

# 30 YEARS OF THE EUROPEAN SINGLE MARKET: remaining barriers within the EU

January 2023

# REPORT

## Preface

### **A new impulse to tackle remaining barriers in the Internal Market is urgently needed**

In 1992, the biggest legislative program of the European Community until then, overseen by the British Commissioner Lord Cockfield, resulted in the creation of the European Single Market. The Single Market, with its free movement of goods, services, persons and capital became the largest integrated market in the world. In quite some aspects it is more integrated even than the US market. The Single Market has provided consumers with cheaper, safer and greener products and more choice; it provided businesses with bigger and more easily accessible markets and new opportunities; and it has been and remains to be a key factor of influence of the EU in nowadays' world, providing it with leverage in trade negotiations as well as policy dialogues on promoting its interests and values globally.

In today's unstable geopolitical environment, it is more and more realized that the well-functioning of the Single Market is also a key condition for achieving a higher level of strategic autonomy of the EU. More self-sufficiency of the EU in the production of essential goods cannot be provided on the national level of Member-States; it is only possible on an EU-level. But this requires a political commitment at the highest level to guarantee the uninterrupted functioning of the Single Market, also in times of crisis. Businesses and citizens should be able to rely absolutely on the four freedoms. The Single Market should be *Chefsache*, therefore; the chaos in the first weeks of the Covid crisis in 2020 should never be repeated.

The Single Market should be a political priority, but completing and perfecting it is also difficult legislative work. Although spectacular results have been achieved in the past thirty years, a considerable amount of work needs to be done to unlock the unrealized potential of the Single Market, especially in the field of services. And some nuts are particularly hard to crack. Consistent and harmonised enforcement of the common rules is also essential. Sometimes wide divergences exist in national application and enforcement in various Member States of the same European rules, with pernicious consequences for the level playing field.

On the occasion of the thirtieth anniversary of the EU Single Market, VNO-NCW and MKB-Nederland have launched a survey among its members about what barriers are actually considered among the most restrictive for business. The results of this survey are presented in this report. We hope that it can provide a new impulse to vigorously tackle remaining barriers in the Single Market with and reap the full benefits of this visionary European project.

# 10 Striking Examples of Barriers in the European Internal Market

## 1. Notification requirement for posted workers abroad

The **Posted Workers Directive** (96/71/EC) contains the obligation for employers to report employees working abroad to the relevant labour authorities. However, the implementation of this Directive differs from one Member State to the next, resulting in diverging requirements in the reporting and information procedures. In addition, there are different online portals for reporting posted workers and the required documents often must be submitted in the language of the Member State concerned. These rules and information requirements are burdensome and impracticable for small and medium enterprises in particular.

### Example 1

*Construction sector:* in Germany it is required to specify for each day where exactly each individual employee works within a project. Implementing this requirement within the construction sector is particularly difficult as employees frequently work in different projects on a single day. The inflexible reporting requirements do not correspond with the flexibility needed in carrying out construction work.

### Example 2

*Stand construction sector:* stand construction companies (enterprises that offer the lease, construction and disassembly of stands on fairs etc.) indicate that the reporting requirement causes significant administrative burdens within the sector. The required documents for stand constructors are as follows: a reporting form that serves as proof of the registration, a letter of appointment of a local liaison, A1 declaration, pay slip, recent work timesheet, proof of payment of salary, employment contract, collective corporate insurance and proof of housing and board. In addition, French regulations require a medical certificate. Documents often need to be submitted in the language of the Member State concerned, too. In reality this means that employees of stand construction companies are forced to spend a significant part of the working week on collecting the information and documents and submitting the required reports for every assembly and disassembly activity abroad.

## REPORT

### Example 3

*Pharmacy sector:* chains with branches in several countries in Europe require a different social security number for every employee to be requested in each member state. These procedures often take a long time because municipalities are not able to process large groups within a considerable amount of time. The waiting time has negative consequences for the rapid deployment of the new employees.

**Of interest to the following sectors:** (stand) construction sector, pharmacy sector, companies posting workers within the EU for a fixed period of time.

