

APROBAT

În ședința Biroului permanent al
Camerei Deputaților



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135

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Parlamentul României
Camera Deputaților

B.P. Nr. 135 din 21.02.2011

RAPORT

Referitor la deplasarea efectuată la Bruxelles
în perioada 28-30 noiembrie 2010

În calitate de invitat la Conferința Președinților Comisiilor de Infrastructură din Parlamentele Naționale ale statelor membre ale Uniunii Europene, am participat în perioada 28-30 noiembrie 2010 la lucrările acestei conferințe organizate de Camera Reprezentanților a Parlamentului Belgiei.

În seara zilei de 28 noiembrie am participat la acțiunea organizată la Muzeul de Transport Urban de la Bruxelles.

Mesajul de bun venit la conferință a fost adresat participanților de către Dna Maggie De Block - președinte al Comisiei privind Infrastructura, Traficul și Întreprinderile Publice a Camerei Reprezentanților din Parlamentul Belgian.

S-a discutat despre dezvoltarea infrastructurii rețelelor de transport transnaționale și consolidarea rolului logistic al Uniunii Europene.

La prelegeri au participat Doamna Griet De Ceuster - director de Transport & mobilitate Leuven și Domnul Siim Kallas - vicepreședinte al Comisiei Europene, responsabil de transport.

Domnul președinte al Comisiei pentru Finanțe și Afaceri Economice a Senatului, domnul Frank Vandenbrouche împreună cu domnul Hervé Jacquemin -profesor la Universitatea din Namur, director al unității pentru comerț electronic și domnul Merijn Schik - membru al cabinetului doamnei Neelie Kroes, vice-președinte a Comisiei Europene, responsabil cu agenda digitală au subliniat importanța protecției consumatorilor în sectorul comunicațiilor electronice.

La finalul conferinței, reprezentantul Spaniei a prezentat succint calea ferată de mare viteză în lungime de 242 de kilometri ce leagă Madrid de Valencia. Astfel, Spania și-a extins rețeaua de linii de mare viteză la peste 1240 mile, lider în Europa. Pe locurile următoare se află Franța cu 1178 mile și Germania cu aproximativ 800 de mile.

Spania are, de asemenea, un proiect transfrontalier în colaborare cu Franța, o linie de cale ferată nouă, care va traversa munții Pirinei, legătură feroviară de mare viteză care face legătura între Paris, Barcelona și Madrid.

Reprezentantul Italiei, căruia i s-au alăturat prin luările lor de cuvânt și cei ai Greciei, Spaniei și Maltei, a insistat pe dezvoltarea și finanțarea corespunzătoare a infrastructurii portuare, având în vedere importanța crescută pe care Uniunea Europeană o acorda transportului maritim și fluvial.

Reuniunea s-a focalizat pe rețelele transeuropene de infrastructură și pe problema de comunicare electronică. În acest moment cele mai mari provocări ale Uniunii Europene în privința dezvoltării infrastructurii de transport sunt date de diferențele de dezvoltare între țările membre.

Vă atașez prezentările făcute de domnul Merijn Schik - membru al cabinetului doamnei Neelie Kroes, vice-președinte a Comisiei Europene, responsabil cu agenda digitală, și de domnul Hervé Jacquemin - profesor la Universitatea din Namur, director al unității pentru comerț electronic.

