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NOTE

From: General Secretariat of the Council
To: Council

Subject: Information note from the Portuguese Delegation on the Outcome of the informal meeting of SOLVIT Centres held in Lisbon on 18 September 2015

Delegations will find in Annex an information note from the Portuguese Delegation with a view to the COMPET Council on 30 November 2015 as an AOB point.

Outcome of the informal meeting of SOLVIT Centers (*) held in Lisbon, 18 September 2015

The Future of SOLVIT

Since its establishment in 2002, SOLVIT has demonstrated its growing and important role in ensuring compliance of EU law by national authorities. In 13 years SOLVIT has seen its case-load increase to 2,000 cases a year. The efforts Member States have put into the functioning of SOLVIT are, however, not matched by an increased commitment and resources from the Commission. The Council Conclusions of 2013 call for a concrete roadmap on SOLVIT reinforcement, the European Parliament's report on "Improved Single Market regulation" requests concrete improvements to EU law enforcement and the joint likeminded letter on the Single Market Strategy, signed by 17 Member States calls for an improvement of the SOLVIT network. However, SOLVIT cannot be the effective enforcement instrument the Commission promotes without change.

Key actions:

- Establish better and more, direct, cooperation between SOLVIT, the Commission services and its experts;
- Improve interaction between CHAP (**), SOLVIT and EU Pilot cases to streamline the broader framework of EU complaint procedures in line with Single Market priorities;
- Ensure thorough analysis of relevant unresolved and repetitive SOLVIT cases by the Commission in a structured, transparent procedure;
- Regularise a consistent follow-up of the functioning of SOLVIT and the Commission's progress on unresolved cases, for example, in the suitable Council Working Party;
- Create a dedicated reporting mechanism for SOLVIT to help identify existing solutions, best practices or adequate actions by the European Commission and the co-legislators.

1. European Commission commitment to SOLVIT

The European Commission has repeatedly stated its commitment to strengthen the enforcement of EU law. SOLVIT has proved to be an established instrument to identify (structural) misapplications of EU law. Nevertheless, there is a lack of priority when it comes to enhancing the effectiveness and functioning of the SOLVIT network.

Consequently, SOLVIT cannot live up to its full potential for businesses and citizens.

Among the biggest challenges for SOLVIT is the commitment not only to solve singular cases, but to ensure that the respective national authorities continue to apply EU-law correctly. This commitment requires structural changes to the way SOLVIT operates:

(*) The SOLVIT Centers present in Lisbon were Austria, Belgium, Bulgaria, Czech Republic, Denmark, France, Germany, Hungary, Ireland, Luxembourg, the Netherlands, Poland, Portugal, Spain, Sweden and United Kingdom.

(**)The CHAP is a database that manages complaints that people and legal entities send directly to the Commission.

- In order for SOLVIT to be more effective, the network requires a better connection with the Commission services. Beyond the possibility of Informal Legal Advice, SOLVIT centres should be able to directly contact essential experts within all Commission Directorate Generals and Secretariat General. The Commission should allocate adequate resources to make this possible.
- It is necessary to enhance, where appropriate, interaction between SOLVIT, CHAP and EU Pilot cases to profit from synergies and facilitate swifter exchange of knowledge and information when dealing with issues concerning EU law.
- Furthermore, Solvit must be widely regarded as the first step in the enforcement of the EU law. Linking EU complaint procedures will also ensure more pressure to push for better administrative practices or legal reforms, when appropriate.

2. Follow up of unresolved and repetitive cases

Unresolved and repetitive cases are often rooted in difficulties with national implementation and application of EU law. A clear follow-up procedure for these unresolved cases is lacking. Neither SOLVIT centres nor complainants are informed about whether there will be a follow up. Repetitive cases without structural solutions are not effectively dealt with by the Commission or referred to the Council and co-legislators.

Citizens and businesses should not have to lodge their complaint again. Instead a transparent follow-up procedure should adequately inform the SOLVIT centres involved about the status, and who, in turn, can further assist the complainant.

It is our goal to ensure better follow-up and feedback of relevant information into the policy making process. Unresolved SOLVIT cases should therefore be analysed by the Commission and, where appropriate, followed up by EU Pilot or other suitable enforcement procedures.

Investigation by the Commission of structural misapplications of EU law which SOLVIT was not able to solve, will moreover give national authorities an incentive to cooperate with SOLVIT. To further ensure consistent follow-up of EU policy issues and aspects of implementation and enforcement, it is advisable to have these and the Commission's progress on unresolved cases on the agenda of the suitable Council Working Party.

3. Reporting

Currently, the follow-up of unresolved SOLVIT cases is not transparent and there is a lack of a clear reporting mechanism to the Member States and SOLVIT centres. The Single Market Scoreboard focuses too stringently on the statistical performance of SOLVIT centres and not on problem areas.

A dedicated reporting mechanism for unresolved cases and recurring problems with specific EU legislation, its application or interpretation by national authorities, will help SOLVIT identify existing solutions, best practices and ensure adequate follow-up by the Commission and the co-legislators.

To improve the reporting on the follow-up of unresolved SOLVIT-cases, the Commission should regularly inform Member States about its progress in investigating and removing structural misapplications of EU law and other obstacles detected by SOLVIT.

Reports on the follow-up of unresolved and repetitive SOLVIT cases should also be presented by the Commission at the SOLVIT workshops and to the Council. This will improve the transparency of EU law enforcement, which will in turn result in better compliance with EU law.

2