



Council of the
European Union

Brussels, 17 January 2017
(OR. en)

5253/17

COMPET 15
MI 27

NOTE

From: The European Commission
To: The High Level Working Group on Competitiveness and Growth
Subject: Single Market Strategy: Compliance and Assistance Package

Delegations will find in Annex a discussion paper from the European Commission on the Single Market Strategy: Compliance and Assistance Package in view of the High Level Working Group on Competitiveness and Growth meeting on 26 January 2017.

Discussion paper**Single Market Strategy: Compliance and Assistance Package****1. Context**

In September 2016 EU Member States met in Bratislava to discuss the future of the Union. The adopted “Bratislava declaration” includes the need to help the European people better “*to live, study, work, move and prosper freely*” across the continent¹. The European Council and the European Commission also announced “the Bratislava roadmap” a common work programme for the coming months. This roadmap calls on the European Council planned for the Spring 2017 European Council to “*review progress as regards delivering on the different Single Market strategies (including Digital Single Market, Capital Markets Union, Energy Union)*“. Furthermore, the roadmap urges to “*Deliver on promises: strengthen the mechanism for reviewing the implementation of decisions taken. Loyal co-operation and communication of Member States and institutions*”.

Based on this commitment by EU Member States and the European Commission, the meeting of the High Level Group provides a good opportunity to present and discuss the compliance and assistance plans of the Commission foreseen in the Single Market Strategy², which are planned for adoption by the end of March 2017. The proposed initiatives target the compliance of Member States with Single Market legislation and the assistance to companies and citizens with regard to their opportunities and rights in the Single Market.

¹ https://www.consilium.europa.eu/en/press/press-releases/2016/09/pdf/160916-bratislava-declaration-and-roadmap_en16_pdf/

² https://ec.europa.eu/growth/single-market/strategy_en

Effective compliance is essential to deliver the opportunities and benefits of the Single Market. At the end of 2016, 1410 infringement proceedings were pending in the area of the Single Market. On average, national administrations, with the help of the Commission, need 27 months to resolve an infringement proceeding. Furthermore, many companies and citizens are still unaware of the opportunities available to them in the Single Market and do not know how they make sure that their rights are respected. All this weakens the Single Market and lowers people's confidence in the Single Market.

To address this, the Commission is proposing different initiatives to improve all stages of policy-making in line with the Better Regulation approach. This includes:

- better assistance and guidance to citizens, companies and Member States in the implementation and promotion of Single Market rules,
- better integration of evaluation and enforcement aspects in policy design,
- targeted instruments to collect information on the Single Market,
- a more consistent and efficient enforcement policy aimed at improving overall compliance with Single Market rules and EU law in general

2. Foreseen plans on compliance and assistance

The Single Market Strategy includes different actions to establish a more strategic approach to compliance & assistance on the European level:

a) The SOLVIT Action Plan

SOLVIT is a Single Market problem-solving tool for businesses and citizens. When confronted with unjustified obstacles in another EU Member State, due to misapplication of the EU law by a state authority, businesses and citizens can contact SOLVIT, which reminds the authorities in question what the EU laws are and works with all parties involved to solve the problem. Although SOLVIT has proven to be an easily accessible and fast-track dispute resolution mechanism in many instances, the outcome is not always respected by national authorities, which diminishes the effectiveness of SOLVIT.

In order to strengthen SOLVIT it is crucial to better connect SOLVIT with the overall enforcement policy of the Commission and further reinforce its role as a Single Market governance tool.

The SOLVIT Action Plan closely relates to:

1. the Commission Communication “EU law: Better results through better application³” adopted on December 13, 2016, which recognizes the role of alternative problem solving mechanisms and in particular SOLVIT, in handling individual complaints and the importance of the cooperation of the Commission with the Member States to enforce EU law correctly;
2. the planned 'Single Digital Gateway' which will provide a single point of access to businesses and citizens looking for information, assistance, problem-solving and e-procedures in the Single Market and which will include access to SOLVIT.

