

Single Market NEWS

N° 34

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The Newsletter of the Internal Market DG



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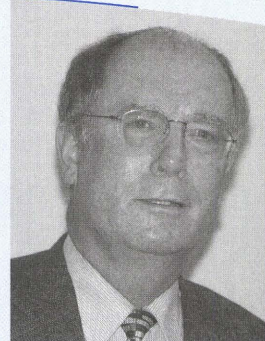
E D I T O R I A L

● Since 1 May the Single Market has expanded to 25 countries and 450 million consumers, further reinforcing the EU's position as a major world trading bloc. Despite the scale of the Enlargement challenge, the transition has on the whole gone smoothly. No 'big bang' but a decade-long process preparing the accession countries for a world without customs barriers and border controls with their EU neighbours. Joining the Union has involved taking on board an imposing body of EU legislation built up over decades – the so-called 'Acquis communautaire'. The transposition of EU laws and regulations into national legislation is indeed one of the challenges of Enlargement. The other challenge for the future is the implementation and enforcement of the commitments that they involve. The integration of the new countries with their different economic profiles, specialisations and cost structures, it should not be forgotten, represents a competitive challenge for both new and existing members. At the end of the day, it should be to the benefit of all (see page 4).

● The adoption and implementation of EU rules and regulations is one of the challenges in developing the Single Market. Another is the proper application of measures which have been agreed. Yet misapplication or misunderstanding of rules and obligations by national authorities sometimes happens. If you are a victim of wrong interpretation of EU rules, you can now turn to the SOLVIT service for help. This network of problem-solving experts in national capitals can take up your case with the appropriate departments in the offending country to try and engineer a solution through an informal process that usually takes less than 70 days and sometimes no more than a week. The service is free and can, in some cases, be an attractive alternative to lengthy formal infringement proceedings (see page 15).

● It is pleasing to see another important advance in our financial services modernisation programme. The Investment Services Directive (FIMD) – a cornerstone of the Financial Services Action Plan – has now been agreed by national governments in the Council of Ministers and this framework of legislative reforms, together with related implementing measures, will work its way through to national legislation over the next two years. As a result, investment firms in Member States will have an effective 'Single Passport' for marketing their products across the EU. It will also provide investors with the protection they need to ensure that investing across borders is as safe as doing so at home. The speed with which this highly complex Directive has been worked through and refined in conjunction with stakeholders is something all partners in the process can be pleased with. The benefits to individual investment firms and investors are evident and the benefits to the EU economy as a whole through greater financial integration potentially very significant.

● With the Financial Services Action Plan nearly completed, where do we go from here? The Commission has brought together top experts from the areas of banking, insurance, securities, and asset management to evaluate the progress we have made and point the way for further action. The expert groups generally share the view that the legislative framework is now largely complete. Future emphasis should be on enforcement of EU legislation and supervisory convergence, they argue. The groups recognise and appreciate the progress made in the area of consultation and transparency with the Commission and other key stakeholders. The high quality feedback from the industry experts will be taken on board by the Commission in its efforts to further improve financial integration in Europe (see page 8).



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No 'big bang', but

EU Enl

Résumé

Pas de "big bang", mais une transition en douceur

Le 1^{er} mai, l'UE a renforcé son marché intérieur en passant à 25 pays et plus de 450 millions de personnes.

Pour les dix nouveaux États membres – Chypre, République tchèque, Estonie, Hongrie, Lettonie, Lituanie, Malte, Pologne, Slovaquie et Slovénie – l'adhésion à l'UE marque l'aboutissement de plus d'une décennie de réformes économiques et politiques et, pour les économies d'Europe centrale et orientale, représente une étape importante d'un parcours entamé avec la chute du communisme et l'achèvement du processus de transition lancé lors du sommet de Copenhague de 1993.

On 1 May, the Single Market expanded to 25 countries and more than 450 million people, further reinforcing the EU's position as a major world trading bloc.

For the ten new countries – Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia – joining the EU marks the culmination of more than a decade of economic and political reforms. For the economies of Central and Eastern Europe, it marks a major step along a journey that began with the fall of communism, was accelerated through the EU transition process launched at the Copenhagen Summit in December 1993, and was concluded with the Accession Treaty signed in Athens in April 2003, leading to formal membership in May of this year.

Considerable effort

Yet this Enlargement has not been accomplished without enormous effort. Many of the accession countries have had to transform their economies from a command-based system to a market system. All of them have had to take on board the imposing body of EU legislation, the 80,000 pages of the "Acquis communautaire".

Central to the EU's approach during negotiations with the accession countries has been the determination that Enlargement must enhance the Single Market, not detract from it or undermine it. This underlying philosophy is reflected in EU insistence that any transition periods are minimal and that effective implementation is vital.

Smooth transition

From a customs union and trade liberalisation perspective, preparations for Enlargement already started in the 1990s with the elimination of trade barriers through the 'Europe Agreements'. These provided for bilateral free trade (with minor exceptions in the field of agriculture and processed agricultural goods). Trade with the new Member States was thus largely liberalised even before accession.

In relation to the Single Market the new Member States have had to complete a process of economic reform and industrial restructuring,

together with the transposition of EU legislation and the establishment of the structures necessary to implement and enforce it.

The 'accession-driven' PHARE programme with an annual budget of €1,577 million has helped accession countries' administrations acquire the capacity to implement the body of EU law, and helped them bring their industries and basic infrastructure up to EU standards.

Adapting to EU standards

Throughout the accession process the Commission has closely monitored the progress of the ten countries. Where necessary it has dealt directly with countries in bilateral meetings to help accelerate them in translating EU law into national legislation.

By 1 May, considerable progress had been made by the new Member States in transposing the EU Directives and Regulations into national laws, although inevitably there were some areas where laws or implementing regulations were not fully in place by the accession date. Some accession countries have made more progress than others. Some states have even made more notifications of the transposition of EU Directives than some of the EU-15. Others still have a transposition deficit although it is unclear in some cases whether the problem is lack of complete transposition or, more simply, a lack of notifying legislation on time.

Corporate preparedness

In anticipation of accession, many EU businesses have invested heavily in the region. There has been a dramatic increase in the volume of trade between the accession countries and the EU. Indeed, some of the benefits of Enlargement are already flowing. The opening of markets and economic restructuring of economies in preparation for EU membership has in many cases led to strong economic growth.

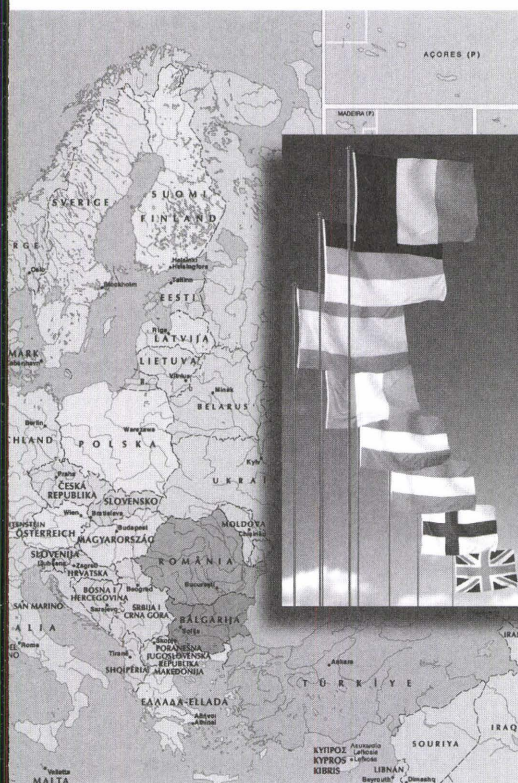
A study undertaken just prior to Enlargement by Eurochambres and the Slovenian Business Research Association* indicated continuing strong support among the Central European business community for accession (89%), and an increased compliance with EU legislation. Companies have indeed made major progress in preparing for compliance with the relevant legal provisions of the EU. The percentage of companies that had not yet started their preparations decreased from 51% in 2003 to 41% in 2004.



"Clearly, Enlargement should result in a win-win situation.. it is also clear that the ten new members still have some homework to do in the form of finalising their alignment to EU legislation and in enhancing their administrative capacity."

a smooth transition

gement



rate taxation than in the EU-15, the new EU members are, for the time being, very attractive to European as well as international companies seeking lower cost locations to serve the EU's 455 million consumers.

Clearly, Enlargement should therefore result in a win-win situation: not only will the ten new members benefit from an enlarged Internal Market, existing members can also benefit over the coming years from the enormous opportunities, either by investing, or through access to a larger market.

rate taxation than in the EU-15, the new EU members are, for the time being, very attractive to European as well as international companies seeking lower cost locations to serve the EU's 455 million consumers.

Next steps

Despite this optimistic outlook, it is also clear that the ten new members still have some homework to do in the form of finalising their alignment to EU legislation and in enhancing their administrative capacity. The EU Commission will be closely monitoring this across the various sectors concerned and has also set aside support funding through the so-called Institution Building Facility which makes available a total of €380 million over the next three years.

Whilst the new Member States settle in, negotiations with Bulgaria and Romania are continuing, with the intention that these two countries will join by 2007. Several Balkan Countries are under the Stabilisation and Association process and are also being prepared for European integration, whilst Croatia and FYROM have already applied for membership. Negotiations with Croatia will formally open in 2005, but the preparatory work has already begun at full speed. Finally, a decision on Turkey's application will be taken by the European Summit in December.

