologies.

As a consequence a cascade of economic, environmental and social impacts can be expected, including the achievement of the EU energy and climate change goals policy goals for 2020 and 2050.

Economic impacts:

- Innovation and research effort will be multiply
- Competitiveness of industry
- Reduction of cost and increase performances (mainly through energy efficiency)
- Facilitation of the internal market development
- Strengthen EUs position on trade high value, strategic products

Environmental impacts:

- Reduction of greenhouse gas emissions
- Improved air quality
- More use of renewable energy sources
- Treatment and use of waste

Social impacts:

- Creation of new jobs in newly emerging sectors
- Improved public health and safety

However, increasing the financial resources dedicated to low carbon energy technologies could lead to decreasing resources for other technology sectors comports a negative impact.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The proposed options could affect the EU-budget if taken forward and implemented. However, that would require in most cases new legislative proposals that would be accompanied in each case by the corresponding assessment.

Certainly the analysis conducted in the preparation of this Communication could serve as a basis for ex-ante evaluation as required by the Financial Regulation.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

In principle this is not foreseen.

Who is affected?

The Communication would analysis a broad spectrum of option, sector and actors. Financing low carbon technologies affects and requires action by many different administration and stakeholders: they can be grouped in the following categories:

- Industry
- Research community
- Financial sector
- Member State administrations
- Community institutions

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The preparation of the SET-Plan was accompanied by an Impact Assessment (SEC(2007) 1508), as well as by two accompanying documents: the Technology Map (SEC(2007) 1510) and the Capacities Map (SEC(2007) 1511). These documents provide a good basis to start the analysis, however further information would be needed in particular regarding:

- corporate research investment,
- investment and funding schemes in Member States and other parts of the world
- the interaction between market mechanisms and innovation
- the effect of different market condition on corporate research investment and public research funding
- the effect of cap and trade system on research investment and innovation
- a better understanding of the so-called valley of death in general and for different technologies
- the financial needs for different technologies and for the European Industrial Initiatives proposed in the SET-Plan

The impact assessment will be conducted internally by the Commission with the involvement of the three services that are 'co-chef de file' (ECFIN, RTD and TREN) and the JRC.

The necessary information will be gathered from literature review, meeting and workshops and cabinet work, involving where appropriate technology assessment and energy models.

Which stakeholders & experts have been/will be consulted, how and at what stage?

In the context of the SET-Plan implementation (European Industrial initiatives, European Energy research Alliance) the Commission has open dialogs with several stakeholder from industry and the research community (including energy-related Technology Platforms), and also with Member States in the European Community Steering Group on Strategic Energy Technologies.

The financial sector will also be involved and consulted in this exercise.

During spring 2008 several meetings have take place with the mentioned stakeholders. During the autumn 2008 further meetings and workshops will be organised.

Furthermore, a public consultation could be launched during autumn 2008.



**ROADMAP**

Title of the initiative: **Communication on the future of transport**

Expected date of adoption of the initiative: April 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The initiative is linked to the 2001 Transport White Paper and its 2006 Mid-Term review which included the following action: "In order to devise and evaluate tomorrow's policies, stimulate a wide-ranging debate on transport scenarios with a 20- to 40- year time horizon, to develop tools for an overall sustainable transport approach."

What are the main problems identified?

The main problem of the transport policy is to make transport sustainable which involves a number of policy choices which have given rise to public debates. Policy measures have to be based on principles such as those developed under the Union's Sustainable Development Strategy and the Renewed Lisbon strategy and on the assessment of the effects of those measures. The practical application of the accepted basic policy principles is subject to public debate. The Commission has, to some extent, taken stance in this debate through its successive White Papers of 1992 and 2001 as well as the 2006 mid-term review of the latter. The main issues subject to debate were among others: decoupling between transport and GDP or between transport and its negative effects, modal shift or co-modality (i.e. efficiency of all modes on their own or in combination), the role of the private car, transport demand policy (accommodation, management or restriction), transport and competitiveness, degree of contribution of transport to the fight against climate change, the energy transition and security of supply, financing the TENs and effects of TENs on economic growth.

The programme of measures proposed by the 2001 White Paper and its mid-term review comes to an end by 2010. Prior to formulating any new policy programme, it seems appropriate to prepare the ground for any future policy decisions by assessing the consequences of the general policy choices implicit in those debates under different scenarios reflecting how the future could look like.

Therefore, to take position on these great societal choices over the long term the Commission needs to be able to contemplate different scenarios. Currently there are no such scenarios specifically devoted to the EU transport system as a whole. It is therefore necessary to develop long-term transport scenarios at a 20- and 40-year horizon including modelling work. In order to develop such scenarios the existing experiences concerning transport long-term scenario forecasting will be analysed. Studies will also be examined on long-term developments concerning the drivers of transport demand and supply notably in respect of demographic, economic, environmental, social and technological aspects.

Is EU action justified on grounds of subsidiarity?

This kind of general scenario-based exploratory debate will gain by being organised at EU level, due to the variety of cases that can be considered and the fact that different EU policies bear an influence on transport developments, starting with the Common Transport Policy itself.

**B. Objectives of EU initiative**

What are the main policy objectives?

The main objective is to launch a debate on the future of the transport sector and the transport policy supported by state-of-the-art technical instruments. This will require improving the technical instruments with which the European Transport Policy is devised by developing scenarios and putting them to good use. The scenarios will identify structural trends and possible disrupting developments elaborating on the challenges they pose for transport policies and for the Common Transport Policy;

The scenarios will help to analyze the adequacy of the European Transport Policy objectives to probable or hypothetical situations. They will be used to identify options that the policy-makers should consider taking into account subsidiarity issues;

The study will highlight the effects on competitiveness of the different scenarios, the impacts on the environment in particular on climate change and the impacts on the well-being of citizens.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No but it may suggest the need to further explore new areas with a view to developing EU policies in those areas.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The 2001 White Paper gave to itself the 2010 horizon and its 2006 mid-term review proposed measures only up to 2009. The instruments and the reflection elements this initiative will provide may be used under the next Commission to decide whether a new transport White Paper (or Green Paper) is needed or not. The only option possible is whether to carry out this technical preparation now or not. No legislative or soft-law instruments are considered as there are no concrete measures or programme of measures to be proposed.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The collaboration of other departments is required to ensure a high level of quality to the technical instruments that will be developed.

Explain how the options respect the proportionality principle.

The possible development of the Common Transport Policy corresponds to the Commission which is obliged to endow itself with the necessary technical instruments to do so. However the opinions of Member States and stakeholders will be taken into account thanks to a technical workshop and a stakeholder and Member State conference.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

If nothing is done the next Commission will have less time, less quality instruments and less tested methodological approaches to assess whether any further development of the Common Transport Policy is needed.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No

Who is affected?

The technical community involved in policy assessment whose work will be facilitated thanks to the new instruments and methodological approaches for the implementation of general policy principles.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

An external consultant consortium has been appointed to develop the scenarios and the analysis. An internal interservice steering committee has been set up.

This initial framework will now be reinforced with the creation of working groups made up of external and internal experts which will focus on specific transport "drivers" such as technology or energy. Moreover an evaluation study will be launched to analyse the performance of the Common Transport Policy in reaching the objectives laid down in the 2001 transport White Paper and in its 2006 mid-term review. This study will be used to provide a historical perspective to the Communication on the future of transport.

Which stakeholders & experts have been/will be consulted, how and at what stage?

A technical workshop has been convened with external experts on 9 July which will be followed by a large stakeholder and Member State conference in December. External experts will also participate in the "focus" working groups.

**ROADMAP**

Title of the initiative: **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 44/2001 on jurisdiction, recognition and enforcement of judgments in civil and commercial matters (Brussels I)**

Expected date of adoption of the initiative: October 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Art. 73 of Regulation (EC) No 44/2001 ('Brussels I') provides that the Commission shall present a report on the application of the Regulation within five years after its entry into force and, if need be, present proposals for adaptations to the Regulation. The revision of Regulation 44/2001 is to be situated in the context of the mutual recognition programme adopted by the Council and the Commission in 2001, following the conclusions of the European Council in Tampere in 1999. This programme aims at the abolition of all intermediate measures for recognition and enforcement of judgments abroad ("exequatur"). This objective has been reconfirmed at the Hague European Council in 2004. Following an abolition of exequatur in some limited areas (uncontested claims, small claims), it is proposed that the next step covers the entire category of civil and commercial claims covered by Regulation 44/2001. The report of the Commission on the operation of Regulation 44/2001 should be adopted by the end of 2009.

What are the main problems identified?

Despite substantial progress achieved during the past few years, there is currently still not a free circulation of all judgments in civil and commercial matters as a result of the continued existence of exequatur in most matters. This means that as a general rule a judgment issued in one Member State cannot automatically be enforced in another Member State. Citizens and businesses must go through a special procedure in the Member State where enforcement is sought, which causes costs and delays which could be avoided by ensuring a free circulation of judgments. As a result, practitioners argue that continued existence of the exequatur inhibits cooperation and mutual trust between jurisdictions.

According to statistical information available, based on an empirical study carried out by the University of Heidelberg in 2007, more than 90 % (often 100 %) of all applications for declaration of enforceability were (finally) successful (the remaining 10% being frequently cases where the application was incomplete). This shows that the intermediate proceedings to enforce judgments abroad (exequatur) are in the very large number of cases superfluous and that further simplification will reduce costs and delays to realize access to justice in Europe. (Further country-specific statistics are cited in Section E, below.)

It has also been reported that developments in international law (e.g. the Hague Convention on exclusive choice-of-court agreements) have caused some elements of the 2001 Regulation to be out of date and in need of adjustment. Further work is needed to identify these elements.

Practitioners have reported problems in the operation of the provisions of the 2001 Regulation (further details to be clarified)

Explain how EU action is justified on grounds of subsidiarity?

The abolition of exequatur cannot be realised at Member State level and requires the amendment of existing Community law.

**B. Objectives of EU initiative**

What are the main policy objectives?

- to strengthen judicial trust and cooperation by increasing the free circulation of all judgments in civil and commercial matters by moving toward the abolition of exequatur in civil and commercial matters (as prescribed by the conclusions of the 1999 Tampere and 2004 Hague European Councils);

- adapt the provisions of the Regulation to ensure compatibility with new international instruments in the area concerned, such as the Hague Convention on exclusive choice of court agreements;
- improve the operation of those provisions of the Regulation where problems have been detected in their application;

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

1) Status quo

2) Amendment updating Regulation (EC) 44/2001, reducing grounds for refusing recognition and enforcement of foreign decisions and simplifying formalities currently required for recognition and enforcement

3) Regulation abolishing completely *exequatur*

Non-legislative initiatives such as the sharing of best practice do not appear to be options as the existing Regulation lays down rules distributing jurisdiction between courts and recognition and enforcement of judgments. .

Enhanced cooperation is also unlikely to be an option because, as the Regulation applies in all EU Member States, such action would contravene Art. 43(c) of the Treaty on European Union which states that the existing *acquis communautaire* should be respected (see Opinion of Council Legal Service of 20 May 2008 (JUSTCIV 93)).

Enforcement measures to improve the operation of the 2001 Regulation will be considered.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Even though the rules laid down in Regulation 44/2001 concern the private international law aspects of a large scope of policy areas and therefore marginally touch other policy areas such as consumer matters, transport, media, company law, insurance, employment law, and intellectual property, the foreseen amendments are not expected to impact on existing Community policies in this area nor on action taken/planned by other Commission departments.

Explain how the options respect the proportionality principle:

The options will be further developed in the impact assessment and will not seek to go any further than required to achieve the policy objectives set out above.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The impacts will be further analysed and quantified in the framework of the impact assessment carried out before the adoption of the proposal.

Positive impacts which at this stage may be expected are: better access to justice, improved distribution of competences between EU courts, improved coordination between legal proceedings pending before EU courts, increased legal certainty and removal of legal obstacles for citizens and enterprises.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The amendment of the Regulation will reduce or abolish intermediary steps which citizens have to go through in order to have a judicial decision recognised and enforced abroad.

Who is affected?

Courts and citizens in the EU.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The following information is or is available:

- study on the application of Regulation 44/2001 (September 2007);
- study on residual jurisdiction (September 2007);
- impact assessment on signing by the EC of the Convention on Choice-of-Court Agreements (September 2008).

According to the

- England and Wales (*High Court of Justice*): 2004/2005 figures: 92; 2005–2006 figures: 71;
- France: In 2005, the *Tribunal de Grande Instance de Paris* granted 92 declarations of enforceability, in 2006 (January to July) 30 declarations of enforceability were granted, while the *Tribunal de Grande Instance de Versailles* granted only 5 declarations of enforceability during the same period of time (January to July 2006), the *Tribunal de Grande Instance de Bobigny* did even grant no declaration of enforceability in this period of time<sup>12</sup>.
- In Germany, it has been impossible to get a comprehensive picture. In border regions, *Landgerichte* granted between 20 and 40 declarations of enforceability (Freiburg, Karlsruhe, Kleve); in commercial centres the figures are higher (40–60 cases in Frankfurt, 173 cases at the *Landgericht München I*), the highest figures were found in the files of the *Landgericht Traunstein*. This court granted 301 declarations of enforceability.
- In Greece, the 1<sup>st</sup> Instance Court of Athens and Thessalonica granted about 35 declarations of enforceability in 2003/2004.
- In Hungary, the majority of cases relating to declarations of enforceability (approx. 30 cases) came before the *Central Regional Court of Buda*, the competent court of the capital. The *Local Court of Győr* reported approximately 10 cases since 2004.
- In Ireland, the reported number of cases assigned a record number (from which the Irish national reporters assumed a declaration of enforceability was made) was 47 in 2003 and 39 in 2004.
- The Italian reporters visited the *Corte d'Appello Milano* and the *Corte d'Appello Bolzano*. Thus they were able to report on precise figures for these courts. There were 42 declarations of enforceability in Milano in 2003 and 43 in 2004. The *Corte d'Appello Bolzano* (close to the Austrian border) granted: 31 declarations in 2003 and 43 declarations in 2004.<sup>13</sup>

<sup>12</sup> Cf. French report, 1<sup>st</sup> questionnaire, question 1.4.

<sup>13</sup> Cf. Italian report, 3<sup>rd</sup> questionnaire, question 4.1.1.

- The Luxembourg courts granted about 420 declarations of enforceability in 2004, the estimations for Poland are about 450–900 declarations of enforceability from 2003 to 2004.

- However, the figures obtained from Portugal are much smaller: about 10 declarations of enforceability were granted in 2004.

Which stakeholders & experts have been/will be consulted, how and at what stage?

A consultation of the general public and stakeholders will be organised after the publication of the Commission report on the application of the Regulation, probably during Spring 2009. A meeting of experts of the Member States will be convened in Summer 2009 in order to discuss a preliminary draft of the amendments.

## ROADMAP

Title of the initiative: **Proposal for a creation of the European Asylum Support Office**

Expected date of adoption of the initiative: February 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

In the Hague programme 2004, the European Council called for "*reinforcement of practical cooperation and possible creation of a support asylum office by inviting the Council and the Commission to establish appropriate structures involving the national asylum services of the Member States with a view to facilitating practical and collaborative cooperation. After a common asylum procedure has been established, these structures should be transformed, on the basis of an evaluation, into a European support office for all forms of cooperation between Member States relating to the Common European Asylum system.*"

The recent JHA Council conclusions adopted in April 2008, which dealt with practical cooperation in the field of asylum, expressly invited the Commission to bring forward suggestions for further strengthening practical cooperation while awaiting for a decision on the future structure for supporting practical cooperation by the end of 2008.

The recent Communication from the Commission (Com(2008)360) " Policy plan on asylum – an integrated approach to protection across the EU" setting out a road map for the "second phase" of completion of the Common European Asylum System , announced that it will put forward a legislative proposal for the creation of a European Asylum Support office.

What are the main problems identified?

Member States are bound by an important asylum *acquis*. However, large discrepancies between asylum decisions taken in the different Member States (even by Member States with similar caseloads) still exist. This is due, on the one hand, to the relatively low standards of harmonisation brought about by the current legislation and, on the other hand, to different practices in national administrations.

Explain how EU action is justified on grounds of subsidiarity

Action at the European level seems necessary, as the creation of the European Asylum Support office aims *inter alia* at contributing to practical cooperation with a view to establishing a level playing field within the EU and building a system where all asylum seekers will be treated in the same way, with the same high-standard guarantees and procedures, wherever in the EU they make their asylum claim.

**B. Objectives of EU initiative**

What are the main policy objectives?

It is necessary to accompany legal harmonisation with effective practical cooperation.