The SOLVIT action plan is a blueprint for decisive joint actions of the Commission and the Member States at all levels of administration. The main strands of action are: (1) a more strategic coordination between SOLVIT and Commission's enforcement actions; (2) boosting the quality of SOLVIT's complaint handling and (3) reinforcing the role of SOLVIT as a Single Market governance tool. The general objective of the action plan is to enhance the capacity, the visibility and the authority of SOLVIT as a problem-solving tool for businesses and citizens and as an instrument for feedback on how the Single Market is functioning in practice, as announced in the Single Market Strategy.

b) The Single Market Information Tool (SMIT)

In particularly complex cross-border cases access to firm-level information might be necessary to resolve a Single Market problem. In these specific instances, in the framework of existing enforcement procedures, yet as a matter of last resort in a limited number of cases, the Commission, in partnership with Member States, should be able to request information directly from affected firms. This would allow the Commission and the Member States – while strictly safeguarding confidentiality and keeping administrative burden to the minimum – to jointly come up with both rapid and targeted solutions, on the basis of sound and precise economic evidence.

³ https://ec.europa.eu/info/publications/communication-commission-eu-law-better-results-through-better-application_en

While the Single Market Information Tool is a generic and future-proof tool which does not target any specific sector or practice, experience from Single Market areas like public procurement, digital Single Market, financial regulation or state aid lie behind the motivation for such an instrument.

Although SMIT aims to empower the European Commission to ensure the compliance with the Single Market rules by providing the Commission with an information-gathering tool, the reactions of Member States and companies reflect caution when it comes to the necessity of such new instrument. This caution implies SMIT tool needs to be carefully calibrated. .

c) The Single Digital Gateway

In order to make full use of the opportunities offered by the Single Market, citizens and businesses need easy access to reliable information about their EU rights and about the applicable rules in all Member States. They also need to be able to comply with any national requirements quickly and without undue bureaucracy. Furthermore, they need to be able to ask for assistance when they run into obstacles for their cross-border activities. The Single Digital Gateway aims to build on the wide range of existing information and assistance services, in particular the many contact points created under EU law, and link them up in a much more user friendly way, improve their findability, coverage and quality. In addition the Single Digital Gateway will require that the most important procedures for citizens and businesses can be completed fully online, also by users from other Member States. The Single Digital Gateway should make optimal use of user feedback to steer the coverage and quality of the services it will include. Moreover, it should also be used as a tool to invite citizens and businesses to report any problems they experience in the Single Market.

d) Commission Communication on EU law

The Communication from the Commission “EU law: Better results through better application⁴” was adopted in December 2016. It sets out how the Commission will increase its efforts to ensure compliance with EU law, including through a more strategic approach to enforcement, focusing on problems where enforcement action can make a real difference. This strategic approach to complaints and infringements is based on the compliance & assistance initiatives foreseen in the Single Market Strategy.

⁴ https://ec.europa.eu/info/publications/communication-commission-eu-law-better-results-through-better-application_en

The Commission promised to be "bigger and more ambitious on big things, and smaller and more modest on small things"⁵. Applying this promise to compliance policy, the Commission's handling of infringements will become more strategic and more focused, giving priority to the most important breaches of EU law affecting the interests of citizens and businesses. Another priority will be to investigate cases where Member States incorrectly transpose EU law into national law or fail to do so at all. Such failures deny citizens and businesses the rights and the benefits they enjoy under European law.

e) Data analytics tool

In early 2016 the Commission initiated a pilot project for the development of a data analytics tool which could detect incorrect or incomplete transposition of EU legislation and ultimately identify gold plating. The aim of such a tool is to improve monitoring of Single Market legislation.

