

**Explanatory meeting with Croatia and Turkey
21 June 2006**

**COMMISSION RECOMMENDATIONS
ON
INDEPENDENT DIRECTORS
AND
THE REMUNERATION OF DIRECTORS**

Florence François-Poncet
European Commission
DG Internal Market & Services
Unit F2

The 2003 Action Plan

« Communication from the Commission to the Council and the Parliament: Modernising company law and enhancing corporate governance in the EU – A plan to move forward » (21.05.2003 – COM (2003) 204 final)

- **Identifies key Corporate Governance lines of action**

- Enhance disclosure
 - Co-ordinate Member States' Corporate Governance efforts
 - Strengthen shareholders' rights, notably in a cross-border context
 - Modernise the board of directors
 - Recommendations on (1) the role of non executive directors and board committees and (2) the remuneration of directors
 - Amendments to the 4th and 7th company law directives (directors' responsibility)
 - Directive on statutory audit
- ➔ **Recommendations** i.e. non-binding measures setting a benchmark.

Aspects common to both recommendations

Scope:

- Companies whose shares are admitted to trading on a regulated market and which have their registered office or their primary listing in the Member State
- UCITS: optional

Non-binding: Member States are invited to

- take necessary measures to promote the application of the Recommendations by 30 June
- notify the Commission of measures taken in accordance with the Recommendations



Recommendation on the remuneration of directors

➔ Company policy on directors' remuneration

- **Published** in a separate remuneration report or in Annual Report
- **Subject to shareholders' vote (mandatory or advisory)**
- **Content**
 - Remuneration policy (i.e. cash & non cash bens, performance criteria, bonus schemes)
 - Main Contract terms (duration, termination, payments upon termination)
 - How remuneration policy is being established

➔ Remuneration of individual directors

- **Published** in a separate remuneration report or in Annual Report
- **Content**
 - Total remuneration and other benefits (non cash, share options, pension scheme)
 - Line by line (not just grand total)

➔ Share based remuneration

- **Shareholders' prior approval (vote in AGM)** before adoption of any scheme of significant change
- **Content:** should always mention cost of scheme to company



Recommendation on the role of non-executive directors and on Board committees

➔ Board governance

- Board to assess its own performance (incl. that of its individual members) and disclose whether this has led to any change
- Committees to take necessary time to consider issues in depth and to advise board
- Independent directors to play effective role in committees
- Internal rules of committees to be disclosed

➔ Nomination, remuneration and audit committees of the Board

- Key areas of risk of conflicts of interest
- Committees to take necessary time to consider issues in depth and to advise board
- Independent directors to play effective role in committees
- Internal rules of committees to be disclosed

➔ Profile of non-executive or supervisory Directors

- Independent: i.e., no family of business ties with company or controlling shareholder or management of either which could impair business judgement
- Qualified for the function (+ diversity of qualifications among independent directors)
- Committed and have the necessary time => disclosure of other professional commitments

- Commission Recommendation of 14 December 2004 fostering an appropriate regime for the remuneration of directors of listed companies,
O.J. L385, 29.12.2004, p. 55
- Commission Recommendation of 15 February 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board
O.J. L52, 15.02.2005, p. 51