One of the main goals of practical cooperation is to improve convergence in asylum decision-making by Member States, within the EU legislative framework. A substantial number of practical cooperation activities have already been undertaken in recent years, notably on a common approach to Country of Origin Information and on the establishment of a common European Asylum Curriculum. A dedicated structure to support and coordinate such activities in the form of a European Asylum Support Office would be a key means of improving the situation.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

Yes. The European Asylum Support Office is closely linked to the second phase-instruments to be submitted to the Council and the European Parliament with a view to completion of the Common European Asylum System by the year 2012.



### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Apart from the *status quo* policy option ("light" asylum cooperation support unit within the Commission) the following options may be considered:

- a) Reinforcing the asylum cooperation support unit within the Commission
- b) Reinforcing the presently existing asylum cooperation networks
- c) Creation of a European Asylum Support Office (mandate to be defined in the Constituent Act)
- d) Incorporating the European Asylum Support Office into one of the following existing JLS agencies: FRONTEX and FRA, or into the future JLS agency for the operational management of the SIS II and VIS and other large-scale IT systems.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No, but the completion of the Common European Asylum System is closely linked to the European migration policy developments.

Explain how the options respect the proportionality principle

- a) status quo – no change
- b) The development of the unit would not lead to a substantial change to the current situation in so far as that the Commission would not take the lead in any of the direct activities (only provide funding opportunities and coordinate exchanges of information).
- c) The development of a network would in principle be compatible with the principle of proportionality. However, a merged network would present more challenges, as the merger would 'take over' existing activity at transnational, national and local level. An umbrella network would respect existing activity whilst improving the sustainability, effectiveness and relevance of the latter, thus not altering what is, to some extent, already satisfactorily dealt with. The Steering Group consisting of representatives of existing cooperation structures would ensure the development of a realistic common work programme and a clear allocation of roles, responsibilities and tasks. The work programme would be based on real needs emerging from the benchmarking exercises, peer learning activities and meta-research.
- d) The establishment of the office would be compatible with the principles of proportionality. The office would have a strong coordinating and facilitating role, hence respecting existing cooperation activity and supporting its further development. Some existing cooperation structures would 'naturally' cease to exist or become fully included in the office (e.g. Eurasil), whilst others would be closely cooperate with the office and receive financial assistance. The agency will fully contribute to 2 objectives that can be satisfactorily achieved only at the European level: (1) facilitate, reinforce and contribute to the development of practical cooperation between MS in the field of asylum and (2) Contribute to the reinforcement and development of the CEAS

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

- a) Maintaining the *status quo* (light asylum cooperation support unit within the Commission): The problems encountered for the time being would not be solved.
- b) Reinforcing the asylum cooperation support unit within the Commission: Would require a significant increase in the number of staff within the Commission asylum cooperation support unit. This would be almost impossible at present in view of the fact that the Commission, as agreed with the budgetary authority, will not request any additional staff (except if internal redeployment is made in favour of this area within the Commission).

c) Reinforcing the presently existing asylum networks: The replies to the Green Paper (on the future Common European Asylum System) showed wide support for enhancing practical cooperation activities and for the idea of creating a dedicated structure to support and coordinate such activities in the form of a European Asylum Support Office. A network would probably not be able to adequately ensure that such results are obtained.

d) Creation of a European Asylum Support Office (mandate to be defined in the Constituent Act): The European Asylum Support Office would in particular provide practical assistance to Member States in taking decisions on asylum claims, notably by working on a common approach to Country of Origin Information and on the establishment of a common European Asylum Curriculum. This option would substantially contribute to the achievement of the defined policy objectives.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Yes, except for the option "status quo" (no budgetary impact). The option "reinforcing the present Commission asylum cooperation support unit" would have an impact below 5 Mio €. All other options would have an impact above 5 Mio €.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Enhancing practical cooperation activities would alleviate burdens on Member States in the management of asylum applications.

Who is affected?

Member States, National asylum agencies and administrations, Asylum seekers.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

- Public consultation under the Green Paper on the Future Common European Asylum System (COM(2007)301) and contributions of stakeholders.
- Feasibility study on the establishment of structural support for practical cooperation activities in the field of asylum - Final report due for mid October.

Which stakeholders & experts have been/will be consulted, how and at what stage?

- Wide public consultation on the Green Paper on the Future Common European Asylum System (COM(2007)301): contributions received from Member States, NGOs and international organisations involved in the asylum area.
- 2 workshops organised during the feasibility study, with participation of Member States, NGOs and international organisations involved in the asylum area.

**ROADMAP**

Title of the initiative: **Proposal for a Council Framework Decision on combating sexual exploitation of children and child pornography**

Expected date of adoption of the initiative: March 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The issue of is currently addressed by Framework Decision 2004/68/JHA on combating sexual exploitation of children and child pornography. The report on the implementation of the Decision in Member States was adopted in 2007.

There is a widespread view among experts and Member States EU law in the area of child protection should be brought into line with the highest international standards.

What are the main problems identified?

Since the adoption of Framework Decision 2004/68/JHA on combating sexual exploitation of children and child pornography, the threats against children have continued to grow in importance. This is in particular the case regarding on-line child abuse material.

There is also a need to bring EU law in the area of child protection in line with the highest international standards, as analyses made seem to indicate that the level of protection granted by the EU legislation in this area is not as high as that guaranteed by other instruments.

Finally, there is also a need to clarify some points in the Framework Decision mentioned above, following the report on the implementation of the Decision in Member State which was adopted in 2007.

Explain how EU action is justified on grounds of subsidiarity:

Child abuse is more and more taking place in an international context, not the least due to the development of Internet as a point of exchange of illegal material, as well as easier international travel and revenue differences between countries. European and international action is thus needed. The actions planned do not go beyond what is necessary.

**B. Objectives of EU initiative**

What are the main policy objectives?

The main objectives are:

- To better protect children from abuse
- To reinforce the possibilities to prosecute offenders
- To strengthen the protection of and support to victims

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No. The objectives are fully in line with existing EU policies.

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

1. Status quo

2. Amend current FD, to clarify its provisions in the light of the evaluation on implementation, and to address the growing threat posed by online child abuse material.

3. New FD bringing the level of protection offered by EU legislation up to the highest international standards and best practices.

4. Non-legislative measures to improve the exchange of best practice.

A simplification initiative was considered, but has been excluded because the problem is such that requires existing legislation to be strengthened, not reduced.

The specific policy options have not yet been thoroughly identified. This will be done in the framework of consultation with stakeholders and the analysis will be reflected in the Impact Assessment to be conducted.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes. Coordination with the other policies, in particular the one on rights of the child will be assured.

Explain how the options respect the proportionality principle:

The specific policy options have not yet been thoroughly identified. This will be done in the framework of consultations with stakeholders and the analysis will be reflected in the Impact Assessment to be conducted.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The specific policy options have not yet been thoroughly identified. This will be done in the framework of consultations with stakeholders and the analysis will be reflected in the Impact Assessment to be conducted. Possible impacts should include better protection of fundamental rights of child victims.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The options would not have any significant impact on the EU-Budget.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Further work is being carried out at the moment to assess the possible impact on administrative burdens and relations with third countries.

Who is affected?

Law enforcement and judicial authorities, citizens, NGOs and other organisations providing services to victims, third countries.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Data are available, based on meetings organised in recent years by the Commission, the Council of Europe and other players. The threats have been well analysed and documented. Still, additional information, in particular needed to analyze the political and legal added value of different policy options is required. This will be carried out in October/November 2008 and will be reflected in the impact assessment.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Member States together with Europol, Eurojust and other public stakeholders were consulted at meeting in September 2008.

NGO's and other stakeholders were consulted at a meeting in the beginning of October 2008.

The Expert Group on Trafficking in Human Beings will also deal with this matter during a further meeting which also took place in the beginning of October 2008

## ROADMAP

Title of the initiative: **Proposal for a Council Framework Decision on preventing and combating trafficking in human beings and protecting victims**

Expected date of adoption of the initiative: March 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The issue of trafficking in human beings is currently addressed by the following instruments:  
 Council Framework Decision 2002/629/JHA<sup>14</sup> on combating trafficking in human beings;  
 Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography;  
 Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;  
 Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings;  
 EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005/C 311/01);

Evaluation reports:

Report from the Commission to the Council and the European Parliament based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings COM(2006)187;  
 Report from the Commission based on Article 12 of the Council Framework Decision of 22 December 2003 on combating the sexual exploitation of children and child pornography COM(2007)716;  
 Report from the Commission on the basis of Article 18 of the Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings SEC(2004)102;  
 Commission Working Document Evaluation and monitoring of the implementation of the EU Action Plan on best practices, standards and procedures for combating and preventing trafficking in human beings COM(2008)657.

Major stakeholders including civil society organizations providing services for victims underline the need to bring EU legislation on trafficking in line with other international texts, especially the UN Protocol on trafficking in persons, in particular women and children, supplementing the UN Convention against Transnational Organised Crime adopted in 2000, and the Council of Europe Convention on action against trafficking in human beings adopted in 2005 which contains new provisions and higher standards of protective measures for victims

What are the main problems identified?

According to estimates provided by the International Labour Organisation 12.3 million people are subjected to forced labour in the world, out of which 1,390,000 in forced labour for commercial sexual exploitation, 7,810,000 in economic exploitation, and 610,000 in mixed or undetermined forms of forced labour. Approximately 20 per cent of people in forced labour - that is to say 2.45 million - are nationally or transnationally trafficked worldwide. According to the same source 8,400,000 children worldwide are engaged in the worst forms of child labour and 1,200,000 of them are trafficked. Although we do not dispose of reliable figures or reliable assessment at the European level, taking into account that EU countries are mostly countries of destination for trafficking floods coming from different areas of the world, it is possible to conclude that several hundred thousand people are yearly trafficked in the EU area or towards the EU area.

According to the Commission Working Document Evaluation and monitoring of the implementation of the EU Action Plan on best practices, standards and procedures for combating and preventing trafficking in human beings the response to the worldwide scale of the crime has shown various aspects of weakness. Not enough criminal proceedings are currently undertaken; investigation and prosecution must be strengthened; there is a need for more effective victims' support mechanisms, which would also have a positive impact on the result of

<sup>14</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0629:EN:HTML>

prosecution.

After the last enlargement trafficking in human beings is not anymore a crime only relating to the relationship between EU and third countries but also takes place within the EU area. Since the Directive 2004/82/EC only provides assistance for victims who are third country nationals, a standard level of assistance measures should be ensured to all victims.

Finally, measures concerning victims' rights in criminal proceedings do not ensure sufficient protection to trafficking victims, who can be considered particularly vulnerable victims and therefore must be protected from secondary victimization deriving from the proceedings, with a special focus on children.

Explain how EU action is justified on grounds of subsidiarity

Although internal trafficking exists, the crime is mostly a trans-border crime, at least in the EU area. European and international action is thus needed. The actions planned do not go beyond what is necessary to achieve the indicated objectives.

The legal basis for this proposal, is the same as for the previous FD which would be amended, namely TEU Articles 29, 31(e) (which cite human trafficking as an area in which the objective to take common action applies ) and 34(2)(b) (which provides for FDs to be adopted)

### **B. Objectives of EU initiative**

What are the main policy objectives?

The main objectives are:

- To improve substantive criminal law provisions, and align them with other international instruments, namely the UN Protocol on trafficking in persons, in particular women and children, supplementing the Convention against transnational organised crime, and the Council of Europe Convention on action against trafficking in human beings.
- To strengthen prosecution of offenders
- To strengthen the protection of and support to victims, with a special focus on children and a gender perspective
- To ensure victims' rights in criminal proceedings, especially concerning the protection from secondary victimisation, with a special focus on child victims
- To strengthen action aimed at preventing trafficking in human beings

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No. The objectives are fully in line with existing EU policies.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

1) No EU action

2) No new legislation + Initiatives of the Commission aimed at encouraging the exchange of best practices and the adoption of comparable policy

3) Revision of legislation concerning criminal law provisions and victims' rights + soft law instrument concerning additional aspects of anti-trafficking policy.

4) Revision of legislation concerning criminal law provisions and victims' rights + prevention + soft law instrument concerning additional aspect of anti-trafficking policy.

Sub options concerning prevention:

4a) provisions on awareness raising and training

4b) provisions on awareness and training + criminalisation of users

A simplification initiative was considered, but has been excluded because the problem is such that requires existing legislation to be strengthened, not reduced.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes. Coordination with the other policies, in particular immigration, human rights, children rights, gender equality, healthcare will be ensured

Explain how the options respect the proportionality principle

All options mentioned above are rather limited and do not go beyond what is clearly needed to achieve the identified objectives.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

All policy options would have significant social impacts in that a higher level of protection of victims and substantial increase of criminal proceedings would be achieved. No considerable economic or environmental impacts can be expected.

The establishment of effective victims' support schemes would have budgetary implications at the national level. According to information transmitted by Member States, a maximum amount of EUR 4,272,000 was spent in 2005 for victims' support schemes in Italy, where 2,039 victims received assistance. In Belgium the amount of EUR 635,381 was given to NGOs service providers in 2005; in the same year 121 victims were sheltered.

Other impacts will be further identified and assessed in the framework of the IA study.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The options would not have any significant impact on the EU-Budget.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

All the options that could be considered are of significant interest for third countries, taking into account that most victims and offenders are third-country nationals.

Who is affected?

Law enforcement and judicial authorities, citizens, NGOs and other organisations providing services to victims, third countries.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be



carried out (cf. principle of proportionate analysis)?

Data are available, based on meetings organised by the Commission, the Council of Europe, OSCE, IOM, ICMPD, UNICEF, various NGOs and other stakeholders, and reports or studies published in recent years. In particular, in 2005 ILO provided for minimum estimates of Forced Labour in the world, in 2008 UNICEF published a study focusing on child trafficking in Europe, in 2007 OSCE produced a report on sexual exploitation of children. These reports contain case-law studies and estimates. Further information comes from various projects funded by the Commission under different programmes such as AGIS, DAPHNE and EQUAL.

The threats must be considered well analysed and documented. Additional information has been provided by Member States in their answers to a questionnaire circulated by the Commission in December last year, aimed at collecting data to issue the above mentioned evaluation and monitoring report on the implementation of the EU Action Plan on trafficking.

In particular, figures coming from the replies to the questionnaire concern criminal proceedings on exploitation of prostitution and trafficking for sexual exploitation, criminal proceedings on trafficking for labour exploitation, victims identified and assisted, victims who received compensation, victims who received police protection, investigations where police cooperation tools have been used, public funds spent for victims' support schemes.

General agreement exists regarding at least the threats. However, an analysis of the perceived and real added value of different policy options is needed. The analysis will be done internally in November 2008.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The newly appointed Group of experts on trafficking in human beings was consulted on the occasion of its first meeting on 2-3 October 2008. A written opinion was subsequently transmitted to the Commission.

A consultative meeting with experts from different background including governments, law enforcement, NGOs, International organisations and Universities, invited in their individual capacity was held on 7 October 2008.

Following the meeting, several experts transmitted written comments.

A meeting with Member States' representatives was held on 17 October 2008.

In all the consultative meetings the idea to revise legislation received wide support.

**ROADMAP**

Title of the initiative: **Framework decision on providing assistance to crime victims in the EU**

Expected date of adoption of the initiative: September 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The issue of assistance to victims of crime is currently addressed by the 2001 Framework Decision on the standing of victims in criminal proceedings. The subject has been identified as a possible presidency priority by CZ and SE Presidencies.

What are the main problems identified?

- The 2001 Framework Decision on the standing of victims in criminal proceedings is unsatisfactory in that its provisions are vague, placing no real obligations on Member States. The FD is organised such that provisions on a given subject (such as assistance to foreign victims, for example) are spread throughout the text, rather than being grouped under one heading, so that it is difficult to see what provision is made for this category of victim. Some provisions which have been criticised as too vague to be implemented, e.g. the current article 12 on Cooperation between Member States)

- The FD has been poorly implemented in that Member States who have tended to rely on existing legislation for their implementation rather than adopting new transposing legislation, leading to incomplete implementation. Further details of the implementation will be published by the Commission when it adopts the implementation report on this instrument in February 2009.

- Victims of crime do not always receive the necessary assistance. At present we have an incomplete picture of how widespread a problem this is across the EU. We intend to ask national experts for assistance in collating more data.

- Many experts in the area of victim support would have doubted the merits of victim-offender mediation (Article 10), especially where victims are put under pressure to accept it even if they don't want it.

- Meanwhile, offenders seem to get a real benefit from Article 10, and restorative justice experts say that it reduces reoffending rates, and offenders who undergo it often receive a reduced sentence. It is not clear that a measure designed to help offenders has its rightful place in an instrument designed to help victims.

- The FD has not resulted, in the case of certain Member States, in the establishment and funding of national victim support organisation. It is not clear who, whether it should be the police, the court, the prosecutor or the victim support organisation should take responsibility for different aspects of victim support, and this has led to certain activities not being carried out at all.