There is indeed a lot of work ahead of us and Enlargement will be part of the Brussels' agenda for many years to come.

The large companies, particularly those with export interests, have naturally made greatest effort to find out what is required under EU law. Companies in Slovenia, the Czech Republic and Estonia believe that they are best prepared. The Czech Republic and Hungary lead the field in the area of compliance with the general provisions of EU law, according to the survey. Preparations appear to be the most advanced in the sectors of financial services, agriculture, and manufacturing.

Benefits to all members

The expanded Internal Market offers businesses access to a very large trading area which itself should encourage investment. Increased domestic competition will force entrepreneurs to shape up and become more efficient. The adoption of higher regulatory standards, notably in the protection of intellectual property rights, access to government procurement markets or in the field of competition, will better safeguard the interests of investors and traders in the new Member States.

Foreign direct investment in the new Member States can be expected increase. With lower labour costs and in some cases lower corpo-

"Whilst the new Member States settle in, negotiations with Bulgaria and Romania are continuing, with the intention that these two countries will join by 2007."

Resümee

Kein „Big Bang“, sondern ein reibungsloser Übergang

Am 1. Mai ist die EU ein Binnenmarkt mit 25 Ländern und über 450 Millionen Einwohnern geworden.

Für die zehn neuen Mitgliedstaaten – Estland, Lettland, Litauen, Malta, Polen, die Slowakei, Slowenien, die Tschechische Republik, Ungarn und Zypern – ist der Beitritt der Höhepunkt von mehr als zehn Jahren wirtschaftlicher und politischer Reformen.

Für die mittel- und ostmittel-europäischen Volkswirtschaften ist er ein wichtiger Schritt auf einem langen Weg, der mit dem Fall des Kommunismus begann und mit einem 1993 auf dem Gipfel in Kopenhagen eingeleiteten Umgestaltungsprozesses abgeschlossen wurde.

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* fourth annual survey on corporate readiness for EU membership - www.eurochambres.be

Expert groups report

Financial Services

Résumé

Rapports des groupes d'experts sur l'intégration financière

À la demande de la Commission, quatre groupes d'experts indépendants ont procédé à un examen de l'état de l'intégration financière de l'UE dans les secteurs de la banque, des assurances, des valeurs mobilières et de la gestion d'actifs.

Ces groupes ont formulé un certain nombre de recommandations en vue d'exploiter au mieux le potentiel des mesures du plan d'action sur les services financiers et signaler les domaines dans lesquels le marché financier unique pourrait être renforcé. Ils soulignent également les principales attentes et préoccupations des différents secteurs en ce qui concerne la mise en œuvre de la législation du PASF; celles-ci seront prises en compte par la Commission en vue d'une action éventuelle visant à parachever l'intégration des marchés financiers de l'UE.

At the Commission's request, four independent groups of experts have undertaken a comprehensive review of the state of financial integration across the EU in the areas of banking, insurance, securities and asset management. In their final reports the groups have set out a series of recommendations for harnessing the full potential of the Financial Services Action Plan (FSAP), and have identified specific areas where the single financial market can be further enhanced through a combination of self-regulation, supervisory cooperation and – in some limited cases – additional EU-level policy intervention.

The experts also outline the main expectations and concerns in their respective sectors regarding the implementation and enforcement of FSAP legislation. The experts' views will be taken into consideration by the Commission for possible future action to complete the integration of EU financial markets.

Taking stock of progress

As the legislative phase of the FSAP draws to a close, the Commission is keen to determine how to get the best out of this framework of financial legislation, particularly when faced with continuously evolving markets.

Four groups covering banking, insurance, securities and asset management were therefore set up in October 2003 to advise the Commission on the extent to which the

Financial Services Action Plan has improved the conditions for doing financial business across EU borders. The groups comprising more than 90 high-calibre experts were also mandated to advise the Commission on any remaining weaknesses in the EU legislative framework.

Expert reports

Whilst the final reports suggest that it is too early to draw conclusions on the impact and effectiveness of FSAP measures, they do identify some progress in the organisation of certain upstream business functions and capital-market oriented activities (e.g. trading and portfolio management, risk management etc.). By and large, however, the provisions of FSAP legislation have not yet translated into improvements in market access or easier organisation of cross-border financial business.

Each report identifies a number of specific issues for further consideration. These include, in the asset management report, a list of possible enhancements to the current framework and in the banking and insurance reports, some back-office issues, as well as issues on group/conglomerate supervision.

The securities report, raises for further reflection, the regulation of credit rating agencies, securitisation and netting. The Commission will give more detailed consideration to these specific recommendations before commenting on the pros and cons of any particular course of action.

“Powerful vector for change”

FSAP Progress Report

The completion on schedule of nearly all (93%) of the legislative measures in the Financial Services Action Plan has been a major success for the EU, according to the European Commission's latest Progress Report on the FSAP, which was presented to the 2 June Council of Economics and Finance Ministers (ECOFIN).

This progress has been made possible by a clearly defined objective and timetable, a carefully planned strategy, high quality resources, systematic monitoring, and the goodwill of Member States, the European Parliament and market participants, the report stresses. However, it is much too early to evaluate whether the FSAP has achieved its stated objectives: that will depend on the correct and timely implementation and enforcement of all FSAP measures.

Nevertheless, the FSAP is clearly already acting as a powerful vector for change, the report says, as financial markets organise themselves on a cross-border basis. Enlargement of the Single Market is expected to amplify the economic benefits to the Union and all its Member States, particularly during the high-growth catch-up phase, when the new Member States will have additional financing needs to fund capital investment programmes.

Further details at:

http://www.europa.eu.int/comm/internal_market/en/finances/actionplan/index.htm

Financial integration

Action Plan

FIM report shows progress in integrating European markets

The Commission has published its first Financial Integration Monitor report, as announced in the 'Tracking Financial Integration' report presented last year to the ECOFIN Council. FIM 2004 is not only a first response to a Council demand for indicators of financial integration and to a call from stakeholders for a more evidence-based policy-making process, it is also an answer to the need for monitoring FSAP implementation on the ground.

This first comprehensive report concludes that the integration of EU financial markets is progressing across the board, albeit at a very different pace depending on the product, the end-user and the market.

The FIM report analyses the state of integration in all areas of financial business from the perspectives of price convergence, provision of cross-border intra-EU services, cross-border intra-EU establishment, emergence of pan-European infrastructures and developments in product availability.

The FIM report measures not only integration but also looks at its associated impacts in terms of competitiveness, efficiency and stability. As such, it provides input for the future policy debate on financial services.

The full text of the FIM report is available at:
http://europa.eu.int/comm/internal_market/en/finances/cross-sector/index.htm#tracking

Consensus

There is a lot of common ground across the reports in terms of the emphasis placed on making the most out of the current legislative framework through:

- better implementation, enforcement and supervisory convergence;
- improved prioritisation and justification of legislative interventions;
- continued improvements in consultation.

Need for convincing case for action

The reports argue that, with the EU framework being now largely complete, new legislative measures should only be brought forward when impact assessments make a convincing case that the expected benefits to industry will outweigh adjustment or compliance costs. Any EU actions must be clearly targeted to deal with 'material' Single Market failures. The experts also put emphasis on the need for enforcement of EU legislation and for supervisory convergence.

Transparency

The reports stress the need for continued enhancement of the EU financial law-making process. All four expert groups recognise the improvements that have been made by the Commission and others such as the European Parliament and the Committee of European Securities Regulators with regard to transparency and consultation.

4-level approach

There is a strong consensus in the reports in favour of extending the current four-level approach to developing EU legislation – indeed now extended from securities legislation to banking, insurance and collective investment funds (UCITS) – and of exploiting it as the basis for EU supervisory architectures over the foreseeable future. However, some experts called for further consideration to be given to the possible case for a move to centralised European financial supervision.

Consultation on conclusions

The next stage of the process is a period of consultation and open exchange of views with all interested parties and stakeholders on the reports of the expert groups. The deadline for written comments on the reports is 10 September 2004.

The Commission will analyse the feedback received and the new College of Commissioners, taking office in November 2004, will then be in a position to consider the results of the stock-taking exercise and the subsequent way forward.

The expert group reports are available at:
http://europa.eu.int/comm/internal_market/en/finances/actionplan/stocktaking.htm

Resümee

Sachverständigengruppen berichten über Finanzintegration

Auf Veranlassung der Kommission haben vier unabhängige Sachverständigengruppen den Stand der Finanzintegration in den Sektoren Banken, Versicherungen, Wertpapiere und Vermögensverwaltung untersucht.

Die Gruppen haben Empfehlungen für die Erschließung des vollen Potenzials der Maßnahmen des Aktionsplanes Finanzdienstleistungen erarbeitet und Gebiete ausgewiesen, in denen der Finanzinnenmarkt weiter gestärkt werden kann.

Sie umreißen auch die hauptsächlichen Erwartungen und Anliegen der unterschiedlichen Sektoren hinsichtlich der Durchführung und Umsetzung der Rechtsvorschriften des Aktionsplans Finanzdienstleistungen. Bei der Ausarbeitung künftiger Maßnahmen zur Vollendung der Integration der EU-Finanzmärkte wird sich die Kommission darauf stützen.