DEPUTAT,
Cristian PETRESCU



The new EU Telecoms package: strengthening the rules on consumer protection

29 November 2010

Merijn Schik

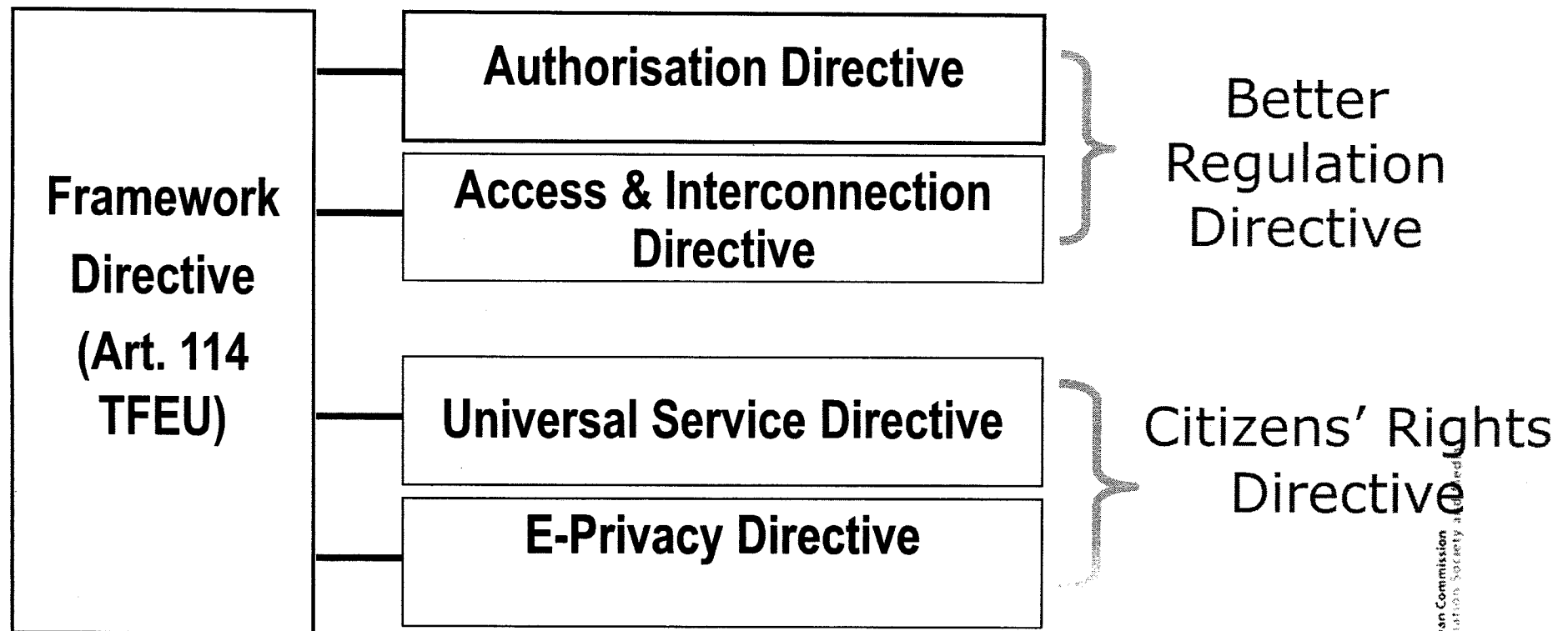
*Member of Cabinet, Commissioner Kroes
Vice-President, responsible for the Digital Agenda*

European Commission
Information Society and Media



The review of the EU telecom framework (25.11.2009)

BEREC Regulation



The current telecoms rules

Ensure interests and rights

To receive a written contract including specific details, in particular on tariffs and costs, with the possibility to break the contract if the supplier changes the terms

Transparency and up-to date information of telecoms services

Access to emergency numbers (112)

Number portability

Access to out of court dispute resolution mechanism

The current telecoms rules (USD and ePrivacy Directive)

Provision of universal service

i.e. basic set of services of reasonable quality at affordable prices regardless of geographical location.

This must include the possibility to access emergency services, and also enable people with disabilities or specific needs to access telecom services.

The new rules: Universal service obligations

Some modifications but no change to concept, financing, costing, mechanism, etc.

Flexibility for MS to upgrade to broadband (Recital 5)

- Data connection at satisfactory data rates
- Prevailing bandwidth used by the majority of subscribers
- Technological feasibility

Disabled: MS shall take measures allowing access to services

Separation of connection and services

USD Revision ongoing

The current telecom rules

End user privacy and security of networks

Telecommunication service providers and operators to ensure that their networks and services are secure.