- There is no mechanism for the exchange of best practice. Some Member States have excellent schemes in place, for example rapid assistance following theft of travel documents, travellers' cheques etc. and effective medical and psychological support following an assault or rape. Some Member States systematically employ interpreters to help foreign victims. Some Member States have well-funded victim support organisations that are able to employ trained and or qualified staff (such as lawyers or social workers) whereas other have to rely entirely upon volunteers. The Member States that have laudable mechanisms in place could play a greater role in assisting the others (mentoring, guidelines, training manuals etc under the heading of "European best practice"

Explain how EU action is justified on grounds of subsidiarity:

This is an approximation of legislation/common minimum rules, and therefore can only be achieved at EU level.

## **B. Objectives of EU initiative**

What are the main policy objectives?

To ensure that victims of crime receive the necessary assistance (legal, psychological and other) in all Member States of the EU. This will promote mutual trust between Member States.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No. Updating and improving an existing FD.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

1. Status quo

2. Amending existing FD with clearer wording on Member States' obligations. Provisions would remain the same but the architecture of the instrument would be more accessible. Possible amendments could include  
a. deleting provisions which are too vague to be implemented  
b. amend the article on victim-offender mediation

3. Supplementing and extending the original FD with different new provisions such as such as placing an obligation on Member States to establish and fund a national victim support organisation

4. Simplification of existing FD, by rearranging the articles so that identifiable subject areas, such as the victim's testimony, were organised under only one heading, instead of three as is the case with the current FD.

5. Non-legislative measure for the exchange of best practice between member states.

There is no scope for enforcement of the existing FD. The FD contains many provisions in which Member States are simply "encouraged" to take a certain course of action, or which are so ambiguous that Member States appear not to have fully understood their purpose. (E.g. Article 5 on "Communication safeguards" which has been interpreted by certain Member States as relating only to translation and interpretation and by others as to transmission of information.) Article 12 urges Member States to "foster, develop and improve cooperation" without a clear indication of how this should be achieved. The lack of clear and practical obligations in the current FD has been an obstacle to measurable improvements in victim support.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No.

Explain how the options respect the proportionality principle:

The proposal will contain the minimum necessary to achieve the objectives.

## **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Impacts may include better protection of victims' rights, increased legal certainty for citizens and increased mutual trust between Member States.

There may be an impact on the administrative cost to Member States, although precise figures are not yet available.

The impacts will be further analysed in the context of the impact assessment carried out before the adoption of the proposal.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No impact on the EU budget.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Administrative costs may include costs of obligatory provision of information to crime victims and those working in the field.

Who is affected?

Crime victims, all professionals working with crime victims (Victim Support Organisations, police, lawyers, social workers, doctors, translators/interpreters for foreign victims).

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

There are two studies underway which will report on the implementation of the 2001 FD, one is being carried out under the stewardship of APAV, the Portuguese victim support organisation, and one has been commissioned by the Commission, to be carried out by a Bulgarian research institute, the Centre for the Study of Democracy. Both will look at the legal implementation of the FD but will go further in that they will also look at the practical implementation i.e. whether Member States have actually made changes in practice or whether they have merely put in place legislation designed to implement the FD. We will soon have the interim report of the Bulgarian study. The Portuguese results are due in December 2009.

Much information is available from the 2001 FD implementing legislation of Member States who have communicated their legislation to the Commission. There is an ongoing AGIS project looking at the legal and practical implementation of the 2001 FD which will lead to a report.

The Commission is carrying out an extensive study (to report in July 2009) on the legal and practical implementation of the 2001 FD and on policy in the MS on crime victims.

Other data will be gathered by consultation with experts. The Commission is conducting bilateral consultations with victim support organisations to hear what improvements practitioners would welcome, and also with experts who have carried out projects in the past under the Grotius, AGIS and Criminal Justice Programmes, as well as with representatives of some Member States.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Consultation will take place with Victim Support Organisations, and other professionals working with crime victims including police, lawyers, social workers, doctors, translators/interpreters for foreign victims. There will be a Justice Forum on the issue of crime victims and an experts' meeting in November 2008 gathering together victim support specialists.

**ROADMAP**

Title of the initiative: **Amendment of the Directive relating to compensation to crime victims**

Expected date of adoption of the initiative: September 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

A report on the application of Council Directive 2004/80/EC of 29 April 2004 on compensation to crime victims is due to be finalised in October 2008.

What are the main problems identified?

We await the findings of the report on application of the directive for further details of the problems. One problem which has been reported by stakeholders is that crime victims have difficulty accessing compensation in cross-border situations.

Explain how the EU action is justified on grounds of subsidiarity?

The objective of facilitating access to compensation to victims of crimes in cross-border situations cannot be sufficiently achieved by the Member States because of the cross-border elements. It can therefore, by reason of the scale or effects of the action, be better achieved at Community level.

**B. Objectives of EU initiative**

What are the main policy objectives?

1. to provide solutions that enhance legal certainty and flexibility which meet the legitimate expectations of the citizens
2. facilitating and improving the access to compensation in cross-border situations.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No.

**C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

1. Status quo.
2. A revised Directive clarifying the provision of access to compensation in cross-border situations
3. Non-legislative measures including better enforcement and the exchange of best practice.

These options will be further developed following consideration of the evaluation report.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No.

Explain how the options respect the proportionality principle:

The options will not go beyond what is necessary in order to achieve the objectives

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The possible impacts may include better protection of fundamental rights, increased legal certainty for citizens, increased mutual trust between Member States, and better access to justice.

The options may also have an impact on budgets of Member States – this will be considered as part of the impact assessment.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No.

Who is affected?

Citizens, public authorities, central contact points for victim compensation.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The Commission is currently conducting a study on the analysis of the application of Directive 2004/80/EC relating to compensation to crime victims. The final report is expected in October.

It is envisaged to request an external contractor to gather additional information on the impact of the various policy options by June 2009.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The IA should involve the consultation of a number of stakeholders, including lawyers, judges and NGO's.

**ROADMAP**

Title of the initiative: **Measures to fight cybercrime (Revised Framework Decision on attacks against information systems)**

Expected date of adoption of the initiative: September 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The initiative will build on existing legislation (in particular FD 2005/222, mentioned below) and is closely linked to the general policy on the fight against cyber crime and to the policy on information and network security.

What are the main problems identified?

Since the adoption of Framework Decision 2005/222/JHA on attacks against information systems, the number of such attacks has increased. The attacks have also become more massive and dangerous. However, the Framework Decision mentioned does not have any provisions which concern the fight against massive attacks, in particular the so-called botnets. This problem was underlined in the Commission Report on the implementation of the Framework Decision, which was adopted in July 2008. Such attacks can be very dangerous for the affected country as a whole. This became clear in Estonia in April-May 2007, where important parts of the critical information infrastructure in government and the private sector were taken out for days. Although the total financial cost of such an attack cannot be estimated precisely, it is likely to be considerable.

Recent attacks against critical information infrastructures of some Member States have also underlined the need to make sure that all Member States can quickly engage in cooperation in view of countering ongoing attacks.

Finally, it should be considered to include provisions to fight certain types of financial cyber crime in a new or updated instrument, as this type of criminality is nowadays often committed on a mass-scale which justifies the denomination "attack". As an example illustrating the scale of the problem, the cost only within the United States of so-called phishing-attacks has been estimated at 3,2 billion US dollars a year.

Explain how EU action is justified on grounds of subsidiarity:

Cyber crime being a truly international problem which only rarely be fought in a mere national context, it is generally accepted that EU and international actions are needed in order to prevent it.

**B. Objectives of EU initiative**

What are the main policy objectives?

The main objective is to contribute to fight against massive and particularly dangerous attacks against information systems (in particular "botnets").

The specific objectives may include:

- improvement of cooperation between judicial and law enforcement authorities in the EU
- approximation of Member States' rules on criminal law in the area of attacks against information systems.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No. The objectives are fully in line with existing EU policies.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Apart from the status quo policy option, the policy options considered are the following:

- The introduction of specific legislation against massive and particularly dangerous attacks against information systems. Such legislation would be linked to measures to strengthen operational cross-border cooperation against attacks on information systems and a sharpening of already foreseen minimum penalties. This option would have the form of an update of existing legislation. A number of specific measures in this policy option could include: the introduction of legislation against the handling of tools used for attacks against information systems; the introduction in the FD of new aggravating circumstances regarding massive attacks, introduction of an obligation for Member States to respond to an urgent request via the 24/7 network of contact points within a certain time limit.
- An initiative of the Commission to improve the exchange of best practices, linked to the strengthening of Europol and other EU-wide cooperation structures.
- The introduction of a broad and general legislative instrument on the fight against cyber crime, including not only attacks against information systems, but also issues such as financial cyber crime, illegal web content, the collection/storage/transfer of electronic evidence, and the filtering/blocking of illicit web content.

The general objective to simplify legislation is not relevant in this context, as the scale of existing legislation in the area is very limited.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes. Coordination with the electronic network and information security policy (INFSO) would be needed. If financial cyber crime is involved, coordination is also needed with eCommerce policies (MARKT)

Explain how the options respect the proportionality principle

All options mentioned above are rather limited and do not go beyond what is clearly needed to achieve the defined objective.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The options would probably have significant positive economic and financial impacts if successfully implemented, as the cost to counter attacks and to repair damages (deal with their consequences) is considerable for both government and private operators. The main social impact would be a perceived and real strengthening of security for society and citizens. No environmental impacts can be expected.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The option would not have any significant impact on the EU-Budget.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Some of the options that could be considered could at least be of significant interest for third countries.



Who is affected?

MS, business, general public and 3<sup>rd</sup> countries.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

A lot of relevant data is already available, in the form of reports from discussions held at meetings organised recently by the Commission, the G 8 Roma/Lyon group, the Council of Europe and private sector organisations. The threats in question must be considered well analysed and documented. Still, additional information, in particular on acceptance of different legislative options in business and at political level needs to be collected.

The analysis should be rather simple, as a general agreement exists regarding both threats and needs. The analysis will be done internally in the beginning of 2009.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Member States experts were already consulted informally at an EU cybercrime expert meeting in September 2008.

A formal consultation of Member States will take place at the beginning of 2009. Other European bodies, such as ENISA, will be invited to participate in this consultation.

It is likely that the G 8 Roma/Lyon HTCSG experts will be consulted informally in December 2008 and/or February 2009.

Private sector representatives, in the form of European business federations and some other stakeholders will be consulted at a specific meeting planned for January 2009.

## ROADMAP

Title of the initiative: **Counter-terrorism package:**

- a) **Communication on chemical, biological, radiological and nuclear (CBRN) threats**
- b) **Communication on bio-preparedness**
- c) **Action plan on radiological/ nuclear risk reduction in the EU**
- d) **Good practices in prevention of and response to CBRN incidents, including prevention**

Expected date of adoption of the initiative: June 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Political context is the fight against terrorism. The Commission is covering the field on means which terrorists might use to perpetrate their attacks. Attacks of the classical type have been covered by the EU action plan on explosives adopted on 6 November 2007.

The Council in its conclusions of 6 December 2007 invited the Commission, in accordance with its competences, to continue its work in the CBRN field together with the Member States and relevant stakeholders, avoiding duplications and building on good practices across Member States, and noted the Commission's intention to propose relevant policy measures in 2009.

This work is a continuation of earlier activities in this area, in particular: Commission Green Paper on Bio-Preparedness of 18 July 2007, Green Paper of September 2006 on detection technologies in the work of law enforcement, customs and other security authorities. The focus will be on tangible deliverables and outcomes, primarily within prevention and protection dimensions of the EU Counter Terrorism Strategy.

What are the main problems identified?

Terrorist use of CBRN materials could have serious consequences. There are a series of horizontal concerns, which may undermine security if not addressed. They include issues such as for example:

- Some Member States have better approaches and mechanisms (e.g. medical intelligence cooperation, personnel security, detection), in place to enhance the security of CBRN materials than others. This may encourage terrorists and criminals to focus on countries where prevention and detection is at a relatively lower level in order to obtain materials for terrorist attacks.
- To a range of CBRN materials, which when combined or manipulated could potentially be turned into weapons, access is easy as they are legally available in societies.
- Multiple information sharing and cooperation initiatives exist at the EU and at international level, but these tend to be fragmented and do not involve all relevant actors. This may lead to information gaps and lack of opportunities for effective early warning.
- The public dissemination of certain findings from life science research constitutes a potential risk as terrorists and criminals might use these findings to produce weapons.
- Personnel security (e.g. aspects related to the security of individuals involved in activities and handling materials)
- Detection (e.g. inefficient detection technologies and systems are detrimental to the prevention of the misuse of CBRN materials),
- Potentially insufficient security of the storage of substances, and dual use of substances and technologies.

Explain how EU action is justified on grounds of subsidiarity?

Terrorism is transnational by nature and although the operational law enforcement work is carried out at national level, complementary action at EU level is likely to prove necessary or extremely useful.

### **B. Objectives of EU initiative**

What are the main policy objectives?

The overall objectives of the CBRN policy package are to complement measures that are being taken at Member State level, to address gaps in the field and to promote the sharing of information and exchanges of best practices between Member States.

The policy package should also assist in the identification of measures that could apply, at least to some extent, horizontally to reduce the terrorist threat across the chemical, biological, radiological and nuclear domains. The focus of the package will be on tangible deliverables within the "prevent, protect and respond" strands of the EU Counter-terrorism Strategy.

Among the objectives of the package, the following have been identified:

- To increase the security of CBRN material and the safety of citizens and possible targets
- To reduce the risks and the threat of terrorist incidents involving chemical, biological, radiological substances (Prevention and detection)
- To reduce to a minimum the effects of terrorist incidents involving chemical, biological, radiological substances (preparedness and response)

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

Yes.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

At this stage this is too early to specify. The work currently underway involves identifying all possible actions which should be considered in this field, which is likely to include dozens of different possible actions. Because this stems from the nature of this initiative as a number of separate action plans, the different options will revolve around the identification of three possible sets of actions, ranging from the no change option to the implementation of all possible actions as a maximum option. The main focus of the package will in any case be on self-regulation and other soft-law approaches, not on legislative initiatives. Should these finally form part of the package, then separate Impact Assessment work would need to be performed per legislative instrument.

Options are to be elaborated as part of the impact assessment. These options would consist of different horizontal measures, prevention / control measures, detection measures and preparedness and response measures.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes – mainly DG SANCO, DG TREN and DG ENTR. An Interservice Group to ensure the necessary coordination has been set up.

Explain how the options respect the proportionality principle:

The policy package will not go beyond what is necessary in order to achieve the underlying objectives of Member States co-operation in the field. For example, the policy package will focus on concrete activities that bring added value if undertaken at EU level, rather than on legislative initiatives.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Greater prevention of access to CBRN substances and as a result increased security.

Possible increase of costs to businesses as a result of burdens imposed on industry as a result of security threats.

Positive economic impacts that could be expected are the enhancement of the security of the economy as a whole and the development of particular segments of the security industry.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The existing financial programmes on security and preparedness and response to terrorist attacks will be used to bolster the package.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

They could impose administrative burdens and it is not impossible that they have impacts on relations with third countries. These issues will be further investigated in the Impact assessment.

Who is affected?

Industry, law enforcement and the public at large.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The underlying principle of all work on the CBRN package is continuous cooperation and consultation with Member States and private sector experts. Such an approach enables the Commission to avoid any duplication of measures already in place and to propose activities that will be as relevant and practical as possible. In order to better structure the cooperation, a Chemical, Biological, Radiological and Nuclear Task Force (CBRN TF) was established in February 2008. The TF is composed of experts from the Member States, private sector, and academia/research who are invited to participate in their personal capacity. The role of the TF is not to substitute for any existing decision making mechanisms at the EU level. Its sole purpose is to advise the Commission within the abovementioned timeframe.

On bio-preparedness: a green paper on bio-preparedness was adopted in July 2007. Further to the analysis of the replies received, a Commission staff working paper synthesising the replies has been published in July 2008.

On radiological threats: two conferences have taken place in 2006 and 2007. Member States, international and EU agencies participated in the conferences. Furthermore, a survey on radiological vulnerability has been concluded in September 2008.

On chemical threats, 3 meetings of the CBRN TF (co-chaired by representatives of DG JLS, DG ENTR and the Dutch government) will take place and conclude by January 2009.

All three issues are being discussed within a public-private CBRN taskforce during 2008, which brings together Member States' representatives/experts and industry, as well as other sectors of specific importance,

such as public health and international organisations active in this field (e.g. IAEA, Organisation for Animal Health, etc). The Task force has already concluded its work on biological threats while the chemical, radiological and nuclear threats are still being discussed.

In addition, the CBRN package is also building on SitCen's study on the CBRN threat.

An external contractor is assessing the options – the contractor is attending all relevant meetings of the CBRN taskforce.

Which stakeholders & experts have been/will be consulted, how and at what stage?

See previous box.

