

#### 4 CHANGES IN THE SECRETARIAT

The Secretariat is yet chaired by Norway and consists of representatives from UK, France, Germany and the Netherlands. The French Ministry of Culture and Communication is now presented by Oran Proisy in the Secretariat and Christopher Young represents UK while Alexandra Warr is on leave.

At the end of 2012 major changes in the composition of the Secretariat are on the agenda. The Dutch representative wishes to step down and Norway wishes to pass the Chair to another country from 2013. The EHLF Secretariat therefore invites the EHHF to reflect on the composition forwards to 2012. The EHLF-Chair shall be elected in 2012 effective from January 2013.

#### 5 CONCLUSIONS

Experience demonstrates that the one of the most important work-loads for the EHLF is to follow up the legislative developments at the national level. This is also the area where the EHLF functions are the least developed. This is the area where there is need for policy competence to work at a cross-ministerial level (cross-sector).

The observatory function relative to legal policy matters in Brussels is functioning fairly well. But as long as the work at national level is sub-optimal the capacity to influence policy and legal issues in Brussels will remain a weak point. In this respect the results of last year's Belgian initiative in establishing a more permanent and formal contact and dialogue with the EU Commission is of great importance.

In addition to promoting the formalizing of communication with the EU Commission, the Secretariat wishes to be able to give priority to supporting and developing the cross-sector policy work of its members at the national level in the coming years.

We must expect the aftermath of the debts-crisis to negatively affect the work also in the coming year.

#### MEMBERS

1 Iceland	6 Germany	11 Latvia	16 Spain
2 Sweden	7 The Netherlands	12 Belgium	17 Slovakia
3 Finland	8 United Kingdom	13 Luxemburg	18 Kroatia
4 Denmark	9 Ireland	14 Austria	19 Greece
5 Norway	10 Poland	15 Hungary.	

*The Task of the EHLF is "To ensure that improved and timely information on the development and consequences of legal acts developed by the European Union which may pose a potential threat to cultural heritage are conveyed to the national competent authorities."*<sup>1</sup>



## REPORT TO THE 6TH SESSION OF THE EUROPEAN HERITAGE HEADS FORUM AMSTERDAM, 25-27 MAY 2011

#### 1 REGULATIONS/DIRECTIVES

##### **The Regulation (EU) No. 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (Construction Products Directive, CPD)**<sup>2</sup>

This regulation clarifies of the basic concepts and the use of CE marking as well as, it introduces simplified procedures, so as to reduce the costs incurred by enterprises, in particular SMEs, and it increases the credibility of the whole system by imposing new and stricter designation criteria to bodies involved in the assessment and the verification of constancy of performance of construction products.

The Secretariat has followed the regulation from the initial legislative document from 23 May 2008 to the Council decision on 21 February 2011, 2008/0098 (COD) PE-CONS 5/1, interacting with as many parties as possible. The result is found in Article 5 as derogations from drawing up a declaration of performance if:

- (a) the construction product is individually manufactured or custom-made in a non-series process in response to a specific order, and installed in a single identified construction work,

<sup>1</sup> EHLF Operational Guidelines.

[http://www.riksantikvaren.no/Norsk/Prosjekter/European\\_Heritage\\_Legal\\_Forum/Operational\\_Guidelines/](http://www.riksantikvaren.no/Norsk/Prosjekter/European_Heritage_Legal_Forum/Operational_Guidelines/)

<sup>2</sup> REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN HARMONISED CONDITIONS FOR THE MARKETING OF THE CONSTRUCTION PRODUCTS, REGULATION (EU) No 305/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (Text with EEA relevance), Official Journal of the European Union L 88/5 of 4. April 2011.

- (b) the construction product is manufactured in a traditional manner or in a manner appropriate to heritage conservation and in a non-industrial process for adequately renovating construction works officially protected as part of a designated environment or because of their special architectural or historic merit, in compliance with the applicable national rules.

When this derogation has been applied the CE marking shall not be affixed. This lack of CE marking can easily bring the products into conflict with the EU public procurement policy where CE marking is demanded. Here there is need to inform other actors in the national administrations!

For this reason the EHLF requested members to be active in the consultation on the modernisation of EU public procurement policy<sup>3</sup>, which ran from 27 January 2011 to 18 April 2011.

