

Non-paper on enhancing the enforcement of the Single Market rules by strengthening infringement procedures by Denmark

Summary

Concentrating on the proper enforcement and addressing unjustified barriers that significantly impede the Single Market's functioning and the European economy could greatly enhance the benefits of the Single Market for companies. This should be done by:

- *Taking a target approach to enforcement focusing on the breach of rules with a significant impact on the free movement.*
- *Building on reasoning such as assessments of economic impact, resource availability, or its broader impact on other areas on the European cohesiveness inspired by the Single Market Scoreboard.*

Taking on a target and structured approach to enforcement

The lack of enforcement of the Single Market rules is one of the main complaints national authorities are met with when discussing the Single Market with businesses. We therefore welcome the new Commission's commitment to burden reduction and enforcement. Addressing unjustified barriers that significantly impede the Single Market's functioning and the European economy could greatly enhance the benefits of the Single Market for companies, considering that 60% of all barriers have proven persistent over a period of 20 years¹. The focus should preferably be on those areas and rules, which have real impact on the free movement. Important aspects in this regard may be for example the (economic) impact of the breach, the scope of the breach and whether rules affect the access to activities or regulate activities themselves. Substantive breaches of rules and unjustified barriers deserve more attention compared to procedural breaches.

Increasing transparency

The European Commission's role as 'guardian of the Treaties' is independent and should not be affected by giving the Commission concrete instructions on enforcement. However, in the past the European Commission showed openness towards suggestions. More transparency on priorities for enforcement would make a dialogue with the Commission on these priorities possible. The European Commission could announce its priorities for enforcement in its Annual Single Market and Competitiveness Report, afterwards discussions could be organized with the Council or Member States (e.g. SMET) and with the European Parliament.

Promoting trust

Strengthening the Commission's role is contingent on its ability to promote trust and transparency in its enforcement of the Single Market rules. The Commission should, therefore, publicize and provide a reasoning for why to launch an infringement proceeding as part of the enforcement section of the Annual Single Market and Competitiveness Scoreboard. Furthermore, it would be desirable to have an overview of pending Court cases and EU pilots to indicate against which Member States cases are pending. Such an aggregated overview would enable the Commission and Member State to discern patterns in compliance with EU law and would provide valuable input for a dialogue on enforcement priorities.

¹ [The Single Market at 30, 16 March 2023.](#)

Keeping in line with increasing the transparency and justification of launching infringement procedures, it is equally important that the Commission follows up on the proceedings. This should be done as part of the annual policy cycle, where necessary actions can be discussed in the relevant forums. This would both exemplify the Commission's commitment for a stronger enforcement of the EU rules and simultaneously work as a deterrence for Member States.

Input for dialogue: more transparency on pending procedures and follow-up of complaints

A higher level of transparency would be welcomed by policymakers at EU and national level. This could be done through analyzing structural and recurrent issues and reporting these accordingly to the Council and European Parliament to enhance dialogue and transparency. Regarding SOLVIT important progress is being made in this analysis and subsequent transparency, but this should also apply to CHAP (general procedure for submitting complaints) and the Single Market Obstacles Tool (SMOT). This analysis should feed into the policy-making process regarding the Single Market and would enable the work on structural solutions for systemic problems. Moreover, it would supply the complainant with more transparency as they would be able to view the follow-up of the submitted complaint. This would be helpful to manage expectations of the complainant and would make it more worthwhile to submit complaints.