**ROADMAP**

Title of the initiative: **Communication on mutual recognition in criminal and civil matters**

Expected date of adoption of the initiative: May 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Commission plans to adopt a Communication on mutual recognition in criminal and civil matters in order to take stock of the progress already made in the field of mutual recognition, to look at horizontal problems and to suggest possible ways that such problems may be resolved.

In 1999 the European Council in Tampere decided that judicial cooperation in civil and in criminal matters should be based on the principle of mutual recognition. This conclusion was endorsed in The Hague Programme of 2004. In the civil law area mutual recognition should ensure effective access to justice for all and enforcement of decisions throughout the EU. In the criminal law area mutual recognition should facilitate and speed up cooperation between judicial authorities in the Member States which helps them to fight transnational organised crime more effectively.

A study, which was requested by the Council in September 2006, analyses horizontal problems encountered during negotiations, transposition and application of mutual recognition instruments in the criminal law field. The results of this study, presented in November 2008, will provide input for the Communication.

The Communication will also provide input for the next multi-annual programme for the Justice, Freedom and Security area.

What are the main problems identified?

In the criminal law field, the main problems are the following. Some of the areas have not yet been covered by mutual recognition instruments. For other areas, where instruments based on the mutual recognition principle do exist, the transposition of these instruments into national legislation causes problems. Member States do not transpose the instruments in time and the implementing legislation appears in a number of cases to be incorrect (e.g. additional grounds for refusal have been added). Also practitioners are reluctant to use the new instruments. Reasons behind these problems can be the following: lack of knowledge, lack of mutual trust, complexity and fragmentation of legislation, lack of minimum harmonisation etc.

In general these problems hamper smooth and effective cooperation between the judicial authorities in the Member States when dealing with cross-border cases. The European citizen suffers directly and indirectly from transnational organised crime. Better cooperation between the Member States based on the principle of mutual recognition to fight organised crime is therefore in the interest of the European citizen.

Also in the civil law field some areas are not yet covered by mutual recognition instruments, including for instance civil status (registration of births, marriages, death etc), recognition of legal documents, wills and succession and matrimonial property. The lack of mutual recognition in these areas affects the ability of EU citizens to assert their rights in another Member State, and therefore represents an obstacle to the free movement of persons and services. For instance, the fact that a legal document (eg. a death certificate) issued in one Member State is not recognised in another can cause major problems for the widow/er, and discrepancies between legislations concerning civil status may lead to the fact that the parenthood of children may be established and recognised in one Member State but not in another. There are also issues related to the practical enforcement in a Member State of judgments given in a different Member State.

Although reliable statistics are difficult to find, various studies for the Commission have estimated that 20% of marriages and divorces are "transnational" – ie. potentially affected by problems with mutual recognition and that the total number of successions related to people dying in other Member States is estimated at

between 50,000 and 100,000 in the EU. About 2% of the EU population (almost 6 million) live in a Member State other than the one they are a national of<sup>15</sup> and this is the group most at risk of problems relating to the recognition of their civil status.

Explain how EU action is justified on grounds of subsidiarity:

The problems that occur with respect to judicial cooperation between the Member States based on the mutual recognition principle are cross-border in nature and can therefore only be properly examined at European level. Possible new legislative proposals in order to further develop and improve judicial cooperation based on the mutual recognition principle require by definition action at EU level, laying down the conditions and arrangements for such cooperation. The development of judicial cooperation in different subject matters cannot be left to the Member States taking action at national level because of the need of legal certainty and equal treatment for all EU citizens, as well as the need to maintain coherence with existing EU instruments.

### **B. Objectives of EU initiative**

What are the main policy objectives?

The general policy objective to be addressed in the Communication is full implementation of the mutual recognition principle in both criminal and civil matters in terms of legislation and practical application. This may require:

- Completing/supplementing the current legal framework
- Improving proper and timely transposition of the legal framework in national legislation
- Improving knowledge and raising awareness of the instruments by citizens and practitioners
- Facilitating the use/enforcement of the mutual recognition instruments

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

Yes, in both criminal and civil matters.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Depending on the outcome of the Impact Assessment, the Communication could propose one or more of the following policy options:

- 1) No new action at EU level - Status quo
- 2) Non-legislative action

This option could contain the following actions:

- to improve transposition of the existing instruments ("expert group" to help government legislative officers understand the criminal law instruments and to transpose them properly and preferably homogeneously throughout the EU, exchange of good practice etc)
- to improve knowledge of and application by practitioners of the existing instruments (eg. Practice Guides, EJN, disseminate information through websites, networking)
- awareness raising for citizens with respect to the possibilities that the civil justice instruments provide

- 3) Legislative action

This option could contain the following actions:

- new legislative initiatives to complete the framework of the existing mutual recognition instruments
- harmonisation of legislation (procedural law, substantive law) in order to diminish the differences

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<sup>15</sup> Eurostat

between national legislations and improve mutual trust;

- Consolidation or recast of some or all of the instruments such as
  - consolidation limited to a specific area (e.g. evidence gathering in criminal matters or family law matters)
  - general consolidation of existing instruments
  - recast of some instruments
  - codification of some instruments

#### 4) Combination of options

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No, the Communication will be limited to judicial cooperation in criminal and civil matters and it will not affect policy areas of other Commission departments. However, within DG Justice Freedom and Security, it will cut across the areas of Civil Justice and Criminal Justice by giving an overview of mutual recognition in criminal and civil law issues.

Explain how the options respect the proportionality principle:

The Communication will discuss options to address the problems that occur with respect to the principle of mutual recognition (such as lack of mutual trust, lack of knowledge of the instruments, lack of consistency of the instruments, gaps in the EU acquis). The options the Communication could discuss do not go any further than necessary to achieve the aim of improving mutual recognition.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Option 1: Existing mutual recognition instruments would continue to apply, and those new ones which are already planned would be proposed. Existing training and awareness-raising programmes would continue to operate, as would existing networks which aim to increase awareness and provide information, such as the European Judicial Networks (on criminal and on civil and commercial matters) and the Justice Forum. Infringement procedures and other "control" mechanisms would continue as normal as regards the civil law area. In the absence of infringement procedures with respect to criminal law instruments, the transposing of these instruments would probably remain very late and incorrect. The current situation would be likely to improve somewhat but citizens would still suffer from the gaps in the EU legal framework and problems with the practical application of the existing instruments.

Option 2: The problems related to the current legal framework will not be solved by this option. However, this option may improve the application of the existing instruments and mutual trust between judicial authorities. Awareness raising would encourage citizens to use the EU instruments which would help identify enforcement problems in practice. Any self-regulatory measures undertaken by Member States would not reduce the fragmentation of legislation and therefore would not guarantee mutual recognition in the criminal field in a uniform manner.

Option 3: New legislation at EU level would fill the existing lacunae in the legal framework thus helping solve cross-border disputes and prosecute cross-border cases successfully. Also legislation in the area of approximation as flanking measure can improve the further development and implementation of the mutual recognition instrument. Legislative action at EU level would establish a common (minimum) framework for all Member States. Existing lacunae in the legal framework could be solved and inconsistencies can be removed. In the civil law area, it would support free movement of persons and the assertion of their rights in all MS. Consolidation or recast of existing instruments is in line with the Better Regulation agenda and would make EU legislation more accessible for practitioners. However, this option would take a very long time to achieve and will probably be opposed by a number of Member States, in particular when the consolidated text would cover a wide range of subjects. It also runs the risk of "re-opening" existing instruments in the negotiations.



Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The development of mutual recognition in civil and commercial matters will reduce efforts and costs for citizens exercising their right to free movement of persons and services.

The development of mutual recognition in criminal matters is supposed to facilitate cooperation between judicial authorities and to make their work simpler and easier when dealing with a transnational case.

Who is affected?

Citizens, businesses, legal practitioners, administrations

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Data and information related to mutual recognition in criminal matters:

- final report and national reports of the study carried out by ULB on mutual recognition in criminal matters;
- implementation reports of the Commission on mutual recognition instruments;
- outcome of the Justice Forum meeting (criminal justice subgroup meeting on 10 July 2008) on the draft interim report of the mutual recognition study;
- outcome of the experts' meeting on mutual recognition in criminal matters (27 October 2008) on the draft final report of the mutual recognition study;
- reports of the 4<sup>th</sup> round of mutual evaluations on the implementation and application of the European Arrest Warrant

The data related to mutual recognition in civil matters have been mainly collected by the means of studies ordered by the Commission:

- Report on the Application of the Brussels I Regulation in the MS ("Hess" Report 2007)
- Study on the Member States' Rules concerning the "Residual Jurisdiction" of their courts in Civil and Commercial Matters pursuant to the Brussels I and II Regulations (Prof. Nuyts 2007)
- Comparative study on enforcement procedures in the MS regarding family rights (2007 Asser Institute)
- Study on the use of public documents in the EU (2007 British Institute of International and Comparative Law)
- Study on civil status (von Freyold 2008)
- The impact assessment on the legislative proposal on the law applicable to divorce (Rome III) has also provided a useful analysis of the situation.

Which stakeholders & experts have been/will be consulted, how and at what stage?

In criminal matters: policy makers, civil servants responsible for drafting implementation legislation, practitioners (judges, prosecutors, defence lawyers etc), academics and other experts in the field of the judicial cooperation in criminal matters have been consulted by the researchers in the course of the study as well as by the Commission through two meetings with stakeholders.

In civil matters: The European Judicial Network in civil and commercial matters has been consulted and in addition the Eurobarometer 292 (2008) on Civil Justice in the European Union and the Eurobarometer Flash 188 (2006) on Family Law both showed that a majority of European citizens support measures at EU level that would facilitate access to civil justice.

**ROADMAP**

Title of the initiative: **Legal instrument on procedural rights in Criminal Proceedings**

Expected date of adoption of the initiative: July 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The need for common minimum standards for defence rights stems from mutual recognition which cannot operate effectively if Member States do not trust each other's justice systems. An instrument setting these standards has been demanded repeatedly by a majority of Member States and by the European Parliament for many years.

Between 2000 and 2004, the Commission carried out research and consultation - internet consultations, questionnaires to Member States, Green Paper, experts' meetings, and a public hearing - and on ways to build mutual trust. In 2004, the Commission adopted a proposal for a draft framework decision, which aimed not to create new rights but to give a higher profile to the specific fair trial rights laid down in the European Convention on Human Rights and to promote better and more consistent compliance with that Convention. The proposal had widespread support among practitioners, but drew a mixed response from Member States.

The proposal was discussed for 3 years in the DROIPEN Council Working Group. A text was then put to the Council in June 2007. 6 Member States announced that they would not vote for it so the proposal was shelved.

A study by the Université Libre de Bruxelles (to be published shortly) has found that almost all practitioners interviewed across the EU want an instrument to set a minimum level of procedural rights.

What are the main problems identified?

Perceived variations from one Member State to another in respect of access to a lawyer, interpretation and translation, access to information on rights (Letter of Rights) and other rights (which may include protection for vulnerable persons, detainees, right to silence etc.).

We know that there are currently 110,000 cases outstanding at the European Court of Human Rights – Articles 5 and 6 of the European Convention on Human Rights are the most commonly cited in applications to the ECtHR.

Precise statistics on the extent of this problem are by their very nature impossible to obtain, because often people whose rights (e.g. the right to an interpreter during proceedings in a foreign country) have not been respected are unaware that this has been the case.

Explain how EU action is justified on grounds of subsidiarity

- Common minimum standards have to be agreed at EU level, by definition.
- Research shows very patchy implementation of the ECHR standards on this subject.
- The European Court of Human Rights welcomes COM's initiative so as to have "an EU standard" for fair trial rights.
- Mutual recognition requires mutual trust so the EU Member States that operate mutual recognition are in a specific situation.

**B. Objectives of EU initiative**

What are the main policy objectives?

To improve access for citizens

- a. to a lawyer
- b. to interpretation/translation
- c. to information on rights (Letter of Rights)

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

The new area is EU involvement in fair trial rights. This is touched upon in the Charter of Fundamental Rights but needs developing by way of an instrument.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Options are:

1. Status quo
2. Return to COM's original 2004 proposal, possibly subject to some modification, which would set down
  - a. the right to access to legal representation before and after trial
  - b. the right to access to interpretation and translation
  - c. proper protection for vulnerable suspects and defendants
  - d. the right to communicate to a family member the fact of being in detention
  - e. a process for notifying suspects and defendants of their rights in writing (a 'Letter of Rights')
2. Return to the text tabled in June 2007, setting down rights to
  - a. legal advice
  - b. interpretation and a more limited right to translation of essential procedural documentation
  - c. the right to information of rights (not necessarily in writing)
4. A new proposal either extending the scope of the June 2007 text to other rights (the right to silence, detention conditions)
5. A new proposal reducing the scope to cross border cases in order to meet the concerns of the 6 Members States who opposed the 2007 text.
6. Allow enhanced cooperation (based on Article 40 TEU) to apply the 2004 or 2007 proposals between those MSs who supported them
6. A non-legislative measure promoting best practice via funding programmes expert meetings etc.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No.

Explain how the options respect the proportionality principle:

Common minimum standards must be agreed if mutual recognition is to be effective. Research - such as in the forthcoming ULB study, shows that the lack of procedural rights is an impediment to mutual recognition which is supposed to be "the cornerstone" of the area of freedom, security and justice. An important principle is being hindered for want of common minimum standards. These were announced as early as Tampere in 1999 and are supported by most Member States, the European Parliament and by the very great majority of practitioners.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The main impact of EU action in this area would be an increase in mutual trust. This would be the case with any of the options listed above, apart from the status quo option, but the effect would be far greater with a

legislative instrument than with mere recommendations or best practice guidelines since those Member States that do not fulfil their ECHR obligations now would be unlikely to comply with non-binding recommendations.

No proposal in any of the options goes beyond those obligations already conferred on Member States by the ECHR.

As the proposal is expected to increase trust in criminal justice systems in Member States is seen to be fair, there could be wider indirect benefits for the MS's economies and the EU justice system as a whole. However these will be impossible to quantify in the impact assessment.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No impact on EU budget (other than money currently spent under the Criminal Justice Programme on research and studies).

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No. Third countries would only be concerned insofar as their nationals would benefit from better protection in EU Member States.

Who is affected?

All persons subject to criminal proceedings in the EU and all professionals involved with criminal proceedings in the EU.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

A study will be carried out by an external contractor which will be the 2005 study carried out by Maastricht University on existing levels of safeguards in criminal proceedings in the EU, as required under the Hague Programme.

Which stakeholders & experts have been/will be consulted, how and at what stage?

There is an ongoing dialogue and consultation with stakeholders (practitioners, academics, Bar associations and representatives of some Member States). An experts' meeting is planned for early 2009.

## ROADMAP

Title of the initiative: **Communication on Sectoral Social Dialogue**

Expected date of adoption of the initiative: December 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Le dialogue social est un élément majeur de notre modèle européen. Il constitue un outil de bonne gouvernance et de subsidiarité sociale. Il confère aux partenaires sociaux européens un pouvoir quasi-législatif, en ce qu'il leur donne la possibilité d'être consultés sur toute initiative communautaire en matière sociale et d'adopter, s'ils le désirent, des accords autonomes ou susceptibles d'être transposés en directives européennes (Articles 138 et 139 du Traité). Le dialogue social est mené au plan interprofessionnel et sectoriel, au niveau européen.

En 1998, la Commission a établi la base juridique de la création des comités de dialogue social sectoriel par l'adoption d'une Communication et d'une Décision du 20 mai 1998. Il existe aujourd'hui 36 comités de dialogue social sectoriels qui couvrent des activités aussi diverses que l'Agriculture, l'Acier, la Construction, le Commerce, les Services postaux, les Transports et autres catégories de services.

L'article 5 de la Décision de la Commission du 20 mai 1998 prévoit la révision du fonctionnement de ces comités par la Commission, en consultation avec les partenaires sociaux. Sur la base de 10 années d'expérience, il apparaît désormais utile de conduire un bilan et de procéder, si nécessaire, à des adaptations.

What are the main problems identified?

Dix années de développement des comités de dialogue social sectoriel ont mis en évidence:

- La capacité des partenaires sociaux de s'approprier le champ de négociation contractuel, au niveau sectoriel et d'élaborer ensemble des outils de développement des relations industrielles tels que des accords autonomes ou transformés en directives européennes, des codes de conduite, des guides de bonnes pratiques, des chartes ou positions communes.
- La capacité des partenaires sociaux de contribuer utilement à la définition et à la modernisation des relations industrielles, des structures d'emploi et des activités économiques dans l'ensemble de l'Union.

Toutefois, ce constat soulève des questions qu'il convient d'examiner, en consultation avec les partenaires sociaux. Ces questions concernent, notamment, la délimitation des comités (faut-il ou non envisager la création de grands secteurs, de macro-comités); la synergie entre les secteurs (faut-il ou non encourager la coopération entre les secteurs, des accords multisectoriels, le rapprochement entre les partenaires sociaux sectoriels et interprofessionnels?); le fonctionnement des comités (y compris les coûts administratifs induits, le rythme des réunions, la composition des délégations présentes); la mise en œuvre et le suivi, dans les Etats membres, des résultats du dialogue social européen sectoriel.