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FIMD approval opens way to 'Single Directive on Financial

Résumé

Le "Passeport unique" pour les sociétés d'investissement reçoit le feu vert

La Directive concernant les marchés d'instruments financiers – un élément essentiel du plan d'action sur les services financiers de la Commission – a reçu le feu vert du Conseil des ministres de l'UE.

La Directive, qui a été initiée en novembre 2002, établit pour la première fois un cadre réglementaire complet régissant l'exécution organisée des transactions des investisseurs par les bourses, les autres systèmes de négociation et les entreprises d'investissement.

La Directive donnera aux entreprises d'investissement un véritable "passeport unique", qui leur permettra d'opérer dans toute l'Union sur la base de l'agrément délivré par leur État membre d'origine. Elle garantira également aux investisseurs un degré élevé de protection lorsqu'ils recourent aux services d'entreprises d'investissement installées dans d'autres États membres de l'UE.

The Directive on Financial Instruments Markets (FIMD), proposed in 2002 to overhaul outdated legislation affecting today's fast-moving investment markets, was adopted by the EU's Council of Ministers at the end of April.

This framework legislation which updates the 1993 Investment Services Directive, is a core component of the Commission's Financial Services Action Plan. Its objective is to give investment firms an effective 'Single Passport', allowing them to operate throughout the EU on the basis of authorisation in their home Member State. It will also mean that investment firms can process client orders outside regulated exchanges, which is not currently possible in some Member States.

Whilst stimulating investment in the EU, the legislation also aims to ensure that investors enjoy similar high levels of protection when employing investment firms located in any of the EU countries.

Overhaul of legislation

EU financial markets have seen some far-reaching structural changes over the past decade. These changes include greater participation of retail investors in financial markets, increased competition between exchanges and trading systems and the growth of cross-border equity transactions (by 20%-25% annually between 1996 and 2001). In consequence, it was felt necessary to overhaul existing laws.

The new legislation sets out to establish a comprehensive regulatory regime to ensure high quality execution of investor transactions wherever they take place either on 'regulated markets', through a new generation of organised trading facilities known as either Multilateral Trading Facilities (MTFs) or Alternative Trading Systems, or off-exchange. It lays down a package of safeguards which regulated markets and investment firms should respect.

The new EU legislation is a Lamfalussy-type Directive. It establishes a framework (level 1) which sets out the general high-level obligations which Member State authorities should enforce. More detailed implementing meas-

ures (level 2) will be set down by the Commission following consultations with market participants and Member States, and advice provided by the Committee of European Securities Regulators (CESR). Member States have to implement the Directive (together with necessary level 2 legislation) within two years.

Clarification and extension of scope

As a response to innovation in the marketplace, the Directive expands the list of financial instruments covered to include certain commodity derivative instruments and other derivative instruments with similar characteristics. The inclusion of the 'new' financial instruments, together with commodity derivatives as originally proposed by the Commission, will help protect investors against 'Enron-type' manipulations and help guarantee the reliability, fairness and stability of financial markets.

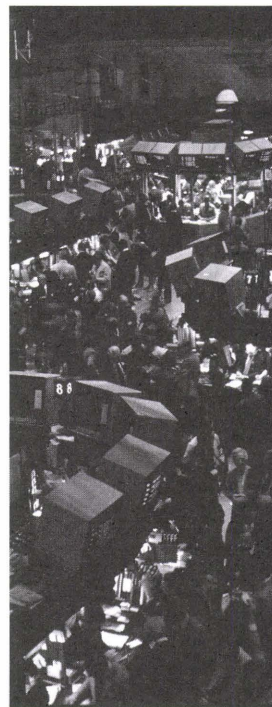
It also enlarges the range of investment services for which authorisation is required, notably to include investment advice. Financial analysis and research is also covered by the Directive, when undertaken in conjunction with core investment services. This means that essential rules of this Directive such as investor protection and conflict of interest rules also apply to financial analysis.

"The inclusion of the 'new' financial instruments... will help protect investors against 'Enron-type' manipulations and help guarantee the reliability, fairness and stability of financial markets."

Home market authorisation

The Directive sets out to greatly enhance the practical application of the 'Single Passport' for investment firms by reinforcing and extending the principle that firms should have the right to operate anywhere in the EU on the basis of authorisation and supervision by the competent authority in their home Member State.

It will bring closer into line national rules on the provision of investment services and the operation of exchanges, with the ultimate aim of creating a single European 'securities rule book'.



The Passport' for investment firms

Financial Instruments Markets



FIMD **updates and harmonises the regulatory conditions** with which investment firms must comply, at the time of initial authorisation and afterwards. In particular it provides:

- clearer and more precise rules on the **conduct of business** that investment firms must respect when providing services to their clients;
- reinforced organisational requirements, particularly regarding conflicts of interest;
- reinforced 'best execution' obligations and provides for new rules for handling clients' orders;
- transparency obligations for investment firms executing clients' orders against their positions (internalisation of orders)

Comprehensive investor protection

A key objective of the legislative package is to enhance investor protection and it incorporates a series of provisions for this purpose, the requirements of which have to be adapted to the particularities of each category of investors (e.g. retail investors).

Internalisers

Under the terms of the Directive, investment firms are permitted to 'internalise' their client orders. Internalisation is where banks and other investment institutions process client orders in-house without going through a regulated market. However, 'internalisation' would be limited to situations where it is demonstrably in the client's best interests.

Market transparency

Through a comprehensive pre- and post-trade transparency regime, the Financial Instruments Markets Directive sets out to enable market participants to observe conditions for the most recent sale/purchase of an equity instrument at all execution points, thereby identifying the best trading opportunities. Such transparency contributes greatly to efficient investor protection. In addition, it is a powerful tool for ensuring that competition between markets and trading venues contributes to, rather than impairs, overall market efficiency. For the time being this obligation is restricted to shares but could be extended to bonds in the future.

A set of protective measures for 'internalisers' have also been included in the Directive when they are obliged to quote, so that they

can provide this essential service to their customers without incurring undesirable risks. These measures include the possibility to update and withdraw their quotes.

The Directive will in addition establish a fair marketplace for retail investors and prevent financial institutions from discriminating between small investors, for example by offering some of them undisclosed improvements to prices publicly quoted – so-called 'price improvement'.

Competent authorities

In order to promote consistent enforcement throughout the EU, the Directive sets minimum standards for the mandate and the powers national competent authorities must have at their disposal. It will establish effective mechanisms for real-time cooperation in investigating and pursuing breaches of the Directive's obligations, by upgrading the obligations of competent authorities to assist each other, exchange information and facilitate joint investigations.

To facilitate and accelerate cooperation, and more particularly exchange of information, the Member States will have to designate one single competent authority as a contact point.

For further information:
http://www.europa.eu.int/comm/internal_market/en/finances/mobil/isd/index.htm

Resümee

„Europäischer Pass“ für Wertpapierhäuser erhält grünes Licht

Der EU-Ministerrat hat grünes Licht gegeben für die Wertpapierdienstleistungs-Richtlinie (Richtlinie über die Märkte für Finanzinstrumente), einen Eckpfeiler des Finanzdienstleistungs-Aktionsplans der Kommission.

Mit dieser Richtlinie, für die die Kommission den ersten Vorschlag im November 2002 unterbreitete, wird erstmals ein umfassender Rechtsrahmen für die geordnete Ausführung von Anlegeraufträgen durch Börsen, andere Handelssysteme und Wertpapierhäuser geschaffen.

Nach der Richtlinie erhalten die Wertpapierhäuser einen „europäischen Pass“, der es ihnen gestattet, in der gesamten EU auf der Grundlage ihrer Zulassung im Herkunftsland tätig zu sein. Gleichzeitig gewährleistet die Richtlinie, dass Anleger bei der Inanspruchnahme von Wertpapierhäusern in anderen EU-Ländern ein hohes Maß an Schutz genießen.

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IPR Enforcement Directive gets go-ahead

Counterfeiting and piracy

Résumé

Une nouvelle Directive renforçant la défense de l'UE contre la contrefaçon, la piraterie et autres violations des droits de propriété intellectuelle a été adoptée par le Conseil en avril. Les contrefacteurs fabriquent actuellement des faux de tous les produits quotidiens possibles mais lorsqu'il s'agit notamment de médicaments, jouets, cosmétiques, produits alimentaires et boissons, ces articles risquent de nuire à la santé et à la sécurité publique. La Directive exige de l'ensemble des États membres que ceux-ci appliquent des mesures, procédures et remèdes efficaces, dissuasifs et proportionnés contre les auteurs de piraterie et de contrefaçon, de manière à créer des règles de jeu égales pour les détenteurs de droits dans l'UE. La nouvelle Directive harmoniserait les législations nationales en matière de mesures civiles, de procédures et remèdes avec les «meilleures pratiques» recensées dans la législation d'au moins un État membre.

A new Directive giving the EU stronger defences against intellectual property (IP) rights infringements was adopted by the Community legislator in April. The new measures require all Member States to apply effective, proportionate and dissuasive measures, procedures and remedies against those engaged in counterfeiting and piracy. The new EU law will help create a level playing field for right holders in the EU. Member States will have two years to implement the Directive.

