



Committee on Legal Affairs

7.10.2015

MISSION REPORT

following the delegation of the Committee on Legal Affairs to the Organisation for Economic Cooperation and Development (Paris, 21 September 2015)

Committee on Legal Affairs

Members of the mission:

Evelyn Regner

Jean-Marie Cavada

(S&D) (Leader of the mission)

(ALDE)

Accompanying Members:

Pascal Durand

Constance Le Grip

(Verts/ALE)

(PPE)

Introduction

A delegation of the JURI Committee visited the headquarters of the Organisation for Economic Cooperation and Development (OECD) in Paris on 21 September 2015. The delegation included Ms Evelyn Regner (S&D), Mr Jean -Marie Cavada (ALDE), Mr Pascal Durand (Verts/ALE) and Ms Constance Le Grip (EPP).

The delegation held one day of intensive meetings in the premises of the OECD with Mr Angel Gurría (Secretary-General), Mr Mats Isaksson (Head of Corporate Affairs Division), Ms Fianna Jurdant (Senior Policy Analyst, Corporate Affairs Division), Mr Rolf Alter (Director for Public Governance and Territorial Development), Mr Stéphane Jacobzone (Deputy Head of Division, Reform of Public Sector, Public Governance and Territorial Development Directorate), and Mr Piotr Stryszowski (Project Manager, Public Governance and Territorial Development Directorate).

The Delegation discussed the updated G20/OECD Principles of Corporate Governance and the state of play of corporate governance in Europe. They also discussed the underrepresentation of women at corporate boards and top corporate positions and means to promote and increase female presence in those bodies. Counterfeiting and Piracy were also discussed.

Summary account of meetings

The delegation was welcomed by Mr **Mats Isaksson**, Head of the Corporate Affairs Division, who gave an introduction to the OECD Corporate Governance Committee and the work of OECD in this field. Mr Isaksson also gave an overview of the updated Principles of Corporate Governance adopted by the OECD Council on 8 July 2015. The speaker stressed from the outset that corporate governance is not an end in itself but that it should be thought of as a means to create market confidence and business integrity. These elements are essential for companies that need access to capital for long-term investment. Corporate governance should contribute to promote economic efficiency, sustainable growth and financial stability and should facilitate corporate access to capital and increase investment. According to Mr Isaksson, the main policy tools to obtain the above objectives are company law; securities market regulations; stock markets listing requirements and accounting and auditing standards. In this context, the speaker stated that the **OECD Corporate Governance Committee's role** is mainly threefold: (i) standard setting, monitoring and implementation assessment of standards; (ii) economic analysis, data gathering and information sharing; and (iii) support and reform assistance to countries when they so request. The standards are incorporated in the **Principles of Corporate Governance**, which, as already mentioned, have been reviewed in 2015. The principles are intended to help policy makers evaluate and improve the legal, regulatory, and institutional framework for corporate governance, so as to support economic efficiency, sustainable growth and financial stability. They were originally developed by the OECD in 1999 and were updated for the first time in 2004. The speaker expanded in the current review process of those principles which were endorsed in September 2015 as joint G20/OECD Principles by the G20 Finance Ministers and Central Bank Governors. The reviewed principles maintain many of the recommendations from earlier versions, but they also introduce some new issues and bring greater emphasis or additional clarity to others. There is a new chapter on institutional investors, stock markets and other intermediaries and a

new chapter addressing the need for sound economic incentives through the investment chain. Other changes refer to the emphasis made in the quality of supervision and enforcement, the attention to the role of stock markets in supporting good corporate governance, the use of information technology and shareholder meetings, the procedures for approval of related party transactions, and the attention to the conflicts of interest that may compromise the integrity of proxy advisors, analyst, broker, rating agencies and other service providers. The principles are formulated in a way that can be adapted to countries and company specific circumstances, and they can be useful to improve corporate governance in smaller and unlisted companies. Mr Isaksson highlighted that although the principles do not have binding force, they have a proven record as an international reference point and as effective tool for implementation and have been adopted or used by international organisations and actors worldwide. There was a subsequent exchange of views between the delegation and Mr Isaksson on inter alia, corporate social responsibility, long-term versus short-term profitability, protection of the millions of households around the world that have their savings in the financial markets, country-by-country reporting and transparency as a means to make companies more responsible and make trade fairer.

Ms **Fianna Jurdant**, Senior Policy Analyst at the Corporate Affairs Division, gave an introduction on **diversity issues in board member nomination and election** and focussed on women's representation in businesses decision-making positions. Ms Jurdant stressed that the G20/OECD Principles include a reference to gender balance. Chapter 6 of the Principles outlines key responsibilities and functions of the board. In Principle D5, the key responsibilities of the board include ensuring a formal and transparent board nomination and election process. Although shareholders have an active role, the board is responsible for the election procedures, which, in any case, should be transparent and respected. The board defines the general or individual profile of members and has a special responsibility to identify candidates. Principle E4 states that boards should regularly carry-out evaluations to appraise their performance and assess whether they possess the right mix of backgrounds and competencies, and mentions that countries may wish to consider measures such as voluntary targets, disclosure requirements, boardroom quotas, and private initiatives that enhance gender diversity on boards and in senior management. Ms Jurdant reported that on 29 May 2015 the OECD adopted a Gender Recommendation suggesting OECD member countries to adopt policies that increase representation of women in decision-making positions by (i) encouraging measures such as voluntary targets and disclosure requirements that enhance gender diversity on boards; (ii) introducing mechanisms to improve gender balance in leadership positions in the public sector, and (iii) encouraging greater participation and representation of women at all levels of politics. The recommendation calls for the collection of internationally comparable data to monitor the progress made on gender equality in education, employment and entrepreneurship (the so-called "3 Es"). The speaker stressed that although there is no evidence, there are correlations of causality in terms of company performance suggesting that a greater proportion of women on boards may positively affect the governance of badly performing companies, and yet women are still underrepresented in top corporate jobs. In October 2014, women, on average, occupied only 20.2 per cent of board seats of large listed companies in EU-28. Worldwide only 9 countries had passed the 20 per cent benchmark in 2014, of which 8 were European: Norway, Finland, France, Sweden, Belgium, UK, Denmark and The Netherlands. When it comes to top executive positions in companies in the EU, only 3.3 per cent are occupied by women. The speaker referred to studies and surveys suggesting that companies with more women on executive committees perform better than those with no women at the top and also that companies with more