A cet effet, la Commission entend soumettre un questionnaire aux partenaires sociaux qui demande leurs réactions sur les questions suivantes:

- la création des comités de dialogue social, y compris l'autonomie des partenaires sociaux, le champ d'application, la représentativité, la capacité de négocier, et la capacité administrative
- le fonctionnement des comités, y compris la consultation, la promotion du dialogue social, le règlement interne et le programme de travail, la composition des délégations, la présidence et le secrétariat
- synergies et coopération, y compris entre les partenaires sociaux et la Commission, entre les secteurs et l'interprofessionnel; entre les secteurs; à l'intérieur des secteurs;
- la mise en œuvre des résultats, y compris la classification des textes produits par le dialogue social; le processus de négociation; la mise en œuvre des résultats.

Explain how EU action is justified on grounds of subsidiarity:

Le dialogue social est reconnu comme un instrument de subsidiarité sociale, dans la mesure où la prise de décision est dévolue aux partenaires sociaux européens qui représentent les employeurs et les travailleurs et donc prise au plus près des citoyens européens.

Corrélativement, les partenaires sociaux disposent eux-mêmes de la possibilité d'identifier des sujets de discussion ou de négociation pour lequel le niveau européen est pertinent, au regard de la situation de leurs secteurs.

### **B. Objectives of EU initiative**

What are the main policy objectives?

- Faire le bilan de la mise en œuvre de la Décision du 20 mai 1998 et des avancées du dialogue social européen sectoriel,
- Conforter le développement du dialogue social sectoriel au niveau européen,
- Eventuellement, proposer des modifications aux modalités d'opération, de fonctionnement et de synergies possibles des comités de dialogue social,

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

Non

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

L'article 5 de la Décision du 20 Mai 1998 prévoit que la Commission examine le fonctionnement des comités de dialogue social sectoriel, en consultation avec les partenaires sociaux.

La Communication envisagée dans ce cadre peut aboutir à deux options distinctes:

1. Soit la Décision du 20 mai 1998 demeure intégralement adaptée à l'évolution des activités de dialogue social sectoriel et cette dernière ne sera pas modifiée.
2. Soit il ressort de l'analyse que des modifications sont nécessaires en vue d'adapter la base juridique actuelle à cette évolution et une décision révisée sera proposée

Il s'agira donc d'une Communication de la Commission, éventuellement assortie d'une Décision révisée. Les modifications éventuelles concerneraient principalement les modalités de création, de fonctionnement, de soutien et de valorisation des comités de dialogue social européens ainsi que de leurs résultats

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Les comités de dialogue social sectoriels sont de plus en plus consultés par les autres services de la Commission (SANCO, MARE, TREN, MARKT) pour discuter de leurs propositions avec les partenaires sociaux

Explain how the options respect the proportionality principle:

L'objectif de la communication est de développer une réflexion sur le rôle et fonctionnement des comités de dialogue social. La Commission agit sur base de son mandat prévu aux Articles 138 et 139 du Traité, dans le respect de l'autonomie des partenaires sociaux. La Commission facilite le dialogue social au niveau européen: "La Commission a pour tâche de promouvoir la consultation des partenaires sociaux au niveau communautaire et prend toute mesure utile pour faciliter leur dialogue en veillant à un soutien équilibré des parties.". La mise en place de Comités constitue une réponse adaptée à ce mandat.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

L'initiative doit permettre à la Commission de:

1. Mieux prendre en considération des coûts administratifs induits par le fonctionnement et la création de nouveaux comités de dialogue social.
2. Contribuer à une meilleure qualité de la gouvernance par une meilleure contribution des partenaires sociaux aux politiques de la Commission.
3. Mieux adapter les structures de dialogue social au développement et aux changements nécessaires au bon déroulement du dialogue social sectoriel européen.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Non

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Non

Who is affected?

Partenaires sociaux européens; partenaires sociaux nationaux; travailleurs dans les secteurs concernés.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Des études sur le dialogue social sectoriel sont déjà disponibles et la Fondation de Dublin doit finaliser les conclusions d'une étude sur la dynamique du dialogue social sectoriel en Europe, en Septembre 2008.

Une analyse sera également à mener par la Commission sur les coûts administratifs induits par le soutien au dialogue social sectoriel européen.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Les partenaires sociaux européens seront consultés sur les questions de création de comités, de leur fonctionnement, de leurs synergies, de la valorisation et de la mise en œuvre de leurs résultats. Il sera aussi demandé à des experts de donner leur opinion sur des thèmes identifiés de fonctionnement des comités de dialogue social sectoriels. Une analyse interne vise à collecter et à analyser les données sur la composition des délégations des partenaires sociaux siégeant dans les comités, ainsi que les résultats obtenus.

## ROADMAP

Title of the initiative: **Solidarity in health: Reducing Health inequalities in the EU**

Expected date of adoption of the initiative: September 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The size and scale of the differences in health of people living in different parts of the EU and between socially advantaged and disadvantaged EU citizens represents a challenge to the EU's commitment to solidarity and equality of opportunity.

The Council's Conclusions on the EU Health Strategy of December 2007 and June 2008 stressed the need to address inequities in health as an underlying theme. In June 2008 the European Council underlined the importance of closing the gap in health and in life expectancy between and within Member States and called for further work in the area. In July 2008 the Commission Communication on a **Renewed Social Agenda** restated the fundamental social objectives of Europe to achieving harmonious, cohesive and inclusive societies and announced a Commission Communication on health inequalities for 2009. This communication was also foreseen in the Commission **White Paper "Together for Health, a strategic approach for the EU 2008-2013"** of October 2007 (hereafter the Health Strategy) which stressed the need to reduce inequities in health between and within Member States which pose a challenge to European solidarity and cohesion. This intention was endorsed by the European Parliament in its resolution on the EU Health Strategy of October 2008.

Inequalities in health outcomes are fundamentally related to overall social and living conditions. Tackling them requires a coordinated response across relevant policy areas. This is the conclusion of the final report of the WHO Commission on Social Determinants of Health published in August 2008 based on an extensive review of academic work and the experience of countries in all parts of the world.

Whereas Member States have the principle role in this matter, the EU has a responsibility to add value by ensuring that EU policies in areas such as public health, employment, social policy and regional policy provide a positive health benefit which is distributed fairly between geographic areas and social groups and where practicable particularly benefits those most in need. The EU can also provide support to Member States efforts through policy coordination and promoting development, exchange and uptake of good practice.

Some action is already being taken. The EU Strategic guidelines on cohesion adopted by the Council in October 2006 highlight the major differences between European regions in health status and access to healthcare as the basis for cohesion policy's contribution to healthcare facilities and increasing healthy life years. An EU Expert Group on health inequalities and social determinants of health was set up in 2006 to help identify and disseminate good practice and exchange experience between Member States and other key players, including international organisations. In 2006, Member States agreed within the **Open Method of Coordination for Social Protection and Social Inclusion** (hereafter social OMC) to the objective of addressing inequities in access to care and on health outcomes. The persistence of health inequalities has been highlighted in Joint Reports on Social Protection and Social Inclusion. The 2008 social OMC Communication proposed that the implementation of the objectives in the field of healthcare be supported by targets on access to healthcare and on health status. A share of the Structural Funds (5 billion euro) has also been allocated to support investment in the healthcare sector.

This Communication intends to build **on current EU work** under the Health Strategy implementation, the renewed social agenda, the social OMC and the EU Expert Group on health inequalities. It aims to support Member States policies in this area and add value through better alignment of EU policies and programmes in key areas such as public health, employment regional and social policy and through better mechanisms for policy coordination and exchange of practice.

What are the main problems identified?

Inequalities in the distribution of health status and health outcomes; as well as in the effectiveness of policies impacting on public health and health services persist between and within Member States. Substantial **differences in overall life expectancy** at birth and in the years lived in good health (Healthy Life Years) can



be observed across the EU Member States, with individuals in many new Member states living shorter lives than their Western counterparts. For example, for women, the life expectancy gap between EU countries is 8 years and for men it is 14 years.

**Large differences in health status can be observed within Member States according to socio-economic status, level of education, place of residence, gender and ethnic group.**<sup>16</sup> There is a clear social gradient in health status. People with a lower level of education, a lower occupational class or a lower level of income tend to die at a younger age and to have a higher prevalence of most types of health problems<sup>17</sup>. For example, socio-economic inequalities in healthy life years can amount to more than 10 years for men and almost 5 years for women. Similar gaps exist in health between some ethnic and migrant groups and the general population. While overall levels of health have improved over the last 20 years the gap between the most advantaged and most disadvantaged has increased in many countries.<sup>18</sup> **Gender** can also determine differences in health status, health risks and access to health services. Women live on average 6 years longer than men, but most of these additional years are lived with activity limitation due to bad health. The causes of these inequalities are various and include:

- socio-economic status of the population (income, living and working conditions, education, social support systems);
- health behaviour and life-styles;
- environmental conditions
- and differences in the extent and quality of healthcare services available in each Member state which in turn affect citizens' access to quality health care.

Although inequalities in health between social groups occur in all EU Member states the size of difference and the level of inequalities vary widely from one member state to another<sup>19</sup>. Differences in income levels, social and public health policies and access to health care are likely to explain some of these differences. The Member States and regions where disadvantaged groups have greater difficulty in accessing healthcare include those with smaller health budgets, insufficient health infrastructure, lack of technology or equipment, and insufficient workforce. This requires an overall integrated approach and solidarity efforts to help worse-off countries to modernise their health systems. The Structural Funds are already being used for this purpose. Measures focused at improving disadvantaged groups' access to healthcare will need to be implemented in the wider overall context of measures to modernise and increase the capacity of health systems where needed. In addition, since the health status of the more disadvantaged groups often affect the national average in a disproportionate manner; raising the health status of these groups within a country will contribute to attaining overall improvement in the general population health which may reduce differences between countries with higher average health.

In addition to inequalities related with socio-economic factors, **large differences in health status – in particular in the incidence and mortality of diseases - can be observed between Member States.** For example, there are 17 times more cases of tuberculosis in Lithuania than in Sweden; heart diseases kill 10 times more women in Slovakia than in France; Hungary has an incidence rate of lung cancer 5 times higher than Sweden's.

Such differences are closely related with different levels of expenditure on health (from 5% of annual GDP in Romania to 11% in Germany) and in differences on **how health systems are organised and match the**

<sup>16</sup> See the Joint Report on Social Protection and Social Inclusion 2008

<sup>17</sup> "Health inequalities: Europe in profile", Mackenbach J., 2006, carried out for the Conference on Health Inequalities organized by the UK Council Presidency in 2005 (see: [http://www.dh.gov.uk/PolicyAndGuidance/International/EuropeanUnion/EUPresidency2005/EUPresidencyArticle/fs/en?CONTENT\\_ID=4119613&chk=Xa2sOh](http://www.dh.gov.uk/PolicyAndGuidance/International/EuropeanUnion/EUPresidency2005/EUPresidencyArticle/fs/en?CONTENT_ID=4119613&chk=Xa2sOh))

Or [http://ec.europa.eu/health/ph\\_determinants/socio\\_economics/keydo\\_socioeco\\_en.htm](http://ec.europa.eu/health/ph_determinants/socio_economics/keydo_socioeco_en.htm). See also the "2005 Annual Report of the European Observatory on the Social Situation: Health Status and Living Conditions" at [http://ec.europa.eu/employment\\_social/social\\_situation/docs/sso2005\\_healthlc\\_report.pdf](http://ec.europa.eu/employment_social/social_situation/docs/sso2005_healthlc_report.pdf); "Health Inequalities: a Challenge for Europe", Judge K., Platt S., Costongs C. and Jurczak K., 2005, at [http://www.eurohealthnet.eu/images/publications/pu\\_2.pdf](http://www.eurohealthnet.eu/images/publications/pu_2.pdf); "The Role of the Health Care Sector in Tackling Poverty and social Exclusion in Europe", Tamsma, N. and Berman, P.C., 2004, available at: <http://www.eurohealthnet.eu/content/blogcategory/101/137>; "Promoting Social Inclusion and Tackling Health Inequalities in Europe, an overview of good practices from the health field", Stegeman I. and Costongs C., 2004 at [http://www.eurohealthnet.eu/images/publications/pu\\_3.pdf](http://www.eurohealthnet.eu/images/publications/pu_3.pdf); the 2003 Social Situation Report at [http://ec.europa.eu/employment\\_social/spsi/reports\\_social\\_situation\\_en.htm](http://ec.europa.eu/employment_social/spsi/reports_social_situation_en.htm).

<sup>18</sup> See the forthcoming Social Situation Report in Europe 2008.

<sup>19</sup> Mackenbach JP et al. Socioeconomic inequalities in health in 22 European countries. *New England Journal of Medicine*. 2008; 358:23 p2468-2481.

**needs of the population (e.g. differences in the extent and quality of health services provided by each Member State).** Inequalities between Member States are therefore closely linked with the following factors:

- how national health systems are spread
- whether or not good quality (and specialised) care is available
- the provision of health equipment and technology to treat or detect diseases on time (e.g. Austria has 11 times more MRI scanners per million people than Slovakia);
- health workforce available the scope and effectiveness of public health policies which in turn helps define the health behaviour and life-styles of the population;
- territorial disparities in access to health services e.g. the territorial closeness of care and differences between big cities/sparsely populated regions (two out five people in remote rural areas live more than a 30 minutes drive away from a hospital).

The list of causes of health inequalities suggests that a variety of policy areas can contribute to improving the situation, confirming the need for an integrated approach as advocated by the Health Strategy and the Renewed Social Agenda.

Ethical considerations aside, health inequalities also represent a major loss of human and economic potential and are a challenge for EU social cohesion. Recent evidence<sup>20</sup> suggests that in the EU the aggregate, negative economic impact of socioeconomic inequalities in health is very substantial: about €1,000 billion, notably due to a large number of premature deaths and ill-health cases that can be attributed to socio-economic factors. Hence, tackling health inequalities would not only lead to large improvement in population health and well-being, but also imply great economic gains. It would also contribute to greater cohesion.

While there is growing recognition of health inequalities in EU Member States, only a handful of countries have set explicit policies and objectives to reduce health inequalities. This may be partly due to lack of awareness of the scale of problems and knowledge about the results that can be achieved through public intervention. It may also relate to the lack of means for systematic measurement, and the challenge posed by the need to coordinate policies across sectors and between levels of government.

Explain how EU action is justified on grounds of subsidiarity?

Health policy-making, provision of healthcare and actions in the social field generally fall within the competency of Member States. The EU can however play a role in supporting and enhancing national and regional efforts to tackle health inequalities. In the past fifty years the EU has contributed to promoting health, protecting citizens across health threats, fighting discrimination, improving working conditions and ensuring social cohesion, which are all important areas for action to tackle health inequalities. The EU has a responsibility to guarantee that a high level of human health protection is ensured in the definition and implementation of all Community activities.

The EU has also developed mechanisms (e.g. social OMC, the High Level Group on Health Care, and the European Community Health Indicators) that promote the monitoring of health and coordination of health policies through information sharing and exchange of good practice. Work on social determinants of health has helped to map out and share good practice among Member States, linking up with international organisations such as WHO and the Council of Europe and research developments in this area. Current EU work includes working closely with DG REGIO in helping Member States make use of the new opportunities offered by the Structural Funds to invest in Health.

Within its area of competence and supported by shared values, common rules and well established solidarity mechanisms (e.g. structural funds), this EU action can provide added value in terms of

- mapping and monitoring of health inequalities between and within Member States (notably through better data collection) and thus raising awareness on the extent and consequences of such inequalities;
- information sharing at EU level and promotion of exchange of good practice through the use of policy coordination mechanisms;
- financial support to Member States (notably through the Structural Funds) in their efforts to reduce health inequalities and thus improve solidarity and cohesion across the EU;
- providing a greater visibility of actions that cannot be achieved by Member States acting alone.

As a result EU action in this area will give the issue of health **inequalities higher policy priority at EU and**

<sup>20</sup> Mackenbach JP, Meerding WJ, Kunst A. Economic implications of socio-economic inequalities in health in the European Union. [http://ec.europa.eu/health/ph\\_determinants/socio\\_economics/pub\\_socioeco\\_en.htm](http://ec.europa.eu/health/ph_determinants/socio_economics/pub_socioeco_en.htm)

**national level** and foster **policy coordination** including greater coherence across a wide range of policies (health, social, educational, environmental and economic policy Structural Funds).

## **B. Objectives of EU initiative**

What are the main policy objectives?