High standards of data protection for personal data stored or transmitted over the telecommunication network

Protection against spam

Procedures to protect users identity (non itemised bills, calling line identification)

Contracts and transparency

Better information on supply conditions

- quality of services provided
- access to emergency services
- conditions limiting access to services or applications
- traffic management procedures
- restriction on terminal equipment supplied
- renewal/termination conditions

Improved comparability of tariffs

Emergency calls

Access to all emergency services to be provided by all undertakings originating calls to the public network

Strengthened provision of caller location information to emergency authorities

Appropriate answering and handling of calls by emergency call centers – parity with calls to national emergency numbers

Better access to emergency services for disabled users

More publicity for the European emergency number 112

Number portability

Porting of numbers and their subsequent activation within one working day ("subscribers who have concluded an agreement")

Conditions and procedure should not represent disincentive to change of supplier

Contracts not exceeding 24 months (but also max. 12 month contract to be offered)

Protection against 'slamming'

Net neutrality

Existing rules

- Competitive market
- Rules on SMP operators
- End-to-end connectivity

With the review

- Consumer transparency
- Quality of service – supervision by NRAs

Report on NN by the end of this year



Copyright and telecoms

Information to consumers on consequences of copyright infringements/dissemination of harmful content

MS may require undertakings to distribute standard information on uses of electronic communications to engage in unlawful activities

measures taken by Member States regarding access to or use of services and applications through telecoms networks must respect the fundamental rights and freedoms of citizens

Personal data breach notification

Scope limited to eCommunications service providers:
telcos, mobile, ISPs

All breaches notified without undue delay to the
competent national authority

- Notification to the subscriber or individual: only
when a breach is likely to adversely affect the
personal data or privacy of a subscriber or individual

No notification to subscriber if provider has
implemented appropriate protection measures
(encryption)

Spam: right of action

Any natural or legal person adversely affected by spam (including phishing)

- Including an electronic communications service provider protecting its legitimate business interests

Stronger enforcement through the Consumer protection network

Malware, spyware, “cookies”

All means of installation covered (e.g. CD-ROMs, USB keys, etc.)

Principle of transparency

“Consent”

Recital 66: proportionality, user-friendliness, browser settings

For more information

EU regulatory framework

http://ec.europa.eu/information_society/policy/ecomm/current/index_en.htm



Interparliamentary Conference of the Infrastructure committee Chairs



Consumer Protection and Electronic Communication within European Law

Brussels, 29 November 2010

Hervé Jacquemin

University of Namur

Research Centre on IT and Law (CRID)