Enforcing ownership rights

Counterfeiting and piracy are modern plagues with a growing international dimension and an increasing link to organised crime. When intellectual property rights are not respected, there is less investment going into innovative industries, research and cultural promotion. Counterfeiters nowadays create fakes of any possible everyday product including CDs and DVDs. But when counterfeiters turn to medicines, toys, cosmetics, food and drink, for example, they produce items which may threaten public health and safety. On 29 April 2004, the Council of Ministers and European Parliament adopted Directive 2004/48 on the enforcement of intellectual property rights, covering copyright and related rights, trademarks, designs, patents, geographical indications, etc. The new Directive brings national legislation on civil measures, procedures and remedies closer into line with 'best practice' found in at least one Member State.

Obligations

The Directive sets out, for example, a number of obligations which are of importance for establishing the infringement of an IP right such as provisions on evidence and the protection of evidence. The legislation includes a right of information allowing judges to order certain persons to reveal the names and addresses of those involved in distributing the illegal goods or services, along with details of the quantities and prices involved.

Furthermore, right holders may order the seizure of goods suspected of infringing an IP right so as to prevent their movement within the channels of commerce. Other available remedies include the destruction, recall or permanent removal from the market of illegal goods.

Damages

The Directive sets out the principles that the infringer pays the right holder damages appropriate to the actual prejudice suffered as a result of the infringement, and that reasonable and proportionate legal costs should be paid by the unsuccessful party in court litigation.

Safeguards

As well as introducing benefits for right holders, the Directive contains appropriate safeguards against abuse, ensures the rights of the defence and includes references to the protection of personal data and confidential information.

Exchange of information

The EU law also signals to Member States other measures that should contribute significantly to the fight against counterfeiting and piracy such as the publication of judicial decisions and the development of professional codes of conduct. Member States will have to appoint national correspondents to cooperate and exchange information with other Member States and the Commission.

Criminal sanctions

Although the Commission still believes that an effective fight against counterfeiting and piracy requires strong criminal sanctions, the adopted version of the Directive, unlike the original Commission proposal, does not contain provisions on criminal sanctions.

The issue of including criminal sanctions provisions in an Internal Market measure is currently under scrutiny at the European Court of Justice. The Commission will examine the possibility of proposing harmonisation measures providing for criminal sanctions in the future.

Resümee

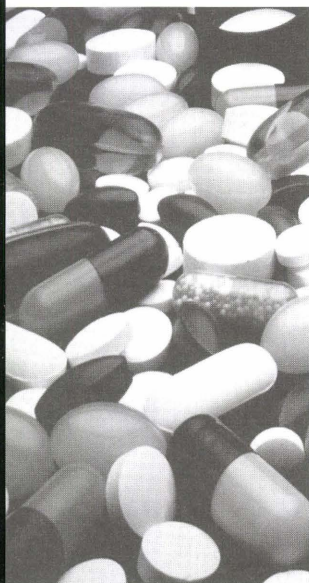
Der Rat hat im April eine neue Richtlinie verabschiedet, die den Schutz gegen Nachahmung, Piraterie und andere Verletzungen der Rechte an geistigem und gewerblichem Eigentum in der EU verstärkt. Heutzutage werden alle möglichen Artikel des täglichen Bedarfs gefälscht, aber wenn die Fälscher beispielsweise Arzneimittel, Spielzeug, Kosmetika, Nahrungsmittel und Getränke nachahmen, können Sicherheit und Gesundheit der Bevölkerung in Gefahr sein. Die Richtlinie verpflichtet alle Mitgliedstaaten, Nachahmung und Piraterie mit wirksamen, angemessenen und abschreckenden Maßnahmen zu begegnen; damit sollen EU-weit einheitliche Voraussetzungen für die Rechteinhaber in der Union geschaffen werden. Die neue Richtlinie nähert zivilrechtliche Maßnahmen, Verfahren und Ahndung in den Mitgliedstaaten den Verfahren an, die bereits in mindestens einem Mitgliedstaat bewährte Praxis sind.

“when counterfeiters turn to medicines, toys, cosmetics, food and drink... they produce items which may threaten public health and safety”

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Proposal for patent harmonisation moves forward

Computer-implemented inventions

Résumé

Le projet de Directive relative aux inventions mises en œuvre par ordinateur progresse

Le Conseil Compétitivité est parvenu en mai 2004 à un accord sur une «position commune» concernant la proposition de Directive relative aux inventions mises en œuvre par ordinateur.

L'objectif de la proposition est d'harmoniser les pratiques de brevet en ce domaine à travers l'UE et de dynamiser l'innovation en assurant que ceux qui investissent dans le développement de produits véritablement nouveaux dépendant d'une technologie mise en œuvre par ordinateur puissent recevoir une juste rémunération, tout comme ceux qui développent d'autres produits.

Actuellement, des brevets pour des inventions mises en œuvre par ordinateur peuvent être déposés, traités et délivrés à travers l'UE soit auprès d'un guichet unique à l'Office européen des brevets (OEB), soit par les offices de brevets nationaux, conformément à la législation nationale. Cependant, quelle que soit la voie choisie, la législation nationale s'applique dans tous les cas une fois que le brevet a été accordé.

Patent protection is proposed for computer-based inventions used in everyday items such as cars, mobile phones and washing machines.

Agreement on a 'common position' was reached at the Competitiveness Council in May 2004 on the proposed Directive on computer-implemented inventions. The aim of the proposal is to harmonise patent practice and boost innovation by ensuring that those who invest in developing genuinely new products that depend on computer-implemented technology can, like those who develop other products, have proper patent protection and thereby get a fair reward.

Currently, patents for computer-implemented inventions may be applied for, processed and granted across the EU either in a one-stop shop at the European Patent Office (EPO), or via national patent offices under national law. However, whichever route is chosen, national law applies in all cases after grant.

New technological environment

With respect to computer-implemented inventions, the present legal situation has essentially been built up by national courts and the EPO. They have had to develop interpretations to cope with a technology whose subsequent development could not have been imagined when the European Patent Convention was first drafted at the beginning of the 1970s.

Despite their good work, the lack of harmonisation after the granting of a patent and the existence of different legal traditions has meant that some differences have arisen, with the potential for more serious divergences in future. Consultations undertaken by the Commission on this issue have indicated very clearly that the lack of legal certainty in this field is widely regarded as very damaging to European interests.

The European Patent Convention, which governs the work of the EPO (and to which all EU Member States are or will shortly be signatories), states that patents should not be granted for pure computer programs or 'computer programs as such'. However, computer chips are increasingly found in everyday devices such as cars, washing machines, mobile phones and vacuum cleaners. It therefore makes sense to allow patents for computer-implemented inventions in cases where these are technical and fulfil the other normal requirements for patentability.



Clarifying the law

The proposed Directive has followed this approach. It will not make it possible to patent 'computer programs as such', but it will ensure that computer-implemented inventions are patentable - consistent with general patent practice. This ensures that the position in the EU will not drift towards that in the US where there is no such limitation. In broad terms, nothing will be made patentable which is not already patentable. The objective is simply to clarify the law and to resolve some inconsistencies in approach in national laws.

The proposed Directive also addresses the question of interoperability. It preserves intact the existing exception for certain copyright-related acts of reverse engineering and it specifies that competition law can still be used to remedy interoperability problems, as was recently demonstrated in the Commission's Microsoft decision.

As this Directive is the subject of the 'co-decision' procedure and significant differences remain between Council and Parliament, the text of the Council's common position will be transmitted to the European Parliament in the autumn to start the second reading.

For further information:
http://europa.eu.int/comm/internal_market/en/indprop/comp/index.htm

Resümee

Fortschritte beim Richtlinienvorschlag über computerimplementierte Erfindungen

Der Rat „Wettbewerbsfähigkeit“ hat sich im Mai 2004 auf einen „gemeinsamen Standpunkt“ zur vorgeschlagenen Richtlinie über computerimplementierte Erfindungen geeinigt. Die Richtlinie soll die Patentierungspraxis in diesem Bereich EU-weit harmonisieren und Innovationen fördern, indem sie dafür sorgt, dass diejenigen, die in die Entwicklung wirklich neuer, auf computerimplementierte Technologien gestützter Produkte investieren, dafür ebenso wie die Erfinder anderer Produkte eine angemessene Vergütung erhalten. Gegenwärtig können Patente für computerimplementierte Erfindungen zwar für alle EU-Staaten angemeldet werden, und zwar entweder zentral beim Europäischen Patentamt (EPA) oder nach einzelstaatlichem Recht bei den Patentämtern der Mitgliedstaaten. Nach der Patenterteilung gilt aber in jedem Fall innerstaatliches Recht, unabhängig davon, auf welchem Weg die Anmeldung und Erteilung erfolgt ist.

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Commission and Council adopt protection package for airline passenger data

Résumé

La Commission et le Conseil acceptent l'accord sur la protection des données relatives aux passagers aériens

Suite à l'accord avec les autorités des États-Unis, la Commission considère désormais que les données personnelles sur les passagers aériens transmises aux dites autorités bénéficient de la "Protection appropriée" requise en vertu de la Directive sur la protection des données personnelles de l'UE. Cet nouvel accord prévoit que moins de données seront extraites des dossiers des passagers aériens (PNR) des compagnies aériennes, que celles-ci seront conservées pendant beaucoup moins de temps et qu'elles seront utilisées à des fins plus restreintes.