The main objective of the Communication is to set out an EU policy agenda and actions to help reduce inequities in health within and between Member States. In this context, the Communication aims to:

- **Raise awareness about the extent and consequences of health inequalities** and to promote the tackling of health inequalities as a policy **priority both at Community level and in all Member States**.
- Improve the mechanisms to **monitor** inequalities in health across the EU (between and within Member States) by improving data collection via more systematic and comparable information that complements existing data on health inequalities and via regular monitoring and analysis.
- **Support Member States' actions to tackle health inequalities** notably by highlighting possible ways to prevent and address health inequalities, **by encouraging greater policy coordination and best-practice exchange and through financial support** via the Structural Funds.
- **Mobilise all relevant EU policies** to contribute to reducing inequalities in health by bringing together under a coherent framework the work of different Commission services, in line with the 2008 Renewed Social Agenda and the 2007 Health Strategy.

Does the objective imply developing EU policy in new areas or of strategic importance?

In general these objectives will be attained through a better coordinated and more efficient use of existing mechanisms in existing policy areas and through ensuring greater policy coherence of relevant policy sectors.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Option 1: No new initiative is implemented. This is equivalent to continuing the current work under the social OMC and the Expert Group on Social Determinants and Health Inequalities. Tackling health inequalities is a guiding principle of the Health Strategy and a common objective under the OMC. Both the implementation of the Health Strategy and the OMC allow for information and best-practice exchange between Member States. This option would also imply support for initiatives in this area through PROGRESS and the Health Programme 2008-2013. Likewise, the Structural Funds including the European Social Fund and the Cohesion Fund would continue to support activities in the public health and healthcare areas.

Option 2: In line with the announcement in the Renewed Social Agenda and the Health Strategy, a Commission Communication addressing inequalities in health is issued. The Communication would argue the case for an EU policy agenda and actions focussed on reducing health inequalities between and within Member States.

The Communication would raise **awareness about inequalities**, highlight their economic, political and ethical magnitude and, review their underlying causes. It would also support **Member States' actions**, put forward areas where EU action could bring added value, including improving existing mechanisms to **monitor** inequalities in health across the EU and mobilise **all relevant EU policies** and funds towards contributing to reducing inequalities.

The Communication would propose a better use and co-ordination of existing mechanisms, such as the social OMC, and the Health strategy to ensure information and best-practice exchange. It would also promote using EU funding in a way that takes into consideration the need to reduce health inequalities between and within EU countries (including disparities between regions, socio-economic groups, women and men, as well as urban and rural areas). One important aim would thus be to improve the ability of poorer regions to provide access to quality care and centres of excellence. Mobilisation and good coordination amongst all relevant EU policies would be important, including health, social protection, employment, education, environment, taxation and regional and cohesion policies.

A sub option of 2 would be if the Communication went as far as to propose a set of specific Community actions/ a dedicated Action Plan, and specific targets.

Option 3: The communication in Option 2 would be complemented with a Commission proposal for a Council recommendation setting out the principles for Community and national policies. This would highlight the main areas of action and the policy principles to be pursued, would increase further the political commitment of all actors without interfering with Member States responsibilities as defined by the Treaty.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Tackling **health** inequalities involves action that cuts across several policy areas including health, social (including social protection, access to healthcare and social services), employment, regional, environment, agriculture and rural development policies, as well as statistics and information systems.

Explain how the options respect the proportionality principle:

A recent study<sup>21</sup> has estimated the scale of societal losses due to health inequalities in EU-25. The number of premature deaths amount to about 450.000 a year, equal to a loss of about 7.4 million life years. More than 33 million prevalent cases of ill-health can be attributed to health inequalities. Average life expectancy at birth and average life expectancy in good health are reduced by 1.84 years and 6.98 years, respectively. If the European Union would succeed in reducing all health inequalities in Member States by 25%, economic gains would amount to about €270 billion.

These numbers indicate the size of the tasks in a policy area where the main responsibility is with Member States but Community action can support efforts and improve their ability to address the challenges. Better integration and priority setting at EU level can help Member States tackle inequalities without large increases in staff or financial resources devoted to these activities at EU level, and without interference into their policy responsibilities. In this context, the options are reasonable in relation to the extent of the problem.

#### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

All three options can positively contribute to a reduction in health inequalities (notably in terms of life expectancy, mortality and morbidity) albeit to different degrees. In view of the current extent of health inequalities between and within EU countries, regions and population groups, policies that contribute to a reduction in health inequities are likely to have a positive economic impact and improve solidarity and cohesion.

Option 1: Under this option, the work under the social OMC and the Health Strategy as well as financial support through EU structural funding would continue. Over time information and best-practice exchange between Member States would result in a higher degree of awareness, prioritisation and policy coordination.

Option 2: This option leads to greater awareness raising and to inequalities being put higher on the EU and national policy agendas. It leads to a more structured coordination between EU relevant policy areas and between policy and funding; and better measurement of health disparities across countries, regions and population groups. It would raise visibility and commitment by both the EU and Member States by increasing ownership and peer pressure. It would foster closer cooperation and policy coordination between Member States. It should lead to synergies in supporting and complementing Member States action and reduce duplication of activities. Thus, this option can have a larger and faster impact on health inequalities than option 1 and be more adequate than just option 1 vis-à-vis the scale and significance of health inequalities.

Option 3: This option would lead to broader awareness and possibly also stronger policy commitment - thus having the greatest impact on health inequalities. However, it would have to be prepared in very close cooperation with Member States. Council recommendations notably could entail lengthy discussions and the

<sup>21</sup> See

[http://ec.europa.eu/health/ph\\_determinants/socio\\_economics/documents/socioeco\\_inequalities\\_en.pdf](http://ec.europa.eu/health/ph_determinants/socio_economics/documents/socioeco_inequalities_en.pdf)

need to water down messages in order to reach consensus.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No

Who is affected?

National authorities in Member States, EU institutions, health stakeholders and ultimately people living in the EU.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

There is considerable information available from published research and from some Member States regarding the scale of health inequalities linked to social economic status. However, comparable and systematic data for all EU Member States needs to be improved in order to be sufficiently detailed and specific as to support policy responses. Data and analysis on differences between Member States and regions in health status and access to healthcare between Member States and regions is patchy. More data and analysis would need to be gathered.

Given the nature of the proposal it will be important to produce a IA focusing on the approach chosen, the justification for action, explaining the respective responsibilities of Member States and the Union and the issue of subsidiarity, and assessing the potential benefits of setting targets and of deepening policy integration.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Member States delegates to the Social Protection Committee, the social partners and relevant organisations of civil society and the EU Expert Group on Social Determinants and Health Inequalities will continue to provide an input into this work.

In the framework of discussions on the Health Strategy, the EPSCO Council, the Parliament and the Advisory bodies EESC and Committee of the Regions have been consulted. Also two public consultations have been held.

## ROADMAP

Title of the initiative: **Action against cancer: European Platform**

Expected date of adoption of the initiative: June/July 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Cancer is the second most common cause of death in Europe (29% of deaths for men, 23% for women in 2006) - a figure that is expected to rise in the near future due to the ageing European population.

This initiative on cancer will contribute to the Health Strategy objective of fostering good health in an ageing Europe, and thereby help to put in place the conditions for the EU's future economic growth and sustainable development, as well as addressing subjects of particular concern to European citizens. As highlighted by the recent plenary debate in the European Parliament on combating cancer in the enlarged Union<sup>22</sup>, cancer is a key public health concern across the European Union.

This initiative builds on the Europe against Cancer Programmes (1987 to 1989, 1990 to 1994, and 1996 to 2002), as well as projects supported within the frames of the Public Health Programme (2003-2007). In 2003, a Council Communication on Cancer Screening was adopted<sup>23</sup>. The Recommendation sets out fundamental principles of best practice in early detection of cancer, and invites all Member States to take common action to implement national population-based screening programmes for breast, cervical and colorectal cancer, and with appropriate quality assurance at all levels.

What are the main problems identified?

Every year, 3.2 million Europeans are diagnosed with cancer, most of whom are suffering from breast, colorectal or lung cancers. But the burden of cancer is far from equally distributed across the European Union. For example, recent data shows that the occurrence of cervical cancer is over four times higher in Bulgaria than in Finland, and the risk of dying from this form of cancer is almost five times higher in Lithuania than in Italy. Larynx and trachea/bronchus/lung cancer mortality is more than triple as high in Hungarian than in Cypriot men.

As illustrated by these national differences in cancer mortality, there is considerable scope to reduce deaths from cancer across the Community by sharing information and exchange of best practice in cancer prevention and control on a EU level, providing significant European added value. According to the recently published report on the implementation of the Council Recommendation on Cancer Screening, the EU is less than half way (55 million cancer examinations/year) from reaching the goal of 125 million examinations per year, as specified in the Council Recommendation<sup>24</sup>. In addition, it has been estimated that around one third of all cancer cases can be prevented. The European cancer burden and existing Community differences in cancer prevention and control not only represent enormous societal and in particular health care costs, but are also a challenge to EU fundamental objectives of equity and solidarity (as defined in the Health Strategy).

There is a number of ongoing important activities within cancer research as well as health promotion and information, including cancer screening, which is based on the Council Communication on Cancer Screening (2003/878/EC). Although the current approach has an important impact on actors directly participating in projects supported by the Health Programme, it has shown to be limited in scope in translating the outcomes of the projects beyond engaging those actors directly involved in the projects into generally applied tools to prevent and control cancer in the Member States.

<sup>22</sup> The resolution is available at:

[http://www.europarl.europa.eu/meetdocs/2004\\_2009/documents/re/697/697649/697649en.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/re/697/697649/697649en.pdf).

<sup>23</sup> Council Recommendation on Cancer Screening (2003) *Official Journal of the European Union* L327/34-37.

<sup>24</sup> Von Karsa L et al. (2008) Cancer Screening in the European Union: Report on the Implementation of the Council Recommendation on Cancer Screening. European Commission, Health and Consumers Directorate-General.

Explain how EU action is justified on grounds of subsidiarity:

As for all health areas, the principle responsibility for tackling cancer lies with the Member States. The EU has a responsibility to complement national policies in order to improve public health and to ensure that all Community policies and activities contribute to a high level of human health protection. In addition, the Community shall encourage cooperation between Member States, and if necessary lend support to their actions.

This initiative aims to support the Member States in their efforts to tackle cancer by providing a framework for identifying and sharing information, capacity and expertise in cancer prevention and control, and by engaging relevant stakeholders across the European Union in a collective effort.

### **B. Objectives of EU initiative**

What are the main policy objectives?

To share best practice and support Member States in their efforts to more efficiently tackle cancer by bringing together the full range of stakeholders into a common initiative with a common commitment to addressing cancer, as a model for non-communicable diseases in general.

This is an innovative, bottom-up approach, engaging a wide range of actors, including Member State authorities, health care professionals, health insurers, the pharmaceutical industry, the academic community, patients and civil society, to take concrete actions to prevent and control cancer. Based on a cooperative and action-based approach, this initiative will contribute to help underperforming Member States to more efficiently tackle cancer by widely sharing information and best European practice, and providing methods and tools to implement evidence-based cancer prevention and control. Through the direct participation of a broad spectrum of stakeholders, this new initiative will enable us to reach individuals, groups and organisations who are directly concerned with implementing cancer policies on a national, regional, local as well as individual level, and make a real difference for individuals at risk of developing cancer or who are living with the disease.

The initiative will draw on successful models, e.g. the EU Platform for Action on Diet, Physical Activity and Health (set up in March 2005), but will be different in that it addresses a condition rather than a determinant of health. Given that cancer is the second most common cause of death in Europe (currently 3.2 Europeans are diagnosed with cancer every year – a figure that is expected to rise in the near future), there is a need to adopt a specific initiative on cancer to more efficiently target this major European burden of disease and ill health. The combat against cancer is a longstanding priority of the European Union, dating back to 1985 when the first Europe against Cancer Programme was adopted. The European Commission's ongoing efforts to prevent cancer and reduce mortality, and to improve the quality of life of European citizens who have cancer, have a very strong support of the Member States.

The initiative would address the following areas:

- 1. Health Information  
Collection and analysis of comparable data, and evidence to support learning and sharing of knowledge  
Dissemination of information and data (targeted to different groups/consumers?)
- 2. Primary prevention  
Primary prevention on the basis of major determinants of health (key determinants highlighted in "European Code against Cancer": tobacco, alcohol consumption, diet and nutrition, physical activity, and sun exposure) (special emphasis on children and young adults?)  
Updating the "European Code against Cancer", giving concrete science-based recommendations to citizens to minimise their cancer risk  
Preventive treatment, such as prophylactic vaccines against some carcinogenic viruses and the eradication of helicobacter pylori by antimicrobial treatment
- 3. Secondary prevention (cancer screening)  
Cancer screening (follow-up, update or complement the existing Council Recommendation on Cancer Screening, and the Implementation report?)  
Identification and promotion of good practice in cancer-related healthcare (follow-up, update, complement guidelines on breast and cervical cancer? Guidelines for colorectal cancer to be published next year)  
Pilot development of European Accreditation criteria (?) (to be used for the European accreditation

of certifying bodies for cancer screening and follow up services based on the current EU guidelines for quality assurance in cancer screening and diagnosis)

- 4. Priorities for cancer research  
Extend knowledge about prevent and control of cancer

Cancer surveillance

Encourage innovation

Encourage cross-national and -sectional cooperation (fostering a multidisciplinary approach)

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No. These objectives will be addressed through the development of existing policy areas. There are already significant ongoing activities within frames of the Health Strategy. The aim is not to create a new EU strategy but to achieve better application of existing knowledge and best practice.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

#### **Option I: Maintaining status quo (doing nothing).**

To continue our current cancer-related activities within the frames of the Health Strategy and Health Programme (2008-2013).

#### **Option II: Developing a EU Platform for Action on Cancer.**

This bottom-up approach will contribute to reducing inequalities in tackling cancer by bringing together the full range of stakeholders into a common platform with a common commitment to take concrete actions to prevent and control cancer. Through direct stakeholder participation, this model enables us to widely share information and best practice as well as implementation methods and tools with individuals, groups and organisations who are directly concerned with implementing policies to prevent and control cancer on all levels.

To give the EU Platform for Action on Cancer a more formal status, the guidelines for this multi-stakeholder platform, including multi-annual financing and the activities of the platform, should be based on a Communication. It is not meant to be a political document but only a technical guidance on the process to follow.

#### **Option III: Proposal for a Council Recommendation.**

Translate existing knowledge and best practice into the form of a Council Recommendation, giving it the status of a legal document.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The initiative is not anticipated to have an adverse effect on actions taken/planned by other Commission departments. It is however possible that it may have an impact on the activities of DG Research within the area of cancer research.

Explain how the options respect the proportionality principle:

The scope of the options is consistent and proportional to the scale of the European cancer burden and the added European value of joined Community efforts to prevent and tackle cancer across the Union (as highlighted above).

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?



**Option I. Maintaining status quo (doing nothing).**

The European Commission's ongoing efforts to tackle cancer, including cancer-related research have shown to have a direct impact on cancer prevention and control policies on a Member State level. Although the current approach has an important impact on actors directly participating in projects supported by the Health Programme, it has shown to be limited in scope in translating the outcomes of the projects beyond engaging those actors directly involved in the projects into generally applied tools to prevent and control cancer.

**Option II. Developing a EU Platform for Action on Cancer.**

This bottom-up approach, engaging a wide range of actors, including Member State authorities, health care professionals, health insurers, the pharmaceutical industry, the academic community, patients and civil society, enables us to reach beyond the actors involved in the Health Programme and to more widely share evidence-based cancer prevention and control information and best practice, as well as methods and tools for implementation, with individuals, groups and organisations who are directly concerned with implementing cancer policies on a national, regional, local and individual level.

**Option III. Proposal for a Council Recommendation.**

A Council Recommendation has the advantage of giving existing knowledge and best practice a formal legal status, creating a single reference point as well as providing formal commitment from the Member States. However, there are drawbacks with this option, including the lengthy adoption process of a Recommendation and its focus on political actors rather than on actors who are directly concerned with changing behaviours and control cancer (which is the aim of the favoured approach of a EU Platform for Action on Cancer).

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No. There is no direct impact on the EU-Budget identified at this stage, beyond the cost of meetings and technical support for the initiative (which is not expected to exceed €5m).

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No. There is no significant impact identified at this stage.

Who is affected?

National governments and public health authorities in the European Union, as well as international organizations, health care professionals, the academic community, the pharmaceutical industry, insurance companies, civil society and people who are at risk of developing or are living with cancer.

**E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

There exists an extensive body of cancer-related research and information from the Member States on cancer prevention and control, recently summarised in the book by Coleman et al "Responding to the challenge of cancer in Europe", supported by the Slovenian Presidency. Slovenia has made cancer prevention and control a key public health priority during its Presidency (1 January – 30 June 2008).