**How to proceed?** It is important to find a balance between flexibility of free movement of persons on the one hand, and protection of social security systems and prevention of fraud on the other hand. It is necessary to harmonise the **implementation of the Posted Workers Directive** in a way that makes it manageable for (SME) companies. Various solutions are possible in this regard. With regard to the **frequency** of reporting posted workers, it is important for SME companies that the frequency is brought down. For example, it would be desirable if all posted employees could be reported once for the entire year, and that it would only be required to indicate which employees are working on which project in which country. It would also be desirable if the social security numbers of citizens of various Member States could be interconnected so that foreign workers could be deployed more quickly. Another way in which the administrative burden surrounding secondment could be reduced, is in the form of an **exception** that could be made based on **time worked** abroad. For example, an exception could be made to the documentation requirement for employees who work abroad for less than eight days. However, it is important that a time limit (such as eight days) remains in place so that the protection of the employee who works abroad for longer is not compromised. Furthermore, regarding the **reporting requirements**, the language of the required documentation should be English. This avoids a lot of translation work. If necessary, an application could be used to translate the documentation. Finally, the **accessibility of the portals**, which are often different in each country, can be improved. The creation of one portal that can be used by all Member States would be desirable in this regard.

## REPORT

### 2. Administrative procedures for working across borders.

The administrative processes that need to be followed when working across borders differ from country to country and in practice deter (SME) companies from starting operations abroad. For example, procedures for applying for permits, settlement of work and quality assurance differ between member states. In addition, companies often do not have the knowledge about these procedures in the different member states and the absence of this information also deters companies from expanding abroad.

#### Example 1

*Construction industry, permits:* permits must be applied for in different ways and with different authorities in each country. It is often unclear what the application process looks like and how long the process will take, this makes planning foreign projects more difficult.

#### Example 2

*Construction industry, quality assurance:* obligations around quality assurance differ between Member States. In the Netherlands, the contractor must keep records to show that he meets the quality requirements. In other European countries a different process applies. These differences in obligations also keep companies from other countries from establishing themselves in the Netherlands, and Dutch companies from establishing themselves abroad.

#### Example 3

*Construction sector, settlement of work:* across member states there are different processes regarding the settlement of work. For example, payments in the Netherlands are arranged through the UWV. The common way of doing business is that the invoice is initially advanced by the company itself. Once the quality requirements have been met, the invoice is settled with the customer. In other countries, for example, this is done by means of an advanced invoice that is passed on to the customer. These differences do not correspond to accounting models and therefore hinder smaller companies from operating abroad.

## REPORT

### Example 4

*Pet industry:* for the import of goods consisting of the same materials, the tariffs differ between the Netherlands and other countries and different customs formalities apply. The Netherlands tend to be strict on customs and more costs have to be incurred by companies due to understaffing of container controls. Products can be imported through other countries, but this is inefficient and expensive.

**Of interest to the following sectors:** construction industry and pet industry.

**How to proceed?** It would help if the aforementioned administrative procedures and fees were **harmonised** through EU legislation. Thus, similar licensing processes would reduce the step of starting an operation abroad. However, the process of harmonisation will remain complicated, especially because of the question of which procedures will be used as benchmarks. Another, simpler solution would therefore be to make information about the different administrative processes in different member states easily accessible to entrepreneurs. The **Single Digital Gateway** could be suitable for this purpose. It is important here that the information is available in all EU languages.

### 3. Recognition of diplomas and professional qualifications.

Despite the **Professional Qualifications Directive** (2005/36/EC), there are difficulties as regards the recognition of diplomas. This problem is mainly related to the recognition of qualifications within regulated professions (such as engineers and professionals). It is expensive and time consuming to ensure that these professional diplomas are recognized in other member states, thus hindering the mobility of workers.

### Example

*Construction sector:* within the construction sector there are problems in Limburg with Dutch professional diplomas that are not recognized as such in Belgium. It costs money and time to get these diplomas recognized.

**Of interest to the following sectors:** construction industry, pet industry, several other sectors.

**How to proceed?** **Directive 2005/36/EC** on the recognition of diplomas must be followed more closely in each member state. By adhering to the stated criteria, all diplomas issued by a competent authority can be recognized. In view of the **European Education Area** objectives for 2025, Member States should work more closely together to ensure that recognition of diplomas can be arranged in each Member State in a quick and easy way. The criteria set out in **Directive 2005/26/EC** can continue to guide this, but enforcement of the regulations needs to be improved.

## REPORT

#### 4. Differences in public procurement processes.

The system of tendering for public procurement differs from one member state to another. The exact functioning of the tendering system is often unclear to foreign parties, making it difficult for them to participate in a tendering process. The problems lie in missing information about the structure of the public procurement market and the projects available.

##### Example

*Construction sector:* Belgium uses a class system, in which a party to a tender must qualify for a certain class. To be able to participate in the tendering process, knowledge about how a qualification works is required. Information about how the system works is difficult to find, which hinders foreign parties from participating in the tendering process.

