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Letter to Commissioner Marianne Thyssen regarding effective implementation and enforcement of EU-rules

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Dear Commissioner Thyssen

I would like to thank you for your reply to my letter following the Peer Review on “The efficient transposition, implementation and enforcement of EU OSH legislation” held in Denmark in June 2018.

I am delighted you agree that proper enforcement of legislation transposing the EU-directives on occupational health and safety is essential. I am also happy that you note our experiences regarding the Danish chemicals legislation in improving efficient transposition. I hope it can inspire other Member States’ in their transposition efforts.

As alluded to in my original letter to you of 31st of August 2018, I believe there is still plenty of work ahead if we hope to achieve a better functioning Single Market. I would like to provide you with a few examples, illustrating how concretely a lack of proper implementation and enforcement goes against the spirit of the Single Market based on full, fair, and equal competition.

In the area of occupational safety and health, I believe the experiences uncovered through the Peer Review without doubt indicate, there still appears to be situations at the national level where employers are unaware of certain regulations let alone aware of what the regulations encompass and which actions need to be taken to protect the workers.

Yet, challenges in ensuring proper implementation and enforcement extend to other areas of the Single Market, too. A questionnaire undertaken among members of the Confederation of Danish Industry, shows that almost a third of the interviewed businesses have experienced cases of a lack of market surveillance across the EU.

This seems to be confirmed in the area of services as highlighted by a recent report by EuroCommerce entitled “Single Market Barriers Overview” which you may have heard of. The report lists a number of national examples of flawed implementation and application that result in hindrances and barriers to the free provision and free movement of services.

Unfortunately, these hindrances have not been sufficiently addressed and the report therefore helpfully suggests what relevant actors, including the European Commission, can do in order to rectify the situation in each case.

Moreover, a recent report entitled “Making EU Trade in Services Work for All” by Copenhagen Economics shows that a full implementation and enforcement of the Services Directive can add at least 2 percent to the EU’s GDP, showing the great potential from uniform application, implementation and enforcement. I enclose for your information both reports with this letter.

The challenges are not limited to the free provision of services, either. This applies to the free movement of workers, too, as two recent reports from the European Court of Auditors and the European Parliament illustrate. Both reports highlight that more can be done in order to confront challenges related to the free movement of workers. Granted, the Commission has taken important actions in this area – including the proposal for a European Labour Authority which I welcome – but challenges persist, as the reports indicate in detail. I also enclose these two reports for your information.

Another area of concern, are cases of dissimilar implementation across Member States. A concrete example brought to my attention is the Construction Product Regulation. According to the regulation, manufacturers can only market (most of) their products if they have been marked with a valid CE marking and a so called Declaration of Performance has been drawn up.

Despite the common EU-regulation, several Member States continue to require national certificates and documentation beyond the CE marking in national building regulations. While not questioning the intentions of such national certificates for reasons of safety or protection for example, the demand for additional certificates can result in a heavy bureaucratic burden for manufacturers wishing to export their products to these markets. One also has to ask oneself why the requirements of the common EU-regulation are not sufficient if the national certificates cover the same characteristics as the CE marking.

I naturally understand that the issues mentioned above do not limit themselves to your area of competence within the Commission. However, I hope it provides you with some food for thought in your discussions with relevant colleagues in the Commission and highlights that the need for effective implementation and enforcement extends to many – if not all – areas of the Single Market.

While this is of course a matter for the next Commission President, I would encourage the Commission to strengthen the focus on implementation and enforcement at the highest political level, e.g. by entrusting a vice president with strengthened responsibility for this area in the upcoming institutional cycle.

A comprehensive and united effort across the current and upcoming Commission is required if we hope to achieve a Single Market with full, fair, and equal competition.

I look forward to continuing the dialogue with you on this important matter.

Yours sincerely

A handwritten signature in blue ink, reading "Troels Lund Poulsen". The signature is written in a cursive style with a large initial 'T'.

Troels Lund Poulsen