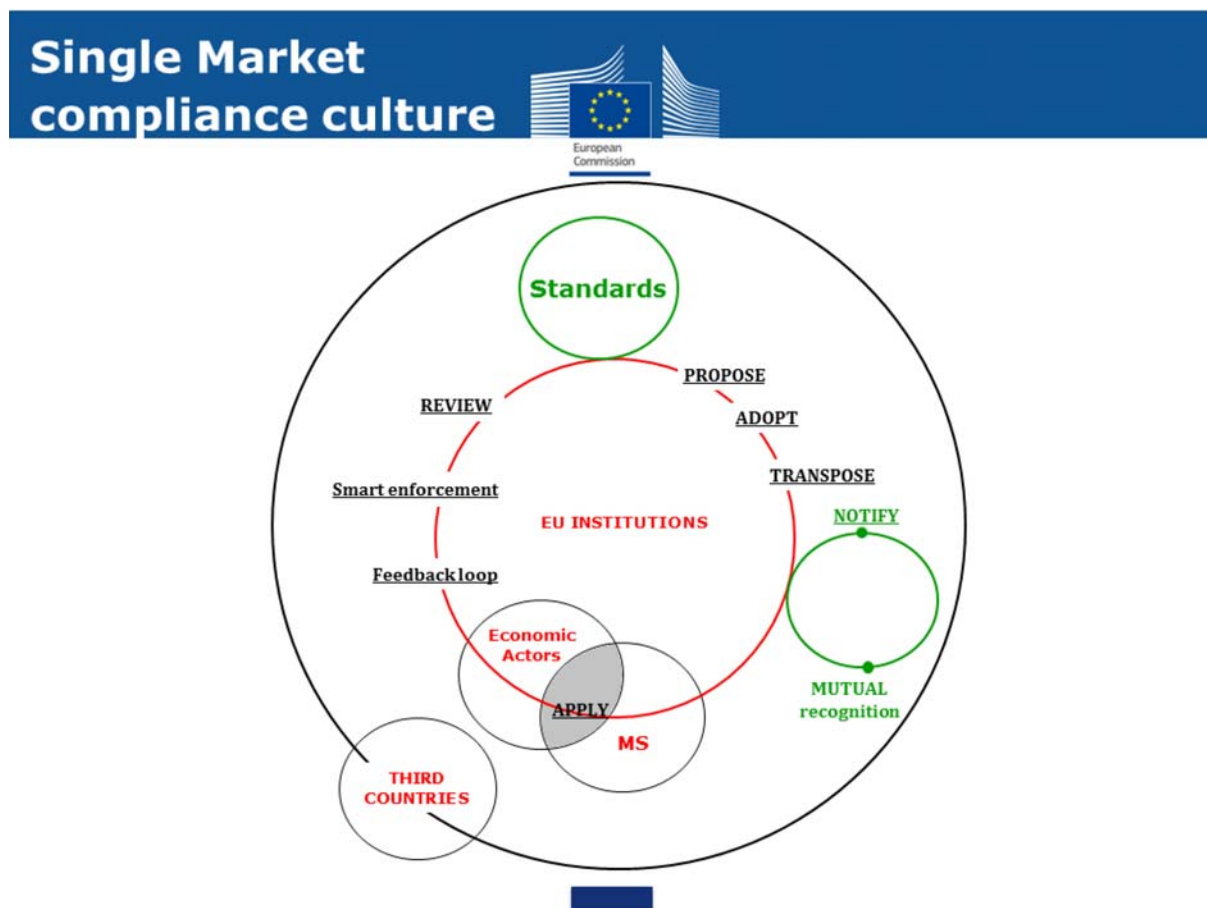
Several methodologies have been tested during 2016 in order to develop an algorithm which would allow the tool to recognise with the necessary degree of accuracy the completeness and correctness of transposition, while taking into account the specificities of EU languages and the type of transposition (e.g. in a single or in multiple documents). For the pilot project two exemplary Single Market Directives are used: the Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State and the Directive 2011/7/EU on combatting late payments in commercial transactions. The current methodology has been delivering good results, however not all EU languages have been tested yet. All the available national implementing measures of the two directives will be tested by end of January 2017, in order to verify the efficiency in all official EU languages. The pilot project is expected to finish in March 2017.

⁵ https://ec.europa.eu/priorities/publications/president-junckers-political-guidelines_en

f) Compliance dialogues with Member States

As announced in the Single Market Strategy, the Commission will further deepen its partnership with Member States through different measures including compliance dialogues organised on a yearly basis with each Member State. The Commission would also like to learn more about alternative problem solving mechanisms developed by Member States (at national or regional level). A further topic for discussion would be the assessment of effects of non-compliance on a country's economic performance in terms of growth and/or investment. To test the format, the Commission decided to organise pilot meetings with three Member States (Belgium, Ireland and Italy). Based on this experience and the feedback received, the Commission will assess the exercise. The compliance dialogue with Belgium will kick off the pilot phase on January 25, 2017.

3. Overview – Single Market compliance culture



4. Questions for discussion

1. How do the Member States assess the compliance and assistance priorities and modalities, announced in the Single Market Strategy and described above?
 2. What do Member States need for better enforcement of Internal Market rules nationally?
 3. How could the Commission improve and best model the current and planned compliance and assistance tools to ensure the enforcement of the Single Market acquis and to better support companies?
 4. How can Member States help to ensure the swift and ambitious implementation of the above described initiatives?
-