Agenda



- I. Overview of legal framework
- II. Consumer
- III. Protection rules

Agenda

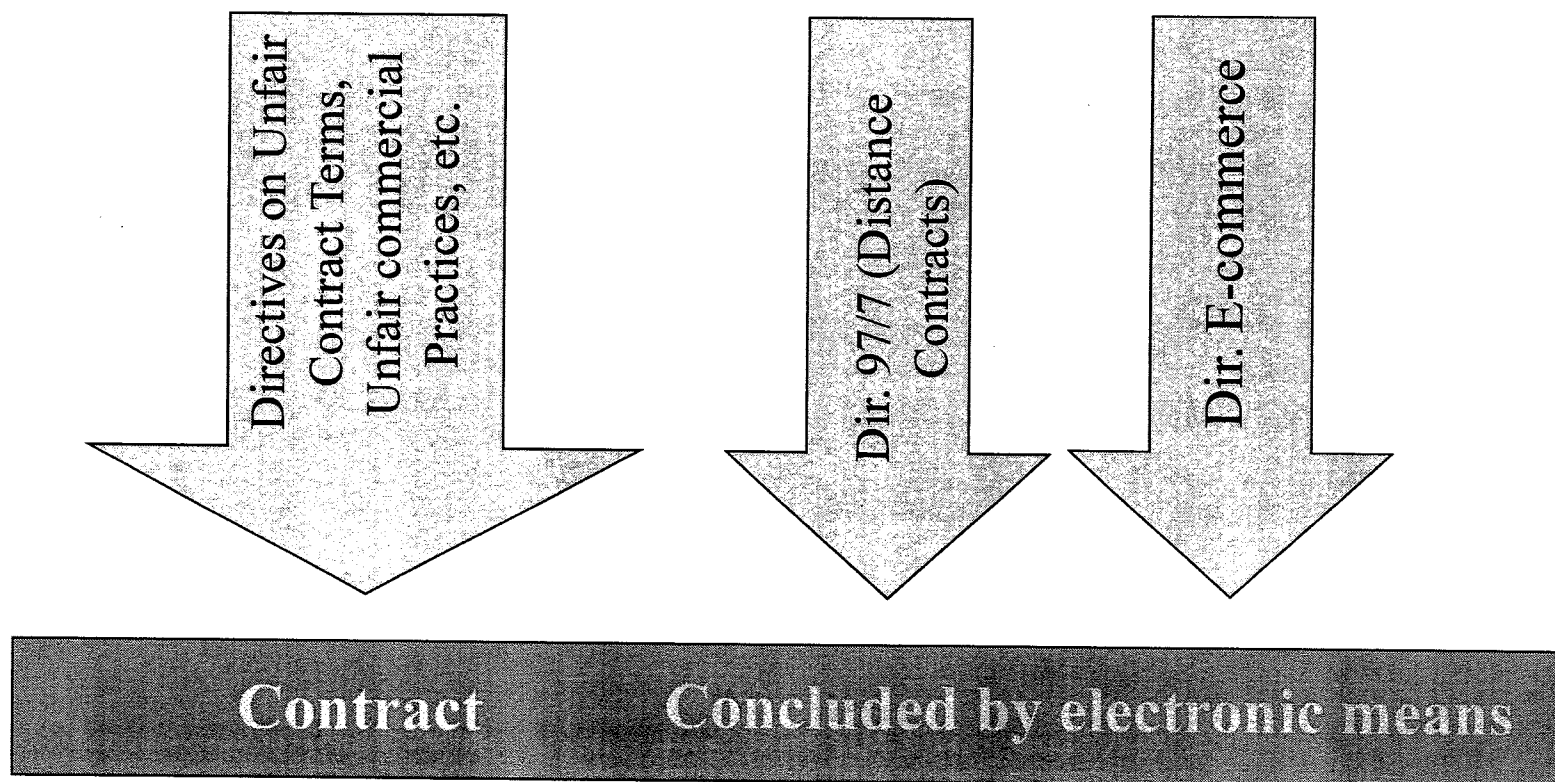
I. Overview of legal framework

II. Consumer

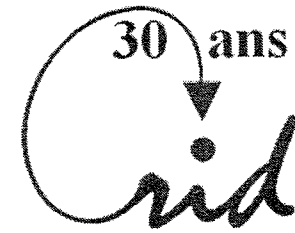
III. Protection rules

I. Overview of legal framework

✓ Consumer Protection (contractual rights)



I. Overview of legal framework



✓ Electronic Communication Regulatory Framework

- Framework Directive (2002/21/EC)
- Authorisation Directive (2002/20/EC)
- Access Directive (2002/29/EC)
- Universal Service Directive (2002/22/EC)
- Directive on Privacy and Electronic Communication (2002/58/EC)
- Roaming regulation
- Etc.

I. Overview of legal framework



✓ Electronic Communication Regulatory Framework

- Consumer protection ? Cf. art. 8 FD
 - Competition
 - Development of internal market
 - Interests of the citizens by *inter alia*:
 - (a) ensuring all citizens have access to a universal service ;
 - (b) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved;
 - (c) contributing to ensuring a high level of protection of personal data and privacy;
 - (d) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services;
 - (e) addressing the needs of specific social groups, in particular disabled users, elderly users and users with special social needs;
 - (f) ensuring that the integrity and security of public communications networks are maintained;
 - (g) promoting the ability of end-users to access and distribute information or run applications and services of their choice;

I. Overview of legal framework

✓ Electronic Communication Regulatory Framework

- Review in 2009 :
 - Citizen's rights Directive (2009/136/EC)
 - » Amending US Directive ; directive on privacy and ecomm ; reg on international cooperation for enforcement of consumer protection rules
 - » Focus on - and enhancement of consumer protection
 - Better regulation directive (2009/140/EC)

I. Overview of legal framework



✓ Complex legal framework

- Scope and articulation issues

Cf. Art. 1 (4) directive US : « The provisions of this Directive concerning end-users' rights shall apply without prejudice to Community rules on consumer protection, in particular Directives 93/13/EEC and 97/7/EC, and national rules in conformity with Community law ».