Following the agreement with the US Government on a package guaranteeing protection in the US for the personal data of transatlantic air passengers, the European Commission has formally adopted an "Adequacy Decision" under the Data Protection Directive and the Council has concluded an International Agreement with the US. The Commission's Decision, the International Agreement to complement it, and the US 'Undertakings' apply from 28 May 2004.

Adequate protection for PNR data

The Decision indicates that the Commission considers that the Passenger Name Record (PNR) data on air passengers transferred to the US authorities will enjoy the 'adequate protection' required under the EU's Data Protection Directive.

The International Agreement complements the 'Adequacy Decision' and covers other issues such as non-discrimination, reciprocity and access by US authorities to passengers' data, and provides a legitimate basis under EU law for airlines to send PNR data to US authorities as a legal obligation.

Following the 'Undertakings' given by the US, which have been negotiated over the past year by the Commission, less personal data

from the airlines' PNR will be collected than was originally envisaged by the US, these will be kept for a much shorter period, and used for more limited purposes, notably for the shared objective of fighting terrorism.

Aftermath of 9/11

In reaction to the attacks of 11 September 2001, the US Congress adopted a law requiring all airlines operating flights to, from or through the US to provide electronic access to their Passenger Name Records. In the face of concerns that application of these rules could violate EU data protection law, the Commission entered into negotiations with the US Department of Homeland Security (DHS) to ensure that PNR data transferred to the US is subject to

adequate protection. In December 2003, the Commission announced it had agreed a compromise package with the US authorities on the scope and use of PNR:

- Less data will be collected and retained by the US authorities. A list of just 34 categories has been agreed;
- Sensitive data that may for example reveal race, religion or personal health, will either not be transferred or, if transferred, will be filtered and deleted by US customs (CBP);
- PNR data will be used only to combat and prevent terrorism, terrorism-related crimes and serious crimes, including organised crime of a transnational nature;
- There will be no bulk sharing of PNR. Data will only be shared on a limited case by case basis and only for the agreed purposes;
- Most PNR will be deleted after three and a half years (instead of 50, as originally proposed by the US).

Annual review

To underpin compliance with the undertakings, a joint review will be conducted once a year by the DHS and a Commission-led team from the EU, including representatives of Member States' data protection and law enforcement authorities. The whole package has a three-and-a-half year lifetime and will expire unless the two sides agree to renew it.

The agreement is viewed by the Commission as an interim arrangement which may be replaced in due course by international standards agreed by the International Civil Aviation Organisation (ICAO).

While a large majority of the Member States support the Commission's approach, the European Parliament has argued for a more substantial agreement with the US. The Commission and the Council decided nevertheless to proceed with implementation of the agreement.

The Parliament has decided to refer the matter to the European Court of Justice with a view to the annulment of both acts.

Resümee

Kommission und Rat geben grünes Licht zum Übereinkommen über Datenschutzgarantien für Fluggäste

Nach Zusagen der US-Behörden ist die Kommission nunmehr der Auffassung, dass für die personenbezogenen Daten von Fluggästen, die den US-Behörden übermittelt werden, der „angemessene Datenschutz“ gewährleistet ist, den die EU-Datenschutzrichtlinie verlangt. Als Teil der Vereinbarung werden weniger personenbezogene Daten aus den Passagierdatensätzen (Passenger Name Records – PNR) der Fluggesellschaften an die US-Behörden übermittelt, darüber hinaus ist die Speicherfrist für die übermittelten Daten sehr viel kürzer als ursprünglich geplant und der Verwendungszweck sehr viel stärker eingegrenzt.



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Further information at:
http://europa.eu.int/comm/internal_market/privacy/adequacy_en.htm#uspnr

Consultations on company information and the role of directors

Résumé

Consultations sur le rôle des conseils d'administration et des directeurs indépendants

Dans le cadre du plan d'action visant à moderniser le droit des sociétés et à améliorer la gouvernance d'entreprise, la Commission a examiné le rôle des conseils d'administration et des directeurs indépendants.

Une consultation publique en ligne vient d'être lancée sur les prochaines propositions de modifications des Directives comptables visant à préciser la responsabilité devant incomber aux administrateurs pour ce qui concerne les états financiers et les principales informations non financières. La Commission a également sondé l'opinion du public en ce qui concerne le rôle des représentants indépendants dans le conseil d'administration d'une société et les résultats de cette consultation seront pris en considération dans une recommandation sur le rôle des administrateurs non-exécutifs ou membres d'organes de surveillance (indépendants) prévue pour l'automne 2004.

As part of the Action Plan to modernise company law and enhance corporate governance, the Commission has been looking at the role of members of company boards and that of independent directors.

The Commission has just undertaken a public on-line consultation on its forthcoming proposals to revise the EU's Accounting Directives to clarify the responsibility of members of company boards for financial statements and key non-financial information. It has also invited views regarding the role of independent representatives on a company's board of directors. The findings will be taken into account in a Recommendation on the role of (independent) non-executive or supervisory directors planned for autumn 2004.

Action plan

One of the objectives of the Commission's 2003 Action Plan to modernise company law and enhance corporate governance would be to confirm the collective responsibility of board members for financial statements and key non-financial information. It also aims to increase transparency in intra-group relations and transactions with related parties, and improve disclosure about corporate governance practices. The Action Plan largely follows the recommendations of the High Level Group of Company Law Experts (HLG) set up by the Commission.

The Commission has just completed a public on-line consultation on its forthcoming proposals to revise the EU's Accounting Directives in order to clarify the responsibility of members of company boards for financial statements and key non-financial information. The consultation also covers transparency in transactions between companies which are part of the same group and with related parties, as well as improvements to the disclosure of corporate governance practices.

Many companies are organised in group structures. However, transactions within such groups and transactions with related parties

often lack transparency for investors, shareholders and other stakeholders. The Commission therefore intends to follow the HLG's recommendation that it should consider whether further improvements to the Accounting Directives can be made which would be consistent with International Financial Reporting Standards.

Corporate governance statement

The Commission supports the HLG's proposal to introduce an annual corporate governance statement so that all relevant information on listed companies' corporate governance practices would be available in a single place, thus allowing investors and other stakeholders to assess the standards achieved.

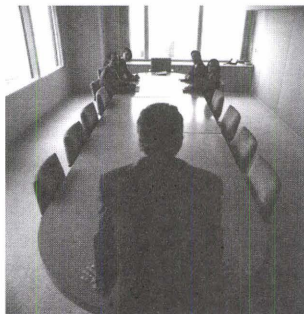
The Commission will take the results of the consultation into account in preparing a proposal for a Directive, likely to be presented later in 2004, amending the EU's Accounting Directives*.

Independent voices

Having independent directors on the board capable of challenging the decisions of the management, is widely considered as a means of protecting the interests of shareholders and, where appropriate, other stakeholders.

The Commission has undertaken a consultation on the role of non-executive or supervisory directors in listed companies, focusing in particular on those who may be considered as independent. The consultation document covers, inter alia, the composition, role, operation and transparency of board committees, and the criteria according to which directors can be regarded as independent. The consultation closed on 4 June 2004 and the responses will be taken into account in the preparation of the Commission's forthcoming Recommendation to Member States on this issue, scheduled for autumn 2004.

For further details on the consultations and results:
http://europa.eu.int/yourvoice/index_en.htm



Resümee

Konsultation zur Stellung der Führungsgremien und unabhängigen Direktoren von Unternehmen

Im Rahmen ihres Aktionsplans zur Modernisierung des Gesellschaftsrechts und zur Verbesserung der Corporate Governance in der EU hat die Kommission sich mit der Stellung von Mitgliedern der Verwaltungs- und Aufsichtsratsgremien und von unabhängigen Direktoren befasst. In diesen Tagen wurde eine öffentliche Online-Konsultation über die geplanten Vorschläge zur Änderung der EU-Rechnungslegungsrichtlinien abgeschlossen. Damit soll klargestellt werden, inwieweit Mitglieder der Führungsgremien von Unternehmen verantwortlich sind für Abschlüsse und wesentliche nicht-finanzielle Informationen. Die Kommission hat außerdem die Öffentlichkeit um ihre Meinung zur Stellung unabhängiger Mitglieder der Verwaltungs- und Aufsichtsratsgremien von Unternehmen gebeten. Das Ergebnis wird in eine Empfehlung zur Stellung (unabhängiger) nicht geschäftsführender Direktoren bzw. Aufsichtsräte einfließen, die im Herbst 2004 vorgelegt werden soll.

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* The Fourth Company Law Directive, 78/660/EEC, and the Seventh Council Directive, 83/349/EEC.

Are public-private partnerships sufficiently open to competition?

Résumé

Les partenariats public/privé sont-ils suffisamment ouverts à la concurrence?

Les partenariats entre le public et le privé (PPP) sont des formes de coopération entre les autorités publiques et le monde des affaires qui servent à réaliser des projets d'infrastructure ou à fournir des services au public. Alors que les PPP peuvent être un outil important pour rendre ces prestations plus efficaces, plusieurs représentants des milieux intéressés considèrent que l'UE ne dispose pas d'un cadre réglementaire approprié pour garantir qu'ils remplissent les exigences de transparence et de juste concurrence généralement exigées pour les marchés publics. En avril 2004, la Commission a publié un Livre vert définissant les principaux problèmes liés aux PPP et a invité le public à donner son avis sur l'opportunité d'une adaptation des règles communautaires sur les marchés publics et les concessions pour prendre en considération ce type d'opération.