Moreover, the European Community Health Indicators (ECHI) contain data on breast and cervical cancer screening and survival rates, and more general cancer data is available from the International Agency for Cancer Research (IARC), produced by EUNICE (EU Network for Information on Cancer) and ECN (European Cancer Network) networks.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The establishment of this initiative on cancer would enable stakeholders and experts to continuously discuss and be consulted about existing information and ongoing developments, and best practice in cancer

prevention and control. However, prior to establishing the initiative, a consultation process will be launched to identify issues to be addressed and discussed within the frames of the initiative as well as appropriate mechanisms for stakeholder consultation.

## ROADMAP

Title of the initiative: **Proposal for Commission initiative on Alzheimer**

Expected date of adoption of the initiative: July 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Health Strategy adopted by the Commission in 2007 identifies healthy ageing as the first key health objective for the Commission. Alzheimer's and other neurodegenerative diseases are one of the central challenges for this – both because of the burden that they represent for society, and because of the wide inequalities in approaches and outcomes with regard to these conditions across the EU.

Around 6.2 million people are estimated to suffer from different types of dementia (concentrated on older people), of which Alzheimer accounts for around three-quarters of cases. But when we take into account their careers and families (for whom caring often becomes a heavy personal and financial burden), many more people are affected - more like 20 million (ie: around 4% of the total European population).

The French Presidency of the Council has identified Alzheimer's as a particular priority, and expects to agree Council conclusions identifying areas where European action is needed in both the research and health areas, as well as in the conclusions of the European Council.

What are the main problems identified?

The main problems are:

- the first step to enabling benchmarking and mutual learning throughout the European Union is accurate and timely data about Alzheimer's and how it is handled, but this data is not currently available;
- not enough is known about Alzheimer's' disease to prevent it. But there are some already clear indications of the usefulness of promoting certain health messages, including targeting common cerebrovascular risk factors in middle age, and more generally physical and intellectual activity, social interaction, and some dietary habits. In short, general healthy living advice may also help prevent Alzheimer, but this is not generally understood or acted on across the EU;
- diagnosing Alzheimer' is difficult, and can take years or not be made at all, with wide variations across the EU and lack of consistent implementation of good practice. This in turn undermines the quality and effectiveness of treatment, especially as many of the interventions currently available are most effective in the early stages;
- there are good practices emerging in different places across the EU, and evidence that different practices can have major implications in terms of efficient use of resources and in terms of quality of life for people with Alzheimer's and their families. But these are not being shared and implemented throughout the Union;
- there is a lack of coordination of research, with particular potential for European added-value through combining capabilities to increase potential research populations.

Is EU action justified on grounds of subsidiarity?

There is clear potential added-value from European action in the area of Alzheimer's and related diseases, due to the fragmentation of national efforts and the need for European cooperation to make best use of the resources available in Europe, as confirmed by both Council and Parliament statements on the issue.

Article 152 of the Treaty requires the Community to respect the responsibilities of the Member States for the organisation and delivery of health services and medical care, but (as the Court has confirmed), this does not mean doing nothing. Article 152 also requires the Member States to coordinate their policies in the health area, and the Commission to support them in doing so; action on Alzheimer's and related conditions is therefore justified in so far as it is proportionate and does not enter into prescriptive action but provides supportive knowledge and tools at Community level that Member States can implement as appropriate within their own national contexts.

## **B. Objectives of EU initiative**

What are the main policy objectives?

The main objectives of EU action on Alzheimer's are to:

- 1) provide political leadership on the importance of Alzheimer's and related conditions as a vital issue for Europe as a whole, in the context of demographic ageing, and to propose clear shared values and principles for action;
- 2) improve and share knowledge on Alzheimer's, through generating timely and accurate European data to enable benchmarking and through cooperation on generating new knowledge through scientific research;
- 3) identify and share good practices in how to respond to the challenge of Alzheimer's and related conditions on which Member States can draw.

Does the objective imply developing EU policy in new areas or of strategic importance?

The initiative draws on existing priorities and actions at European level, but will bring them together into a coherent focus on Alzheimer's and related conditions which has not previously been done.

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Policy option 1: No action;

Policy Option 2: Report on Alzheimer's in Europe

Policy Option 3: Communication proposing a European action plan against Alzheimer's

No legislative initiatives are foreseen.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes – in particular the areas of research (where substantial research is already supported on these conditions) and social protection (where Alzheimer's is discussed in the context of the 'open method of coordination'), as well as Commission policies in relation to ageing in general.

Do the options respect the proportionality principle?

Yes.

## **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Policy Option 1: The main practical impact of no action would be to leave the current fragmented situation in place, with the corresponding impacts of inefficient use of resources and needlessly reduced quality of life for people with Alzheimer's and their carers.

Policy Option 2: A report would have the impact of highlighting the relevant issues and prompting discussion at European level and within Member States. Indirectly, it would have the likely impact of prompting at least some changes within Member States and some reduction in current inequalities.

Policy Option 3: A proposal for a European action plan would have the direct impact of seeking to bring about change to reduce current fragmentation and inequalities in this area. This would have similar impacts to option 2, but larger; greater real change in practice would be likely, but with greater costs in the short term and greater political controversy in the process. In addition, this would also have an impact on the formulation of European policy in this area – one of the principles of the EU Health Strategy is that EU action should focus primarily on the causes of ill-health, rather than attempting to have disease-specific strategies at

EU level; proposing such a strategy for Alzheimer's and related conditions would undermine this approach more generally.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No.

Who is affected?

In addition to people with these conditions and their carers, the main impact would be on health and social care systems, researchers in this area. Society as a whole would also be affected through different perceptions of the issue.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Some information is already available through existing projects, in particular the European Collaboration on Dementia funded under the Health Programme, and this should be sufficient for a proportionate analysis given the policy options outlined above.

Which stakeholders & experts have been/will be consulted, how and at what stage?

A wide range of stakeholders have already been involved through the existing projects and networking in this area, as well as through the events of the French Presidency.

## ROADMAP

Title of the initiative: **Council recommendation on cross-border aspects of childhood immunisation**

Expected date of adoption of the initiative: July 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

The EU internal market has led to a large number of people and families taking advantage of the freedom of movement in order to establish themselves either for short or long periods in other member states than their country of origin. This has posed new challenges in unexpected ways, particularly for the prevention of communicable disease through vaccination. The most sensitive element of this problem is that children, and their protection from high threat pathogens, is compromised by the existence of 27 different childhood vaccination schedules, and particular vulnerability for the children moving within the EU in the absence of an agreed approach to link the vaccination schedules of the member states.

What are the main problems identified?

The heterogeneity described above, gives rise to a number of problems:

1. Difficulties in bridging national immunization schedules when taking up residence in another Member State

As a result of the right of free movement in the EU as well as the internal market, including access to health services, more and more EU citizens come into contact with healthcare systems that are organised differently than in their country of origin. This also includes differences in childhood immunisation schedules which may pose a problem for families with children taking up residence in another Member State. In such case, the parents and healthcare professionals face problems such as:

- The child is in the middle of a vaccination course, but the number and/or timing of the different doses differs between the host country and the country of origin. For example, at the age of 12 months, children will have received in one Member State their 3<sup>rd</sup> dose of the DTP (diphtheria, tetanus, and pertussis) vaccine, whereas in others, they may already be at their 4<sup>th</sup> dose. Some Member States require that 4 doses of the DTP vaccine are given, whereas others require 6 doses to be given. For the combined vaccine against measles, mumps and rubella (MMR), the national recommendations range from giving the 2 doses with 28 days in between up to 12 years in between.
- The child is in the middle of a vaccination course of a (combined) vaccine which was part of the vaccination schedule in the country of origin but is not part of the vaccination schedule of the host country (and the vaccine may also not be available in the host country to complete the vaccination course). For example, the child may have received a hexavalent (diphtheria, tetanus, pertussis, hepatitis B, polio and haemophilus influenzae type b) vaccine in the country of origin, which is not used in the host country because vaccination against hepatitis B is not part of the standard childhood schedule in that country.
- The child needs to catch up with a vaccine which is part of the vaccination schedule in the host country but is not part of the vaccination schedule in the country of origin.

An incomplete or deviating vaccination course may fail to adequately immunize the child, thereby leaving the child vulnerable to infection. This is a public health problem and an obstacle to the free movement of people in the EU.

2. Insufficient vaccination coverage for some vaccine preventable diseases

The wide-spread implementation of vaccination policies has led to the successful eradication of smallpox (as certified by WHO in 1979) and has made Europe polio-free (as certified by WHO in 2002). However, for polio, there is always the risk of reintroduction if a high vaccination coverage is not maintained.

In the 55<sup>th</sup> session of the WHO Regional Committee for Europe, a Resolution was adopted urging the Member States to achieve measles and rubella elimination by 2010. However, major improvements are needed to achieve this goal: 15/27 Member States do not reach 95% coverage for the first dose and 19/27

do not reach 95% coverage for the second dose of the combined measles, mumps and rubella vaccine<sup>25</sup>.

Inadequate vaccination coverage is a public health problem causing unnecessary morbidity and mortality in children, considering that:

- vaccination against diseases such as diphtheria, tetanus, pertussis, polio, measles, mumps, rubella, *Haemophilus influenzae* serotype b (Hib) and hepatitis B is in most cases already part of the recommended national immunization schedules (but better follow-up/incentives may be needed),
- vaccination is one of the most effective public health measures,
- safe and effective vaccines are available.

Is EU action justified on grounds of subsidiarity?

Vaccination policy is Member State competence. However, the Commission can facilitate cooperation and propose incentive measures designed to protect and improve human health, excluding any harmonization of the laws and regulations of the Member States (Article 152 of the Treaty). This proposal does not seek to harmonise the different national immunisation schedules; these differences reflect the differences in the way healthcare, education and childcare is organised in the Member States. Instead, the proposal aims at protecting the health of children by facilitating the transition from one immunisation schedule to another and improving the childhood vaccination coverage in some priority vaccine preventable diseases.

EU action to tackle the above-mentioned problems is justified on the following grounds:

1. Coordination of national policies to fight major health scourges is a competence given to the Community in Article 152 of the Treaty. The link between the childhood vaccination issue and the implementation of the internal market freedom of movement is an additional reason for a strong Community implication in resolving the health issues resulting from greater movement of persons.
2. Gathering scientific evidence to create a flexible bridging schedule that can facilitate transition from any national schedule to another one, requires consideration of all national schedules and pooling of the best expertise available in Europe and thus warrants action at Community level. Such action also addresses obstacles to the free movement of people, as enshrined in the Treaty.
3. As long as vaccination coverage is insufficient in some countries, targeting elimination of vaccine preventable diseases such as measles and rubella cannot be achieved by single nations because communicable diseases know no borders. Therefore, a joint political commitment is needed at EU level to increase and maintain very high childhood vaccination coverage for priority diseases.

### **B. Objectives of EU initiative**

What are the main policy objectives?

The main policy objectives are twofold:

1. To establish a scientifically substantiated and flexible immunisation schedule with the widest possible time margins in which a child should be immunised against a set of priority diseases (diphtheria, tetanus, pertussis, polio, measles, mumps, rubella, *Haemophilus influenzae* serotype b (Hib) and hepatitis B). The aim is to provide a bridging best practice immunisation schedule, which protects the health of children by facilitating a smooth transition from one national immunisation schedule to another.
2. To seek a firm political commitment from Member States to step up efforts at increasing and maintaining a very high childhood vaccination coverage for priority diseases.

Does the objective imply developing EU policy in new areas or of strategic importance?

No

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<sup>25</sup> WHO (2004).

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

a) No intervention

Maintenance of status quo where professional groups provide non-statutory guidance.

b) Commission Communication

This option focuses on providing a bridging reference vaccination schedule and stimulating Member States to increase and maintaining a very high childhood vaccination coverage for priority diseases.

c) Council Recommendation

This option focuses on providing a bridging reference vaccination schedule and seeking a firm political commitment from Member States to increase and maintaining a very high childhood vaccination coverage for priority diseases. This is a policy option specifically provided for in Article 152 of the Treaty as a means of coordination of member states policies in fighting major health scourges. It is a tool used in respect of several other public health areas such as for cancer screening, or Electro magnetic fields protection, for instance.

d) Commission Decision under Decision 2119/98

Decision 2119/98/EC established a Network for the epidemiological surveillance and control of communicable diseases in the Community. Article 3 f) of Decision 2119/98 foresees that guidelines on the protective measures to be taken can be determined.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Although there are links to the work of other DGs (in areas such as medicines (DG ENTR), free movement of citizens (DG JLS)), the proposal is not expected to 'cut across' their work.

Do the options respect the proportionality principle?

A Commission Decision under Decision 2119/98/EC adopting guidelines on childhood immunisation would exceed proportionality as:

- Proposing a common binding childhood vaccination schedule is not feasible because of large differences among Member States.
- Proposing common protective measures would not fit all health systems.

However, the proposed tool of a Council Recommendation is specifically envisaged for such cases in Article 152 of the Treaty and has been used to address other public health coordination measures.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

#### Social/health

A bridging vaccination schedule which allows transition from one national immunisation schedule to another will have a positive impact on health by preventing incomplete or deviating vaccination courses that may fail to adequately immunise the child and thereby may leave the child vulnerable to infection.

In addition, improving the childhood vaccination coverage in some priority vaccine preventable diseases will also have a positive impact on health.

#### Economic

There is a wide consensus that childhood vaccination against priority diseases such as diphtheria, tetanus, pertussis, polio, measles, mumps, rubella, *Haemophilus influenzae* serotype b (Hib) and hepatitis B is a very cost-effective public health measure. In addition, it removes an obstacle for EU citizens with children to take



up residence in another Member States, which contributes to the free movement of people and the single market.

Environmental

The environmental impacts are considered to be negligible.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No.

Who is affected?

Children, parents, healthcare professionals and vaccine manufacturers.

**E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The different immunisation schedules have already been mapped by the VENICE and EUVAC.NET networks. Data on the cost-effectiveness of established childhood vaccines are available in the literature. ECDC has collected scientific evidence for best practices for DTP vaccination and will expand this to the other priority vaccine preventable diseases. Data on disease incidence, vaccination coverage and vaccination programme generic indicators will be collected as well. The ECDC will also advise on the areas where further efforts are needed at increasing childhood vaccination coverage for priority diseases.

ECDC will assist the Commission in analysing the different impacts the proposal may have; this work should be finalised by end 2008/beginning 2009.

The impact analysis will consist of three steps: (1) identification of impacts, (2) qualitative assessment of major impacts (according to their likelihood and impact) and (3) a more advanced qualitative/quantitative analysis of the major impacts.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Experts: the proposal will be drafted with the input from experts from ECDC, EMEA and national experts in the field of immunisation.

Stakeholders: the public, healthcare professionals, public health authorities and vaccine manufacturers will be consulted in a 2-month public consultation, to be held in Q4 2008.

## ROADMAP

Title of the initiative: **Communication on combating HIV/AIDS in the EU and neighbourhood - strategy and second action plan (2010-2014)**

Expected date of adoption of the initiative: September 2009

**A. Context and problem definition**

What is the political context of the initiative?

HIV/AIDS still causes serious economic and social problems in Europe. Member States and Civil Society expect consequently the continuation of the coordinative role of the Commission in combating the disease throughout Europe as expressed in the current Commission communication "on combating HIV/AIDS in the EU and in the neighbourhood, 2005-2009".

How does this initiative relate to past and possible future initiatives, and to other EU policies?

The initiative, embedded in the new health strategy, responds to political commitments expressed in the Dublin, Vilnius (2004) and Bremen declarations (2007), the Health Council conclusions of May 2007, or the European Parliament's report on HIV/AIDS in Europe and in the neighbourhood of April 2007.

It further provides a comprehensive and adapted follow-up of the current Commission strategy "on combating HIV/AIDS in the EU and in the neighbourhood, 2005-2009" (Commission communication 654/2005).

What are the main problems identified?

**Economic problems:** Costs for antiretroviral treatment and treatment of AIDS related symptoms is a burden for health budgets in many Member States; follow-up costs for care of people with progressing disease are considerable. Development of functional infrastructures for patients is partially insufficient.

**Social problems:** stigmatisation of the disease and discrimination of people living with HIV/AIDS (PLWHA), difficult social integration of PLWHA and of most susceptible groups such as drug users, sex worker, men having sex with men. Education of youth needs constant and timely impetus to control the spread in a long term.

**Migration problems:** inner migration - problems for the labour market and for health services. External immigration – new source of HIV infections.

**Coordination:** coordination of experience and knowledge on how to address the spread of HIV in Europe indispensable. The Commission is the only body to take this role of coordination.

Is EU action justified on grounds of subsidiarity?

Yes. The Commission plays the executive role in coordinating efforts between Member States and Civil Society to combat HIV/AIDS in Europe. The political support delivered is of utmost importance. The Commission provides a forum for discussion and targeted exchange of good practices between Member States to further develop transportable approaches.