- Minimum harmonisation directive v. full harmonisation directive

+ self or co-regulation measures

Agenda

I. Overview of legal framework

II. Consumer

III. Protection rules

II. Consumer

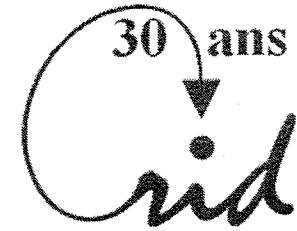
✓ Definition

- « any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession » (art. 2, i, FD)

✓ Weaker contract party :

- Lack of information on factual or legal data related to the contract
- Bargaining power of parties

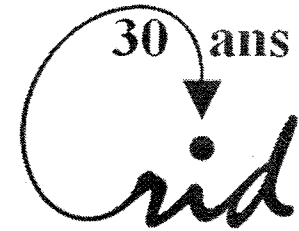
II. Consumer



✓ Scope of the rules ?

- User / End-user / Consumer / Subscriber
- Minors, Elderly end-users, Disabled end-users
- SMEs, Micro-entreprises

Agenda

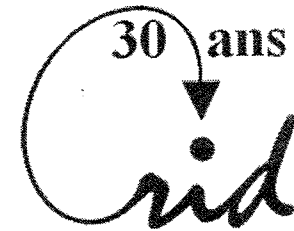


I. Overview of legal framework

II. Consumer

III. Protection rules

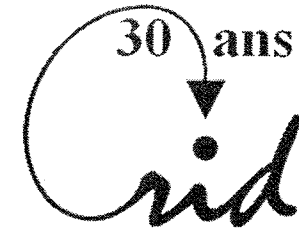
III. Protection rules



✓ Fair and transparent contract relationship

- Prohibition of unfair contract terms (dir. 93/13/EEC)
- Prohibition of unfair commercial practices (dir. 2005/29/EC)
- Information duties in the contract (art. 20 USD)
 - Identity and address of undertaking
 - Services provided
 - Personal data
 - Price
 - Duration of the contract and conditions for renewal

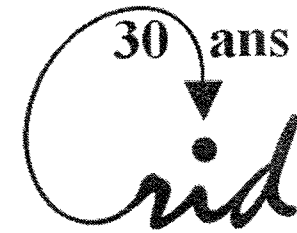
III. Protection rules



✓ Fair and transparent contract relationship

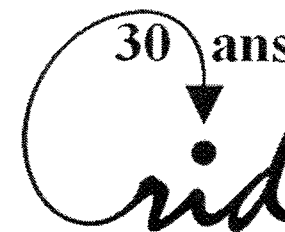
- Facilitating change of provider (number portability) – art. 30 USD
- Right of withdrawal in case of modification of contractual conditions (art. 20 USD)

III. Protection rules



- ✓ **Transparency and publication of information (art. 21 USD)**
- ✓ **Quality and availability of services (art. 22-23 USD)**
- ✓ **Equivalence in access and choice for disabled end-users (art. 23a USD)**
- ✓ **Privacy**
- ✓ **Roaming regulation (price regulation)**

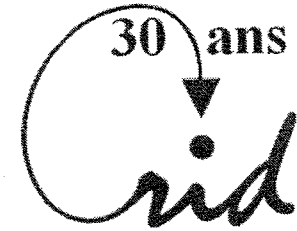
III. Protection rules



✓ Consumer Law Enforcement

- Penalties
 - Civil / Criminal ?
 - Appropriate, effective, proportionate and dissuasive
- Out-of-court dispute resolution
- Cross-border dispute and international cooperation

