

Brussels, 28 June 2012

FLASH: meeting with BusinessEurope and ESF

On 15 June – at their request – I hosted a short meeting with Sofia Bournou (BusinessEurope) and Pascal Kerneis (ESF). I was asked to give debriefing on the state of play of the legislative process for the regulation establishing transitional arrangements for BITs of Member States, and on prospects for its finalisation.

I explained that the legislative process for the regulation was coming to an end. The informal trilogue between the Council, the Parliament and the Commission on the regulation, held within the framework of early second reading procedure, was finalised on 29 May 2012, when the Parliament and the Council confirmed political agreement on the final compromise for the regulation. This will allow the Council to vote its first reading position as negotiated in the trilogue, either before, or after summer break, depending on technical work that still needs to be done. The Parliament will vote in Plenary the text adopted by the Council as its second reading position in the second half of 2012, therefore it is highly possible that the regulation comes into force still this year.

My interlocutors were particularly interested in knowing the substance of the agreement between the Council and the Parliament on the regulation, and in particular how this agreement changes the original Commission's proposal for the regulation. I explained that as the trilogue was an informal negotiation between the Council and the Parliament, the text agreed in this negotiation was not yet available for a wider public. It will be made public only when the Council adopts its first reading position. At the same time I revealed some basic concepts, to which both institutions subscribed in the trilogue, such as:

- i) replacement mechanism – MS agreements can stay in force only until they are replaced by the Union's agreement;
- ii) cooperation mechanism – potential problems created by Member States' agreement will be solved through cooperation between Member State concerned and the Commission, with an option to refer contentious cases to the Court;
- iii) authorisation for post-Lisbon investment agreements – Member States will get a possibility to have their agreements, signed post-Lisbon in violation of the EU exclusive competence, authorised under a special authorisation procedure.

The information was highly appreciated. The regulation, and the transition from MS BITs to the EU investment agreements, is extremely important for business. We agreed to stay in contact and follow-up on this issue at a later stage.

Marta BUSZ

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