**Of interest to the following sectors:** construction sector.

**How to proceed?** Although some differences between countries will always exist, **harmonisation of processes** is desirable. This would make it easier for foreign companies to participate in tenders. Harmonization can be achieved by improving cooperation between countries, for which the creation of a **Public Procurement Portal** can be of support. This portal provides access to information on national procurement markets, publication platforms, national complaints systems and available projects within the internal market.

#### 5. Secondment of self-employed persons

The deployment of self-employed persons abroad is complicated. A different application procedure applies to the self-employed, and this procedure differs per country. Also, the employment conditions of a self-employed workers differ per country. This hinders companies from posting self-employed workers.

##### Example

*(Stand) construction sector:* self-employed workers cannot be registered through the conventional portal for working in another country, such as Germany. A different procedure has to be followed which is unclear and takes more time. This makes it almost impossible to deploy self-employed workers abroad.

**Of interest to the following sectors:** (stand) construction sector.

**How to proceed?** To ensure that the protection of self-employed workers remains guaranteed and that flex workers can be posted more easily, ideally the **legislation** regarding the protection of self-employed workers of the **home country should be the standard**. Recognition of the home country's package of employment conditions would minimize difficulties arising from other legislation when posting a self-employed worker.

## REPORT

### 6. Lack of harmonisation of national green labels

Actually, each member state has different requirements that determine whether products receive a certain (green) sustainability label. This makes it difficult for multinational companies to use identical labels for the same products in different member states. In addition, there are different requirements in the member states for what must be included on a label. Multinational companies are thus forced to design a different label for each country (including acquiring additional information for the label).

#### Example

*Paint sector:* in the paint sector, there are variations of sustainability labels per member state, all with slightly different criteria. In addition, the lack of a European policy on indoor air quality has led to a situation where different countries have set up their own legislative frameworks, resulting in a regulatory patchwork. As a result, manufacturers have to apply different criteria depending on the member state, leading to different labels with different information on emissions for the same product.

**Of interest to the following sectors:** consumer products.

**How to proceed?** Harmonizing national requirements for EU labels and certificates is desirable to reduce fragmentation. One way this could be done (and is currently being worked on) is through the **Product Environmental Footprint method** which contains criteria that the sustainable product must meet. The Footprint Method has been included in the **Sustainable Products Initiative** that was presented in April of 2022. Enforcement is also an important factor. Mutual recognition or integration of the policies of different countries, better financial resources and greater capacity around monitoring and reporting could help.



## REPORT

### 7. Driving bans

In several member states there is a ban on driving lorries with a weight of over 7.5 tons on Sundays and public holidays. Especially in Germany this is made even more difficult by the fact that federated states have different driving bans. This means that on some public holidays it is allowed to drive in one state but not in another. There is only an exception for refrigerated trucks and "clean" tractors. Due to this driving ban, routes must be carefully planned and sometimes large detours must be taken, this is inefficient.

#### Example

*Stand construction sector:* for events such as trade fairs, it may occur that a stand has to be constructed the day before. Two days in advance, a truck must then be driven to the relevant location, for example in a German state. On a Sunday, however, no truck heavier than 7.5 tons may be driven on any highway. Also, during the vacation periods (from July 1 to August 31), overweight trucks may not be driven on highways even on Saturdays. This leads to problems for events where stands must be set up on Mondays, for example. Companies are forced to enter the stand several days before an event and store it somewhere over the weekend. This inconvenience requires additional planning and costs.

**Of interest to the following sectors:** logistics sector, sectors operating outside regular working hours.

**Member States where this is particularly relevant:** Germany, France, Austria, Italy, Hungary, Slovenia and Slovakia.

**How to proceed?** Arranging **exceptions for work that in and of itself takes place outside regular working hours**, such as work in logistics, could solve this situation. These exceptions must be discussed with the countries concerned. If necessary, it could also be considered whether such driving bans can be **harmonised** with rules in the rest of the European Union.

## REPORT

### 8. Digitization of transport documentation

Transporters of goods must carry freight documents at all times. These documents can be requested in the countries of arrival. CMR (*'Convention Relative au Contrat de Transport International de Marchandises par Route'*) is the international treaty that governs the drafting of bills of lading. Since 2011, an additional E-protocol has been added to the CMR Convention. The E-Protocol provides a legal framework and legal standards for the use of electronic means in the drafting of the CMR lading bill. The digitization of the bills of lading allows for quicker inspections and easier keeping of own records. However, in some member states it is not yet possible to carry only a digital bill of lading, which means that carriers usually have to carry both the physical and the digital version. This is inconvenient for carriers of goods.