Public-private partnerships (PPPs) are forms of cooperation between public authorities and the world of business which are used for carrying out infrastructure projects or providing services to the public. These forms of partnership are being increasingly employed in areas which are traditionally part of the public sector, such as transport, public health, education, public safety, waste management and water distribution. While PPPs can be an important tool for rendering the respective services more efficient, certain stakeholders are concerned that existing Community rules applicable to the choice of businesses participating in PPPs do not provide the appropriate clarity.

In April 2004, the Commission published a Green Paper outlining the key issues surrounding PPPs and public procurement and has invited the public to give its views on the desirability of adapting Community rules on public procurement and concessions to accommodate this type of operation.

Ensuring real value

The term public-private partnership is not defined at Community level. In general, it refers to forms of cooperation between public authorities and the world of business which aim to ensure the funding, construction, renovation, management or maintenance of an infrastructure or the provision of a service. Over the last ten years PPPs have been developing in several Member States and are now used in many areas traditionally part of the public sector.

While it is true that cooperation between the public and private sectors can offer inter alia micro-economic benefits permitting execution of a project that provides value for money and meets public interest objectives, recourse to PPPs cannot be presented as a miracle solution for a public sector facing budget constraints. Experience shows that, for every project, it is necessary to assess whether the partnership option offers real

value-added compared with other options, such as the more traditional contract.

Improving current rules

Under Community law, the choice of a private partner for a public contract must be made in accordance with the EC Public Procurement Directives. Also, any other act, whether it be contractual or unilateral, whereby a public entity entrusts the provision of an economic activity to a third party, must be examined in the light of the rules and principles resulting from the Treaty, particularly the principles of freedom of establishment and freedom to provide services. Of particular concern are the principles of transparency, equality of treatment, proportionality and mutual recognition.

"...for every project, it is necessary to assess whether the partnership option offers real value.."

There is, however, no specific system under Community law for PPPs, and the Community rules on awarding public contracts are applied to PPPs with differing degrees of intensity.

The Green Paper addresses both PPPs created on the basis of purely contractual links (contractual PPPs) and arrangements involving the joint participation of a public partner and a private partner in a mixed-capital legal entity (institutional PPPs). The document sets out the scope of Community rules, with a view to identifying any uncertainties and assesses to what extent Community intervention might be necessary.

The document sets out the way in which the rules and principles deriving from Community law on public contracts and concessions apply in the context of different PPP arrangements both at the stage of selecting the private partner and the subsequent implementation of the contract. The Green Paper also asks a set of questions intended to find out more about how these rules and principles work in practice, so that the Commission can determine whether they are sufficiently clear and suit the challenges and characteristics of PPPs.

The consultation deadline is 30 July, 2004.

Resümee

Ausreichender Wettbewerb um ÖPP?

Öffentlich-private Partnerschaften (ÖPP) sind Formen der Zusammenarbeit zwischen öffentlichen Stellen und Privatunternehmen zur Verwirklichung von Infrastrukturvorhaben oder zur Erbringung öffentlicher Dienstleistungen. ÖPP können eine wichtige Rolle bei der Steigerung der Effizienz von Dienstleistungen für die Allgemeinheit spielen. Interessensvertreter bemängeln jedoch die Klarheit des gemeinschaftlichen Rechtsrahmens für ÖPP, der sicherstellen soll, dass die Erfordernisse der Transparenz und des fairen Wettbewerbs, wie sie generell für öffentliche Aufträge gelten, auch bei ÖPP beachtet werden. Im April 2004 hat die Kommission ein Grünbuch vorgelegt, in dem sie die wichtigsten Fragen im Zusammenhang mit öffentlich-privaten Partnerschaften aufgreift und die Öffentlichkeit aufruft, sich dahingehend zu äußern, ob die gemeinschaftlichen Vorschriften für öffentliche Aufträge und Konzessionen geändert werden sollten, um die Entwicklung öffentlich-privater Partnerschaften (ÖPP) flankierend zu begleiten.



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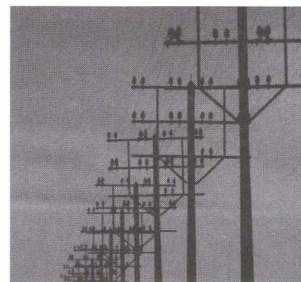
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The full text of the Green Paper is available at: http://europa.eu.int/comm/internal_market/ppp



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The SOLVIT service resolves cross-border problems in less than 70 days and sometimes within a week.

Network of specialists

SOLVIT is operated on a daily basis by the Member States. Every EU Member State as well as Norway, Iceland and Liechtenstein, has a national SOLVIT centre. The SOLVIT centres are located within a national ministry and the staff are specialised in solving cross-border problems.

Each SOLVIT centre is in direct contact with its counterpart in all other Member States. Equipped with a database of national specialists covering all sectors of Internal Market legislation, the SOLVIT case handlers can immediately identify and involve appropriate national experts and quickly get to the heart of any problem.

On-line approach in 20 languages

To support the SOLVIT problem-solving service, the Commission has custom-built a sophisticated, on-line database and communications tool. The SOLVIT software operates in all of the 20 official EU languages.

Transparent, traceable and fast

Another key feature of the problem-solving process is the transparent tracking of progress in resolving each case. The up-to-date status of a case is available at all times and this helps in finding quick solutions.

“Whilst the high-tech infrastructure behind SOLVIT is important, it is the network of people that actually resolve the problems”

SOLVIT works fast – the majority of cases are settled within the target deadline of 10 weeks.

After two years in operation, SOLVIT is already proving to be a highly attractive alternative to formal legal action which can be lengthy and costly.

SOLVIT partners

‘Successes’ already range from helping individuals with residence permit and social security problems to helping companies facing service restrictions. However SOLVIT is continuing to think big. In addition to the 350 registered EuroInfo Centres, SOLVIT is developing a large network of local SOLVIT ‘associated organisations’ by integrating bodies such as chambers of commerce,



"With SOLVIT, I have access to someone I know in another Member State whom I can trust to take charge of any case that I enter," says Rosarinho Melancia of the Portuguese SOLVIT centre

consumer organisations, trade associations, Members of the European Parliament and various other kinds of 'natural' advisory bodies.

Once registered with SOLVIT, these local organisations can access the SOLVIT database directly and submit cases on-line on behalf of clients or constituents. This will help to ensure that more citizens and businesses with an Internal Market problem will find their way to SOLVIT.

An informal system

SOLVIT is effectively an alternative dispute resolution mechanism. If a solution is proposed, it does not have to be accepted but it cannot be challenged formally through SOLVIT.

Nevertheless, if a problem goes unresolved, legal action can still be pursued through a national court or a formal complaint lodged with the European Commission.

SOLVIT is built on European Team Spirit

Regular workshops meetings are held, often in Member State SOLVIT centres, to bring all network members together. This helps to build the team spirit and problem-solving culture that is a pre-requisite for turning an administrative process into a customer-responsive and pragmatic system.

"Whilst the high-tech infrastructure behind SOLVIT is important, it is the network of people that actually resolves these problems," emphasises Rosarinho Melancia, Head of Portugal's SOLVIT centre and organiser of the first SOLVIT workshop meeting to be held in a Member State.

"With SOLVIT, I have access to someone I know in another Member State whom I can trust to take charge of any case that I enter," she adds.

SOME SUCCES STORIES

Finland lifts ban on Swedish fruit product

Finnish customs authorities imposed a sales ban on a Swedish fruit product because the label on the package did not indicate all ingredients separately and in descending order of weight. While the Finnish authorities may request that labels are in conformity with EU rules, refusing to allow the products onto the Finnish market would be a disproportionate sanction since the product did not present a danger to public health. SOLVIT Finland took action and convinced the authorities that they should give the Swedish company three months to correct the label and allow the product onto the Finnish market in the meantime. **Solution found in 1 week.**

Restriction on new business overruled

A Portuguese citizen living in Luxembourg wanted to set up his own business, selling tyres. The Luxembourg authorities required the Portuguese authorities to provide proof of his ability to run such a business. Following the intervention of SOLVIT and the Portuguese authorities, Luxembourg decided to recognise a declaration by its own Chamber of Commerce confirming the citizen's professional experience. **Solution found within 6 weeks.**

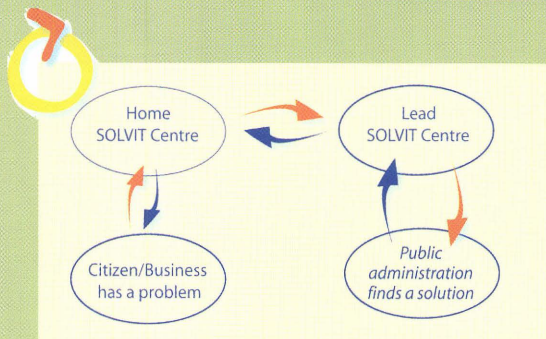
Green light for job in local government

A Spanish citizen working on a temporary basis for a local authority in Portugal was told she couldn't apply for a permanent position because she did not have Portuguese nationality. SOLVIT Portugal contacted the ministerial department and asked them to point out to the local authorities that under EU law, an EU citizen cannot, in general, be excluded from permanent positions in the administrations of another Member State. As a result, the Spanish citizen was allowed to apply for a permanent position. **Solution found within 4 weeks.**

Unemployment benefits

A German citizen had been registered as unemployed in Spain. Upon returning to Germany, he applied for unemployment benefit there. The social security office in Germany was not able to grant his unemployment benefit until they received certain information from the social security centre in Spain. Although Germany had asked Spain for this information, it had still not arrived some months after his initial enquiry at the German social security office. The case was submitted to SOLVIT and the Spanish authorities quickly sent the required documents month. **Solution found within 1 month.**





Workshops provide opportunities to discuss difficult cases and are timed to ensure that those SOLVIT centres involved have the opportunity to meet face to face to solve tricky problems.