women on boards tend to have fewer governance related controversies. She also mentioned that shareholders are becoming more active in promoting gender diversity in boards. It seems that as the body of research indicates that more gender balanced boards perform better, the push by investors for diversity on boards has intensified. In the UK three large investors said in 2014 that they would start to reject board proposals at the annual meetings of FTSE 250 companies with all-male boards. CalPERS - the largest investor public pension fund existing in the USA - includes diversity in its engagement topics with companies. In 2014, CalPERS engaged with 126 of the largest companies in California that did not have any women on their board of directors. Many countries in Europe have adopted or are in the process of adopting policies for achieving gender balance on boards, many of these policies consisting of gender quotas ranging from 25 per cent (United Kingdom) to 40 per cent (Norway, France, Spain). Ms Jurdant concluded her presentation with a reference to the future work of the OECD in the field. OECD will monitor progress of the Gender Recommendation by surveying member countries. It will analyse the effects of soft targets, disclosure requirements and quotas in achieving gender balance objectives. OECD is currently considering the initiation of two projects: 'Women in Business: talent at the top of listed companies' and 'Women in high-level decision-making'. The second of these two projects will intend to move beyond the quota debate and take a new perspective on existing barriers and missing opportunities for women in decision-making positions. The presentation was followed by an exchange of views.

The delegation was subsequently received by Mr **Angel Gurría**, OECD Secretary-General of OECD, with who the delegation maintained a pleasant and productive exchange of views. Mr Gurría explained to the delegation the recommendations made by the OECD to member countries to combat tax avoidance by multinationals ('the BEPS recommendations') and the work of the organisation in the field of migration. The discussion turned to indicators relating to migration, and Mr Gurría recalled the presentation he made to the EP Social Affairs Committee last spring about indicators on quality integration of migrants. Mr Gurría underlined that since the early seventies the OECD has provided solid, evidence-based analyses of migration and integration policy challenges and that the organisation offers a forum to share experiences, promote policy dialogue and seek solutions to common problems regarding migration. He described the OECD as a 'GPS' which through the years has demonstrated its proficiency at predicting problems and providing useful information and proposals. Mr Gurría also mentioned how OECD and the European Commission work "hand in hand". Following a question by the delegation on inequalities, he explained that OECD has been looking at the issue for a long time explaining why we all benefit from fighting inequality (see "Finance and Inclusive Growth", OECD 2015) but unfortunately no much progress has been made. He ended the discussion expressing OECD's readiness to cooperate with and assist the European Parliament whenever requested.

In the afternoon, the delegation met with Mr **Rolf Alter**, Director for Public Governance and Territorial Development; Mr **Stéphane Jacobzone**, Deputy Head of Division, Reform of the Public Sector, Public Governance and Territorial Development Directorate; and Mr **Piotr Strykowski**, Project Manager, Public Governance and Territorial Development Directorate. Mr Alter and Mr Jacobzone gave an overview of the competences and goals of the OECD Governance and Territorial Development Directorate and subsequently gave the floor to Mr Piotr Strykowski who presented the joint **OECD-OHIM Project on Counterfeit and pirated trade**. He explained that they have been collecting figures on the volume, scope and trends of trade in counterfeit and pirated items (first phase of the project) and described the methodology which relies mainly on the 2008 project experience, customs data and

interviews with enforcement officials The figures shall form the basis for a diagnosis of the current situation, allowing the organisation to make proposals and recommendations in the field. Mr Piotr Stryszowski then gave the preliminary results and policy conclusions: counterfeiting is a horizontal inter-agency (health, finance, customs, etc.) problem; it is an international problem calling for effective international co-operation between the destination countries, the transit economies and the source economies; awareness should also be raised among enforcement authorities and governments officials; enforcement of existing regulations is necessary. During the exchange of views, OECD called for making the works more visible and the delegation mentioned the possibility of holding a hearing in the Committee on Legal Affairs, together with other Committees with competence in the matter.

The delegation ended at 15:45.

Conclusions

The visit to OECD, which was the first one for the Committee on Legal Affairs, gave Members the possibility of discussing with international experts matters of interest for the Committee. This seems to be the starting point for further exchanges and cooperation with the international Organisation as the delegation expressed its interest in inviting OECD experts to future meetings of the Committee on Legal Affairs, concretely on the issue of gender balance at board level in the context of the negotiations on the legislative file on women on boards, and on IPR enforcement.