#### Example

*Logistics sector:* international transporters may need both physical and digital freight papers for different countries. For example, on a trip from the Netherlands to Slovakia, paper documentation is required in Germany while a digital waybill can be shown in the Czech Republic and Slovakia. In Germany, a fine is issued for failure to show paper documentation.

**Of interest to the following sectors:** logistics and maritime sector.

**Member States where this is particularly relevant:** Cyprus, Germany, Greece, Hungary, Ireland, Italy, Croatia and Austria.

**How to proceed?** The abovementioned member states should ratify the **E-protocol** which has been added to the CMR Convention. Since this requires investments from supervisory services, these supervisory services can be subsidized by European funds that aim to support digitization within the internal market, such as the **Single Market Programme**.

## REPORT

### 9. Lack of harmonisation of sustainable charging infrastructure

The sustainability of the transport and logistics sector can be supported by creating a harmonised infrastructure required for vehicles using renewable fuels. Currently, the **Alternative Fuels Infrastructure Directive (AFID)** regulates the harmonisation of, among other things, sustainable charging infrastructure. However, this directive does not prescribe a binding method to member states that can be used to determine the required size and compatibility of the sustainable charging infrastructure. As a result, there are large discrepancies between member states in terms of the size of the sustainable charging facilities. Also, the charging facilities are not always compatible with the facilities in other member states. This is disadvantageous for companies in the logistics and maritime sector that want to use the available infrastructure in different member states. It also hampers **achieving sustainability goals**.

#### Example

*Maritime sector:* the maritime sector is currently working on becoming more sustainable. This also includes the transition to the use of renewable fuels. Because the infrastructure of alternative fuels is not harmonised between different ports, for example, different plugs are needed in different ports when obtaining shore power. Situations even occur where the port uses different plugs and connections, forcing a ship to divert to another port.

**Of interest to the following sectors:** logistics and maritime sector.

**How to proceed?** The revision of the **Alternative Fuels Infrastructure Directive (AFID)** should guarantee that charging infrastructure within the EU is interoperable. The revision of AFID is expected in the third quarter of 2022. The directive will be replaced by a regulation: the **Alternative Fuels Infrastructure Regulation (AFIR)**. It is important that this revision sets binding targets for the rollout of charging infrastructure and includes measures to ensure that the interoperability of the infrastructure is central. In revising AFID/AFIR, it is important that international standards set by the International Maritime Organisation are taken into account.

## REPORT

### 10. Infrastructure for better and safe data access.

There is currently no European data infrastructure in which data can be shared between member states for scientific purposes and in which privacy is guaranteed. As such, there is currently a highly fragmented landscape due to the large number of different initiatives without the possibility of scalability. The European Commission recognizes the importance of creating a cloud system in which European requirements and values are central, but its development process has been too slow. This makes it impossible for companies to use large European databases as a basis for developing new technologies at the moment.

#### Example

*Health sector: Data sharing on a large scale is necessary for the health sector to improve patient experience, make use of materials more efficiently and enable medical research in new fields. The different medical systems in the EU do not always recognize each other's datasets. To reduce medical data fragmentation and give citizens greater insight into their medical data, there is an urgent need to standardize interoperability and data portability between and within EU member states. A European federated cloud system can make a major contribution to this.*

**Of interest to the following sectors:** sectors in which data use plays an important role: health sector, energy sector, mobility sector, financial sector, agricultural sector, public sector, etc.

**How to proceed?** The creation of a federated data infrastructure within the European Union is desirable and will contribute to the innovative capabilities of European companies. The European Commission has proposed the **Data Act** earlier this year. This proposal aims to make full use of data collected in the **Internet of Things** by consumers and third party service providers. Data that is collected by product or service must be made available to a third party service provider by the data holder at the request of the user. The European Health Data Space, an initiative of the European Commission that is a sector specific extension to the Data Act, is an example of a common framework in which primary health data could be shared. The European Health Data Space is step in the right direction that contributes to an internal market for (digital) health care. A major advantage of creating a European cloud system is that non-European companies will be forced to comply with European regulations, should they wish to participate in such a data infrastructure.

**For further information on this report, please contact:**

Brussels Office  
VNO-NCW & MKB-Nederland  
+32 (0)2 510 08 80  
brussel@vnoncw-mkb.nl