Commission – a watchful eye

While the European Commission provides the SOLVIT operating software, it is the Member States that have responsibility for the quality of the service and solutions proposed within SOLVIT. The Commission is on hand to offer advice and assistance to speed things up and reserves the right to intervene, should it feel that solutions proposed are not in fact in full conformity with EU law.

Increasingly, the Commission itself is passing on some of the complaints that it receives to SOLVIT. Often, these cases get resolved quickly, although the Commission is committed to following up on those that fail.

“SOLVIT pushes responsibility for the proper application of EU rules to the Member States themselves,” explains Gerard de Graaf, Head of the Unit that manages SOLVIT. “It is no use agreeing a legal framework for our citizens and businesses if national authorities then do not apply the rules correctly. SOLVIT is a network that helps Member States to help each other in sorting out problems when the rules have been misapplied.”

What do our customers think?

Satisfied customers and Member State administrations frequently tell SOLVIT centres and the Commission of their positive experiences.

“Poland places a lot of importance on SOLVIT because it offers assistance in solving problems informally but effectively. SOLVIT is an example of a new way of public service, where the interests of citizens and business are put first. For Polish citizens and businesses who are only just starting to work in the new reality of an integrated Europe, quick and easily-accessible help is crucial.”

- Mr Miroslaw F. Zielinski, Undersecretary of State, Ministry of Economy, Labour and Social Policy.

HOW SOLVIT WORKS

When a case is submitted to SOLVIT, the local SOLVIT Centre (known as the “Home” SOLVIT Centre) will first check the details of the application to make sure that it does indeed concern the misapplication of Internal Market rules and that all the necessary information has been made available. It will then enter **the case into an on-line database system**, and it will be forwarded automatically to the SOLVIT Centre in the other Member State where the problem has occurred (known as the “Lead” SOLVIT Centre).

The Lead SOLVIT Centre should confirm within a week whether or not it will take on the case. This will largely depend on whether it considers that the case is well-founded and whether there is a good chance that it can be resolved pragmatically. In some cases, not only its application, but the rule itself may be the problem. If the solution to a problem requires the repeal of a particular rule, this may take many months, if not longer – and may well require formal legal action. In such cases, there is little SOLVIT can do, although a Member State which has agreed that it will change a contested rule may well decide not to apply that rule.

The two SOLVIT Centres will work together to try to solve the problem and the individual concerned will be kept informed by the Home SOLVIT Centre about progress and the proposed solution. The **target deadline** for finding a solution to the problem is **10 weeks**.

HOW TO SUBMIT A CASE

A problem can be submitted to a local SOLVIT Centre by telephone, fax, e-mail or on-line submission form. See the SOLVIT website (<http://europa.eu.int/solvit>) for contact details.

If you do not have access to the Internet, you can call ‘Europe direct’ at 00 800 67 89 10 11 (this number is free of charge) and ask for details of your local SOLVIT Centre.

“My contact with SOLVIT has really restored my faith in the workings of the European Union” said a UK doctor, after SOLVIT had cracked his problem about getting permission to work in Spain.

Feedback from the Member States is equally positive. 11 Member States have now even introduced cases into SOLVIT about the wrong application of rules in **their own country!**

EU-25 - smoothing the integration of the new Member States

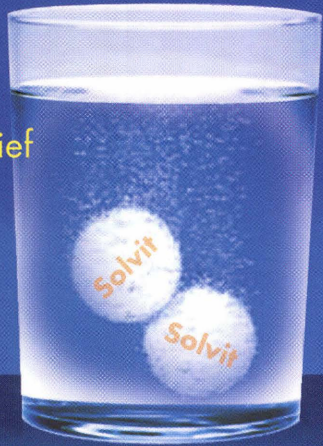
SOLVIT is expected to become even more important following EU Enlargement, due to the likely increase in cross-border transactions and the steep learning curve faced by officials in the new Member States.

The new Member States had all put in place a fully operational SOLVIT centre before enlargement and many have already handled SOLVIT cases. “SOLVIT is



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ready to ensure that no opportunities are lost for our citizens and businesses," said Anikó Káta, Head of the SOLVIT centre in Hungary.

SOLVIT deals with many kinds of problems

In the first two years, SOLVIT has taken on more than 300 case and successfully proposed solutions for over 70% of them.

The highest number of cases dealt with concern the recognition of professional qualifications.

Recognition of professional qualifications	21 %
Market access for products	16 %
Social security	14 %
Taxation	11 %
Motor vehicle registration	7 %
Market access for services	6 %
Residence permits	5 %
Employment rights	4 %

Areas where SOLVIT can help

While the Internal Market generally works well, it is almost inevitable that mistakes will sometimes be made or that problems of interpretation about an individual's legal rights may occur.

SOLVIT deals, in principle, with any cross-border problem, involving the possible misapplication of EU rules, between a business or a citizen on the one hand and a national public authority on the other. The main policy areas SOLVIT has dealt with so far are:

Recognition of professional qualifications and diplomas, access to education, residence permits, voting rights, social security, employment rights, driving licences, motor vehicle registration, border controls, market access for products, market access for services, establishment as self-employed, public procurement, taxation, free movement of capital or payments.

Since SOLVIT is an informal approach to problem solving it should not be used in situations where legal proceedings are already underway. Moreover, SOLVIT does not deal with business-to-business and consumer-to-business problems.

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Web address: <http://europa.eu.int/solvit>

Other on-line sources of information

Sometimes problems arise because of lack of information/awareness about citizen rights in Europe and about how procedures work in other EU Member States. In such cases, the 'Your Europe' portal on the Europa website can help to clarify matters:

<http://europa.eu.int/youreurope>

The 'Citizens Signpost Service' (CSS), which is an essential part of the 'Dialogue with Citizens' initiative (see related article p. 33) enables EU

citizens to receive free personalised advice on how to tackle practical problems they have encountered while trying to exercise their rights in the Internal Market:

<http://europa.eu.int/citizensrights>

If you are a business and you would like more information or advice about your rights in the Internal Market, visit the Dialogue with Business website:

<http://europa.eu.int/business/>

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SOLVIT - La solution aux problèmes transfrontaliers

Que faites-vous si les lois et règles du marché intérieur sont mal appliquées dans le pays dans lequel vous résidez et qu'il en résulte, pour vous ou votre entreprise, un désavantage? Pourquoi ne pas faire appel à SOLVIT, un service conçu par la Commission européenne pour trouver une solution rapide et efficace à votre problème?

Le réseau SOLVIT, qui n'a cessé de gagner du terrain en deux ans de fonctionnement, peut se targuer de résultats remarquables dans le règlement des problèmes qui lui ont été soumis. Plus de 70% des cas traités ont trouvé une solution et le délai de résolution moyen a été inférieur à 70 jours. SOLVIT est en cours d'expansion et intègre des organismes locaux de soutien et de conseil dans un réseau virtuel en plein développement.

Un réseau de spécialistes

SOLVIT a certes été mis au point par la Commission à Bruxelles mais il est géré au quotidien par les États membres. Chaque État membre de l'UE ainsi que la Norvège, l'Islande et le Liechtenstein ont leur propre centre SOLVIT installé dans l'un de leurs ministères. Le personnel qui y travaille est spécialisé dans la résolution des problèmes transfrontaliers.

Chaque centre SOLVIT est en contact direct avec son homologue dans les autres États membres. À l'aide d'une base de données regroupant les spécialistes nationaux des différents domaines de la législation du marché intérieur, les personnes chargées de traiter les affaires confiées à SOLVIT peuvent immédiatement identifier les experts nationaux compétents et faire appel à leurs services pour s'attaquer au plus vite au coeur du problème.

Un traitement en ligne en 20 langues

Pour étayer le service de résolution de problèmes SOLVIT, la Commission a spécialement conçu une base de données en ligne perfectionnée. Cet outil de communication fonctionne dans les 20 langues officielles de l'UE.

Une procédure transparente, rapide et facile à suivre

Le processus de résolution de problèmes se distingue en outre par la transparence des différentes phases de traite-



SOLVIT résout des problèmes transfrontaliers dans un délai inférieur à 70 jours et parfois même en une semaine.

"Si SOLVIT s'appuie sur une infrastructure de haute technologie, ce sont les personnes qui en définitive résolvent les problèmes soumis au réseau."

ment des dossiers. Il est en effet possible de connaître à tout moment l'état d'avancement d'une affaire, ce qui contribue à trouver rapidement une solution.

SOLVIT travaille vite: la plupart des cas sont réglés dans le délai prévu de 10 semaines.

Après deux années de fonctionnement, SOLVIT apparaît d'ores et déjà comme une option très intéressante pour éviter une action formelle en justice qui peut se révéler longue et coûteuse.