#### **Implementing the Directive of the European Parliament and of the Council No. 2010/31/EU of 19 May 2010 on the energy performance of buildings.**

In the process of national implementation each member state may decide to apply the exemptions in article 4 or not. Each member may also decide on the interpretation of art. 4 par. 2 lit. a. "buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance;"

The work of adoption into national legislation is finished in Slovakia, France and Norway. It is presently ongoing in most other countries and not yet (officially) started in Germany, Hungary and Poland. Germany is strongly involved in the developing the legal text as well as in the development of technical specifications. The tendency seems to be that northern country heritage authorities are more involved in the legal work than the southern countries. Sk, Pl, Fr, No, Be, Fi, Se and Lt have enlarged the field for exemptions of the directive in their national legal texts. The EHLF network is giving assistance to members by informing them of possibilities and choices in other countries. The network has also assisted countries where the exemptions were reduced or disappeared from the national legislation (f. e. Ge, Sl).

## **2 OTHER EU POLICY ISSUES OF RELEVANCE TO CULTURAL HERITAGE**

#### **Swedish protection of archeological heritage leads Commission to take Sweden to court.**

The Swedish ban on metal detectors, which are not allowed yet to be brought into the country, is deemed to be contrary to the free movement of goods.

The European Commission has decided to request Sweden to amend its legislation on the use of metal detectors so as to ensure its compliance with EU rules on the free movement of goods.

#### **The Common Agricultural Policy, CAP.**

English Heritage and the German National Committee for Monuments Protection are following the developments towards 2013. In the case of CAP the danger is that funding for cultural landscapes and rural heritage may be drastically reduced or even disappear. This issue is complicated as it is necessary to work through the negotiating teams of the member countries or through EU Parliament contacts.

<sup>3</sup> [http://ec.europa.eu/internal\\_market/consultations/2011/public\\_procurement\\_en.htm](http://ec.europa.eu/internal_market/consultations/2011/public_procurement_en.htm)

#### **The Structural Funds.**

The structural funds are also up for negotiations towards 2013. The structural funds have in many cases provided interesting funding for the built and archeological heritage, especially in urban areas, and this opening has to be defended in the ongoing negotiations.

#### **The Treaty on European Union and the Treaty on the Functioning of the European Union.**

The special considerations accorded to cultural heritage in the former Treaties remain. The European Union has limited competencies in the field of culture and only "competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas." And "Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonisation of Member States' laws or regulations."<sup>4</sup> Further restrictions on competencies and special consideration are stated in articles 36 and 114 (Chapter 3.) and article 167 (Title XIII Culture). On the other hand the obligations of the EU can be considered clearer than in former Treaties as this Treaty states the EU "shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced."<sup>5</sup>

## **3 MEETINGS AND OTHER ACTIVITIES**

The Secretariat held 2 meetings in the period. A full meeting of the EHLF took place in Bruges in December 2010. The EHL chair is member of the Expert reflection group established at the cultural heritage and EU initiative of the Belgian Presidency.

The next full meeting of the EHLF will take place under the auspices of the Polish EU Presidency in Wroclaw on October 13th 2011.

The EHLF chair is member in the Expert reflection group established at the cultural heritage and EU initiative of the Belgian Presidency.

The secretariat has, through the year, distributed information to members on ongoing issues, has published one Newsletter and has written to members of the EHLF regarding strengthening the policy capacity of the network which was discussed briefly at the last Heads meeting in Paris.

The work of compiling a list of chemicals in use in the heritage sector is proving difficult. Such a list is useful for the ongoing changes in the Commission chemical regulations – REACH -. The internet site updates have not been done as frequently as we would have wished. This is a capacity problem which Norway has not been able to cope with.

Many members are suffering from the debts-crisis and the ensuing austerity measures. In many cases they have been forced to reduce their work and do not have funds to participate in meetings. We foresee this capacity reduction to last through 2012.

<sup>4</sup> TITLE I. CATEGORIES AND AREAS OF UNION COMPETENCE. Article 2. . <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2010:083:SOM:EN:HTML>

<sup>5</sup> TITLE I COMMON PROVISIONS Article 3