Conclusion

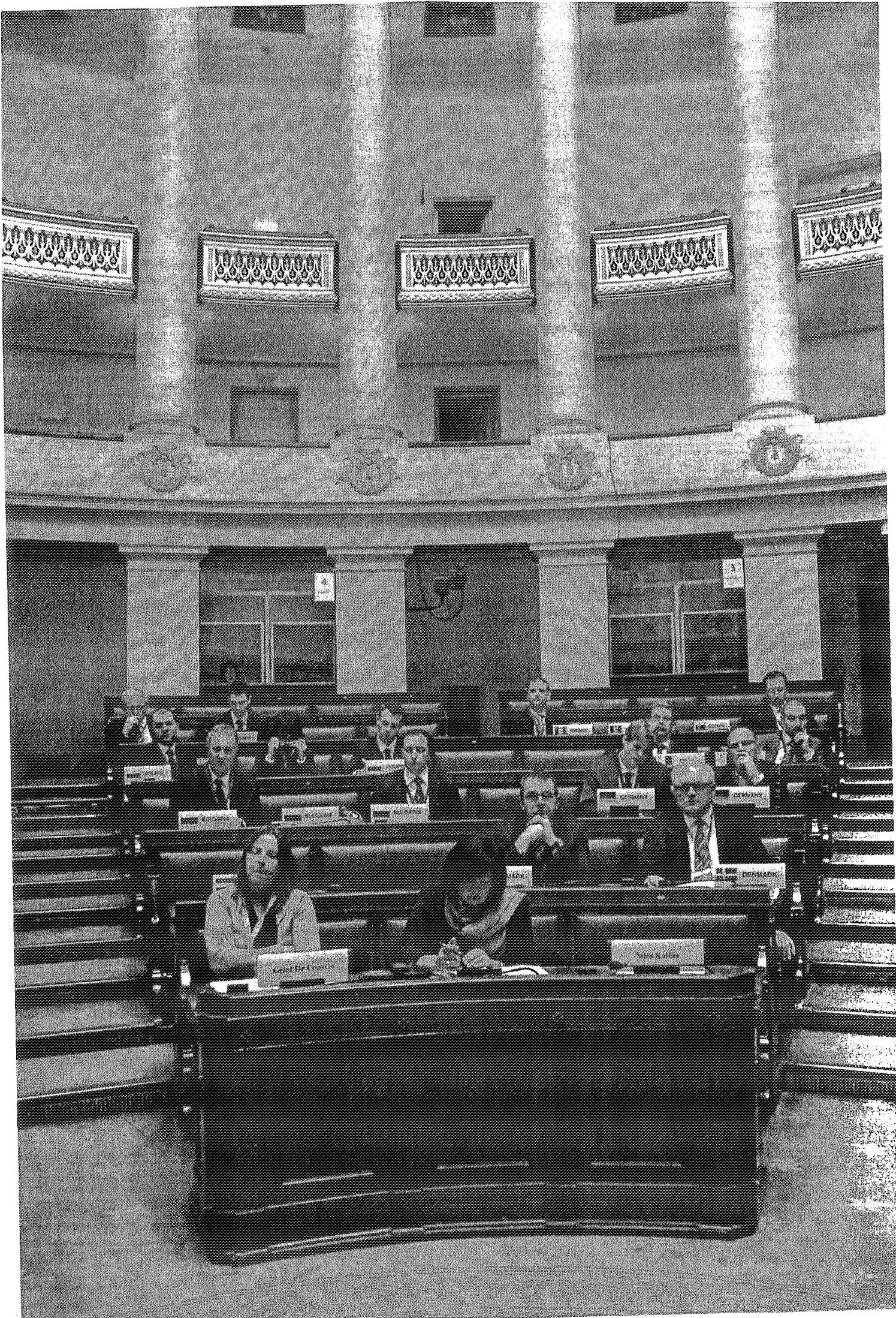


- ✓ There is a legal framework protecting Consumers
- ✓ Need of legal certainty / to improve constantly, taking into account technical and sociological evolution

Thank you for your attention!

Questions?

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Martinus J. B. M.
Chair

Chairpersons' meeting
Committees Transport
and infrastructure