**B. Objectives of EU initiative**

What are the main policy objectives?

- further strengthen the supranational coordination in the combat against HIV/AIDS
- provide political support to Member States and Civil Society
- maintain a platform of exchange for all stakeholders addressing HIV/AIDS
- include neighbouring countries to tackle a cross-boarder challenge
- contribute to and control a European response to HIV/AIDS
- disseminate measures to bring the number of new HIV infections down and to improve the situation of people living with HIV/AIDS

Does the objective imply developing EU policy in new areas or of strategic importance?  
No.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

1. No communication/strategy: considering the rising numbers of HIV infections and future economic and social problems due to HIV/AIDS in Europe this option would not respond to the political requirements.
2. A communication to address HIV/AIDS globally: outside of Europe HIV/AIDS is a tremendous problem related to poverty, the degree of economic development and or social determinants. Inside Europe the disease is mostly a social phenomenon and therefore a separate strategy for Europe will be more effective.
3. The best option will be a Commission communication dealing with a strategy and a contemporary action plan for Europe.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The initiative touches on other policy areas such as drug policies, external relations policies, internal market and education.

### **Do the options respect the proportionality principle?**

Yes, the scope of the options is consistent and proportional to the scale of the HIV/AIDS challenge in the EU.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

All options are likely to promote the prevention of HIV infection and to improve the quality of life of people living with HIV/AIDS.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

An HIV/AIDS policy and action plan is not supposed to have impact direct impact on the EU-budget (> 5 Mio €).

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

Since HIV/AIDS is a serious burden in many countries in the eastern neighbourhood, relations to countries belonging to the European Neighbourhood Policy (ENP) area are susceptible to be affected in a positive way. Dialogue and co-operation in public health issues will be strengthened.

Who is affected?

Public health authorities in Member States and in the neighbourhood (e.g. Ukraine, Russia, Moldova, Caucasus and Mediterranean countries). Civil society in the respective area as well as people living with HIV/AIDS and those who are most at risk of being affected by the disease.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The action plan of the current HIV/AIDS strategy is currently being assessed and results will feed into the prioritisation of activities in the future. National AIDS strategies and concepts on selected aspects developed by Civil Society and advocacy groups will be considered. Internal expert from affected Commission services and external experts from Member States and International Organisations represented in the HIV/AIDS Think Tank will be consulted.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The main stakeholders in the field are represented in two existing EC groups: the HIV/AIDS Think Tank, assembling representatives of Member States, EFTA countries and neighbourhood countries, as well as the Civil Society Forum where the most important NGOs and networks in the field of HIV/AIDS located in Europe and the neighbourhood are presented.

Both groups will be making key contributions to the development of the new strategy and action plan.

**ROADMAP**

Title of the initiative: **Communication "Report on EU Financing for Development and Aid Effectiveness - Towards achieving the Millennium Development Goals"**

Expected date of adoption of the initiative: April 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Following the adoption of the European Consensus for Development in 2005, the EU has taken a range of commitments to deliver more aid, better and faster.

These commitments have played a crucial role in the context of the Accra High Level Forum on Aid Effectiveness (September 2008), will further evolve in view of and at the Doha review conference on financing for development (29/11–2/12/2008) and have been linked more clearly to the Millennium Development Goals (MDGs) through the EU Agenda for Action, adopted by the Council in June 2008).

The EU has to ensure the implementation of commitments as they stand at the end of 2008. In its conclusions of 11 November 2008 "Guidelines for EU participation in the International Conference on Financing for Development (Doha, 29/11-2/12/2008), the Council has further specified the monitoring mandate of the Commission. The Council invites the Commission to provide an annual report on EU progress in implementing the Monterrey Consensus.

The Communication will couple the mandatory annual monitoring and progress report on EU27 commitments on financing for development and aid effectiveness with the political follow-up to three major international events in the 2<sup>nd</sup> half of 2008, i.e. the Accra High Level Forum, the UN High Level Events on Africa's development needs and on the MDGs (September 2008) and the Doha review conference on financing for development (December 2008).

What are the main problems identified?

(1) The EU, following the series of international events on development policy in 2008, at which the EU has successfully spoken with a single voice, has to demonstrate how it will implement agreed EU and international commitments.

(2) Other, non-EU donors, new economies and emerging powers have to contribute to progress in financing for development and aid effectiveness.

Explain how EU action is justified on grounds of subsidiarity

The annual progress report on financing for development belongs to the Commission's mandatory reporting obligations/ core business. The Council, in its Conclusions of May 2007 and October 2007 the Council has also asked the Commission to report – in the context of its report on financing for development – on progress and lessons learnt from the implementation of the Code of Conduct on Complementarity and Division of Labour in development cooperation and of the EU Aid for Trade strategy.

**B. Objectives of EU initiative**

What are the main policy objectives?

- To ensure that the EU remains a driving force for progress in the international debate on financing for development and aid effectiveness;
- To facilitate a coordinated follow up and implementation of the commitments that the EU and its Member States have taken at the European Council in June 2008 (including the Agenda for Action) in the framework of the Accra High Level Forum on Aid Effectiveness, the UN High Level Events and MDG review processes and at the Doha review conference on financing for development; thus contributing to ensuring that the EU remains credible about its commitments.

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

(1) In pursuance to the mandate from the Council provide annual progress reports on financing for development and aid effectiveness, including aid for trade, with a particular attention on the implementation of the EU Agenda for Action on MDGs.

(2) No progress report:

would put the Commission in breach with the mandate received from the Council.

would undermine the Commission's "federating" role to push for progress on financing for development and aid effectiveness in the EU at large;

would decrease positive peer pressure on EU27 and the attention they pay on implementing agreed EU and international commitments in the area of development policy.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The proposals will build on and impact on ongoing work of Commission departments. It will cut across several policy areas in all its segments (financing for development, aid effectiveness).

Explain how the options respect the proportionality principle

The policy options do not go beyond what is necessary to achieve the above-mentioned objectives.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The Commission will propose action-oriented changes to the implementation of agreed EU policies on financing for development and aid effectiveness, with a view to support the efforts of Member States to increase aid volumes (in line with EU commitments taken in 2002 and 2005) and to enhance the impact of development assistance of the EU27 and the EC-managed resources (from EC budget and European Development Fund) through improved effectiveness and efficiency.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

(1) Contribute to achieving the Millennium Development Goals and other internationally agreed development objectives in developing countries.

(2) Better "value for money" and better development results through improved aid effectiveness, including through division of labour between EU and international donors.

Who is affected?

EU Member States, other international donors, developing countries and the EC.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

A formal IA report should not be required for this initiative which relate to an annual Commission reporting mandate, to internationally agreed development objectives and to existing EU commitments.

Which stakeholders & experts have been/will be consulted, how and at what stage?

- The Governments of the EU27 Member States will be consulted through the annual survey, based on a detailed questionnaire that will be sent in January 2009 (replies expected by March 2009). Based on the return from the EU Member States regarding the different thematic EU commitments the Commission will draft the Communication and accompanying support documents.
- Consultation with Civil Society Organisations (CSOs through their EU platforms): several information and discussion meetings with experts of Civil Society Organisations (CSO) that work on the issues to be covered by the package are foreseen covering the entire preparation period.

**ROADMAP**

Title of the initiative: **Communication on Social protection in health and Reform of the Financing of Health Systems in Developing Countries**

Expected date of adoption of the initiative: September 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

Depuis 2001, l'Union a approuvé différentes stratégies ou plans d'action relatifs à la coopération dans le domaine de la santé avec les pays en développement (2004-2005 : stratégie et programme d'action pour lutter contre le VIH/sida, la tuberculose et le paludisme par les actions extérieures; diverses conclusions du Conseil concernant la santé sexuelle et reproductive; 2006: stratégie et plan d'action pour répondre à la crise des ressources humaines en santé dans les pays en développement).

Mais sans plan national de financement clair, global et prévisible des systèmes de santé, élaboré avec l'ensemble des partenaires nationaux et internationaux impliqués, il ne pourra y avoir de développement pérenne de ces systèmes, en mesure de délivrer de manière équitable des services de santé de qualité à la population et donc de parvenir à atteindre les objectifs du millénaire pour le développement. Dans ce cadre, l'élaboration de dispositifs de couverture du risque maladie, adaptés aux contraintes des pays à ressources limitées, serait particulièrement utile.

L'intérêt de la communauté internationale vis-à-vis de cet élément central du renforcement des systèmes de santé s'est intensifié depuis quelques années, comme en témoignent les déclarations dans le cadre des G8 de Saint-Petersbourg et d'Heiligendam, les trois conférences internationales consacrées à ce sujet en 2006, 2007 et 2008, et la mise en place du partenariat "Providing for Health" (France, Allemagne).

Un cadre d'intervention de l'UE pour le financement de la santé et la protection sociale dans le domaine de la santé apportera le complément indispensable pour aborder la globalité du renforcement des systèmes de santé.

What are the main problems identified?

Millions of people around the world are not sufficiently protected against health risks and as such are prevented from seeking and obtaining needed health care because they cannot afford to pay the cost of diagnosis and treatment. This may have significant consequences for their health and lead to their impoverishment as people may become too ill to work or to provide for themselves and/or their families. Similarly, many of those that do seek care suffer from financial catastrophe and impoverishment as a result of meeting health costs. While this occurs both in rich and poor countries, the particular difficulty faced by low income countries with poor health indicators, is how to reconcile high demand for health services, the need for improved access and equity and the necessity to generate sufficient financing to deliver quality health services.

Explain how the EU action justified on grounds of subsidiarity?

Presently several Member States are working on the topic (France, Germany). We need, however, a coordinated EU approach for policy dialogue with beneficiary countries (in the context of budget support) and with global development actors (World Bank, UN system, etc) in order to avoid conflicting policy advice, technical assistance or conditionalities vis-à-vis recipient countries. Social protection and fair financing for health are specifically mentioned as an area of work for community action in the European Consensus on Development (Art. 93 and 97).

**B. Objectives of EU initiative**

What are the main policy objectives?

The immediate objective is to ensure that problems of access to health or cost of health services does not drive people into poverty and that access to health care in developing countries becomes more equitable. To



achieve this objective, the goal is to agree on a common position and identify how the EU can support partner countries in addressing the issue of sufficient and fair financing as well as social protection in health through EU development programmes, how to advocate the EU view internationally and how to address health financing through global financing initiatives.

Does the objective imply developing EU policy in new areas or of strategic importance?

The Commission and the French Presidency have finalised a joint paper on health financing and social protection that has been discussed during the informal meeting of European development ministers that was held in Bordeaux on 29 and 30 September 2008. Council conclusions in November 2008 are expected to call for a fully fledged communication – possibly followed by a programme for action.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

- 1) Do nothing
- 2) Table a political initiative that would provide guidance for addressing the issue of health financing and social protection in health through EU development programmes and a coherent position in policy dialogue and institutional support.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The initiative will have a main impact in the area of development policy.

Explain how the options respect the proportionality principle?

Communication is a non binding instrument and serves only as guidance for implementation in external cooperation where the competence is shared between the European Commission and the Member States.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

A thorough implementation of the initiative may have economic and social impact in developing countries. On the economic side, the implementation should have a positive impact on the economic development of beneficiary countries (healthier workforce) and the degree of exposure to poverty among individuals and/or their families in need of health care. It may also have an impact on setting budgetary priorities in developing countries through promotion of higher expenditure in health in line with existing international commitments (e.g. Abuja target of 15 per cent of budget expenditure to health in Africa). On the social side, the initiative hopes to lead to higher degree of equity in access to health services, especially among those most at risk of poverty.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Should the initiative lead to budgetary spending through development of new or support of existing assistance programmes, these would be offset within the existing budgetary instruments (i.e. country programming financed by the European Development Fund and thematic budget line for human and social development).

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

The initiative can lead to a more coordinated development approach of EC and Member States in relations with partner countries in the area of health and especially health systems financing. It can also lead to a development and advocacy of a common EU position in the area of health system financing that should allow for a better coordination with the World Bank, the UN system and other large development players. As such, the initiative should help to avoid conflicting approaches towards health systems financing and reduce the burden imposed on EU partner countries.

Who is affected?

The initiative will guide development assistance of Member States and the European Commission with the intention to have an impact on policy development, implementation and monitoring in developing countries in the area of financing of health systems and social protection in health.

#### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

There is significant amount of literature and information available on financing of health systems and several Member States (MS) have an extensive experience in this field. The European Commission and the French Presidency have finalised a joint paper on the subject, which builds on French international conference that took place in May 2007. All work is being done in cooperation with a working group of MS on health financing and social protection in health created in February 2008. In addition, the Commission has contracted a background study and a set of cases studies as input for the communication.

Which stakeholders & experts have been/will be consulted, how and at what stage?

EU expert meeting on health financing held in February 2008.

Ministerial conference organized by French government on the topic in May 2008.

An informal EU development ministerial meeting in September 2008.

EU expert group meeting in October 2008 to review first draft of commissioned background study.

Council conclusions expected in November 2008.

Conference on South-South exchange of experience in the area of health financing in February 2009.

Public consultation in the first quarter of 2009.

**ROADMAP**

Title of the initiative: **Communication from the Commission on the mid-term review of RELEX financial instruments**

Expected date of adoption of the initiative: April 2009

**A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

In each of the seven RELEX financial instruments for the period 2007-2013, a mid-term review (MTR) clause of the regulations has been inserted by the legislative authority. The clause mentions that the Commission shall submit a report evaluating the implementation of the respective Regulations with, if appropriate, legislative proposals introducing the necessary modifications.

The objective of the mid-term review is aiming to take stock of the instruments as regards:

- 1) their delivery against the declared objectives,
- 2) implementation issues,
- 3) their delivery against the commitments undertaken,
- 4) the adequateness of the financial envelopes.

The Commission also agreed to carry out that review in 2009 and to take into account the Parliament's reports and recommendations on dysfunctional situations that may have arisen.

What are the main problems identified?

The implementation of the Regulations has been closely monitored by the Council and the Parliament through the comitology procedure and the regular dialogue between the Commission and the Parliament in accordance with the Declarations 4 and 5 on "Democratic scrutiny and coherence of external actions" attached to the Inter Institutional Agreement on budgetary discipline and sound financial management. During that process, the Parliament has identified a dysfunctional situation as regards some measures proposed by the Commission under the Development Cooperation Instrument (Regulation n° 1905/2006). The Parliament took the view that some of the measures foreseen did not meet the requirements for classification as Official Development Aid (ODA) and, as such, were not eligible under that instrument. However, financing such measures, especially in countries and regions which have already reached a level of development, remains necessary and the EP initiated a set of preparatory actions aimed at supporting such measures (e.g. Business and scientific exchanges with China and India, cooperation with middle-income countries in Asia and Latin America). The mid-term review will look into addressing, in particular, a follow-up to these preparatory actions for financing non-ODA activities in countries falling under the DCI Regulation.

During the review, other issues might also lead to amendments to the respective legislative instruments.

Is EU action justified on grounds of subsidiarity?

The need to act at Community level has already been justified when the RELEX financial instruments have been proposed and adopted by the legislative authority.

**B. Objectives of EU initiative**

What are the main policy objectives?

The mid-term review will report on the implementation of the respective regulations, accompanied, if necessary, by legislative proposals. Whether or not there are amendments of policy objectives will depend on the results of the review process.

Does the objective imply developing EU policy in new areas or of strategic importance?

No. The objective is to adjust the financial instruments to the implementation issues identified during the mid-term review.

### **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

The mid-term review could result into amendments to the existing instruments. As regards the legislative follow-up to the preparatory actions, the options are either to amend existing instruments or to propose a new legal base.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Not applicable.

Do the options respect the proportionality principle?

Yes.

### **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

The legislative follow-up of the preparatory actions will allow continuing to finance activities that the Parliament has deemed as non eligible under the DCI Regulation.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Yes. The legislative follow-up of the preparatory actions does imply the continuation, as a minimum, of these actions whose 2008 budget amounted to EUR 13.5 million. The implementation of the current regulations and of the preparatory actions serves to provide an ex-ante evaluation.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

This has an impact on third countries, since the financial instruments underpin our cooperation with them.

Who is affected?

The preparatory actions cover the countries cover by the DCI Regulation, that is, Latin America, Asia, Central Asia, Iraq, Iran, Yemen, and South Africa.

If the other instruments are amended, potentially all third countries are affected either through the geographical instruments (DCI geographical, ENPI, IPA, ICI) or through the horizontal and thematic instruments (DCI thematic, IPA, EIDHR, IfS).

However, as stated above, since the policies are already established, the third countries will not be affected.

### **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

As this is an established policy and the current initiative is aimed at reviewing progress in the implementation of the Regulations we do not foresee a specific impact assessment. Options and ideas are being tested under the preparatory actions.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Not applicable.