Les partenaires de SOLVIT

La liste des succès va de l'aide apportée aux citoyens ayant des problèmes de permis de séjour ou de sécurité sociale à l'assistance dispensée aux entreprises faisant l'objet de restrictions à la libre circulation de leurs services. SOLVIT continue toutefois à voir grand! Outre les 350 Euro-Info-



"Avec SOLVIT, je connais le collègue qui travaille dans l'autre État membre et je sais que je peux lui faire confiance pour traiter le dossier que j'ai introduit dans le système"
- Rosarinho Melancia du centre SOLVIT portugais

Centres enregistrés, SOLVIT met actuellement en place un vaste réseau d'"organisations partenaires" qui intègre des entités telles que les chambres de commerce, les associations de consommateurs, les groupements professionnels, les membres du Parlement européen et plusieurs autres organismes consultatifs "naturels".

Une fois inscrites dans SOLVIT, ces organisations locales peuvent accéder directement à la base de données et soumettre les affaires en ligne, au nom de leurs clients ou mandants. Ce système permettra à un plus grand nombre de citoyens et d'entreprises confrontés à un problème dans le marché intérieur de trouver le chemin de SOLVIT.

Un système informel

SOLVIT constitue en fait un autre mécanisme de règlement des litiges. Le demandeur n'est pas obligé d'accepter la solution proposée mais il ne peut l'attaquer au travers de SOLVIT.

Néanmoins, si un problème reste en suspens, il est toujours possible d'engager une action en justice par l'intermédiaire d'un tribunal national ou de déposer une plainte officielle auprès de la Commission européenne.

SOLVIT s'inspire de l'esprit d'équipe européen

Des ateliers réunissant l'ensemble des membres du réseau ont lieu à intervalles réguliers, souvent dans les centres SOLVIT des États membres. Ces rencontres contribuent à forger un esprit d'équipe et une culture de résolution des problèmes, autant d'éléments indispensables pour faire d'un processus administratif un système pragmatique et orienté vers les besoins du client.

"Si SOLVIT s'appuie sur une infrastructure de haute technologie, ce sont les personnes qui en définitive résolvent les problèmes soumis au réseau.", souligne Rosarinho Melancia du centre SOLVIT portugais et organisatrice du premier atelier consacré à SOLVIT dans un État membre. Elle ajoute: "Avec SOLVIT, je connais le collègue qui travaille dans l'autre État membre et je sais que je peux lui faire confiance pour traiter le dossier que j'ai introduit dans le système".

QUELQUES CAS DE RÉUSSITE

La Finlande lève l'interdiction pesant sur un produit suédois à base de fruits

Les autorités douanières finlandaises ont interdit les ventes d'un produit suédois à base de fruits car l'étiquette sur l'emballage n'indiquait pas tous les ingrédients séparément et en ordre décroissant de poids. Même si les autorités finlandaises peuvent exiger la conformité des étiquettes avec les règles communautaires, l'interdiction de commercialiser les produits sur le marché finlandais serait une sanction disproportionnée puisque le produit ne présentait pas de danger pour la santé publique. Le centre SOLVIT de Finlande est intervenu et a convaincu les autorités qu'elles devaient accorder à l'entreprise suédoise un délai de trois mois pour rectifier l'étiquetage et autoriser le produit à pénétrer sur le marché finlandais dans l'intervalle. **Une solution a été trouvée dans un délai d'une semaine.**

Élimination des restrictions à la création d'une entreprise

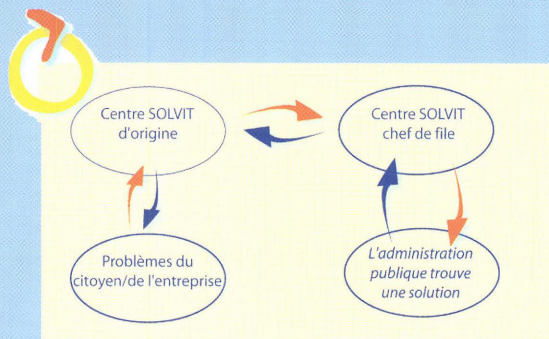
Un citoyen portugais vivant au Luxembourg souhaitait monter sa propre affaire de vente de pneumatiques. Toutefois, l'administration luxembourgeoise exigeait des autorités portugaises de fournir la preuve de sa capacité à diriger une telle affaire. À la suite de l'intervention de SOLVIT et des autorités portugaises, le Luxembourg a décidé de reconnaître une déclaration établie par sa propre Chambre de commerce qui attestait l'expérience professionnelle du citoyen. **Une solution a été trouvée dans un délai de 6 semaines.**

Feu vert pour un poste dans une administration locale

Une citoyenne espagnole travaillant pour une autorité locale au Portugal sur la base d'un contrat temporaire s'est entendu dire qu'elle ne pouvait obtenir de poste permanent car elle ne possédait pas la nationalité portugaise. Le centre SOLVIT du Portugal a contacté le service du ministère responsable et lui a demandé d'expliquer aux autorités locales qu'en vertu de la législation communautaire, un citoyen de l'UE ne peut en général être empêché d'occuper un poste permanent dans l'administration d'un autre État membre. En conséquence, la citoyenne espagnole a été autorisée à solliciter un poste permanent. **Une solution a été trouvée dans un délai de trois semaines.**

Allocations de chômage

Un citoyen allemand était inscrit au chômage en Espagne. Une fois revenu en Allemagne, il a introduit une demande de prestations de chômage dans ce pays. Le bureau de sécurité sociale n'était pas en mesure d'accéder à sa demande tant qu'il n'avait pas reçu certaines informations de la part de son homologue espagnol. Les autorités allemandes avaient certes sollicité ces renseignements mais elles les ont attendus en vain plusieurs mois après l'introduction de la demande initiale auprès du bureau de sécurité sociale allemand. L'affaire a été soumise à SOLVIT et les autorités espagnoles ont envoyé les documents requis dans le mois qui a suivi. **Une solution a été trouvée dans un délai d'un mois.**



Ces ateliers sont l'occasion d'examiner les cas difficiles et sont programmés de telle sorte que les centres SOLVIT concernés aient la possibilité de se rencontrer directement pour régler les problèmes délicats.

Sous l'oeil vigilant de la Commission

La Commission européenne fournit les infrastructures de la base de données mais ce sont les États membres qui sont responsables de la qualité du service et des solutions proposées par SOLVIT. La Commission reste à disposition pour tout conseil ou assistance permettant d'accélérer la procédure et se réserve le droit d'intervenir si elle estime que les solutions avancées ne sont pas entièrement conformes à la législation communautaire.

De plus en plus, la Commission elle-même transmet à SOLVIT certaines des plaintes qui lui sont soumises. Fréquemment, ces cas trouvent une solution rapide mais la Commission s'engage à suivre les affaires qui n'ont pu être résolues.

"SOLVIT transfère la responsabilité de la bonne application des règles communautaires aux États membres eux-mêmes", explique Gerard de Graaf, chef de l'unité chargée de la gestion de SOLVIT. "Il est inutile de fixer un cadre juridique pour nos citoyens et nos entreprises si les autorités nationales n'appliquent pas ensuite correctement les règles. SOLVIT est un réseau qui permet aux États membres de s'entraider dans la résolution de problèmes découlant de la mauvaise application des lois."

Qu'en pensent nos clients?

Les clients et les administrations des États membres qui sont satisfaits des services de SOLVIT n'hésitent pas à faire part de leurs expériences positives aux centres SOLVIT et à la Commission.

"La Pologne accorde beaucoup d'importance à SOLVIT car ce service offre une assistance informelle mais efficace dans la résolution de problèmes. SOLVIT est un exemple de nouveau service public où les intérêts des citoyens et entreprises sont mis au premier plan.

Pour les citoyens et entreprises polonais qui commencent tout juste à travailler dans la nouvelle réalité d'une Europe intégrée, une aide rapide et facile d'accès est cruciale".

- M. Miroslaw F. Zielinski, sous-secrétaire d'État pour le ministère de l'Économie et du travail.

COMMENT FONCTIONNE SOLVIT?

Lorsqu'un cas est soumis à SOLVIT, le centre SOLVIT du pays (appelé centre SOLVIT "d'origine") vérifie dans un premier temps les données de la demande pour s'assurer qu'elle porte effectivement sur la mauvaise application des règles du marché intérieur et que l'ensemble des informations nécessaires sont disponibles. **Le dossier est ensuite introduit dans un système de base de données en ligne**, et automatiquement transmis au centre SOLVIT de l'État membre où le problème s'est produit (appelé centre SOLVIT "chef de file").

Le centre SOLVIT chef de file doit confirmer dans un délai d'une semaine s'il accepte ou non le dossier, ce qui dépendra avant tout s'il considère la demande comme justifiée et s'il croit dans les chances d'une solution pragmatique. Dans certains cas, le problème ne réside pas dans l'application de la règle mais dans la règle elle-même. Si la résolution d'un problème passe par l'abrogation d'une règle particulière, la procédure peut prendre plusieurs mois, sinon plus, et nécessiter une action formelle en justice. Dans de tels cas, SOLVIT est de peu d'utilité même si un État membre qui a accepté de modifier une règle contestée peut décider de renoncer à son application.

Les deux centres SOLVIT coopéreront pour résoudre le problème et le demandeur sera informé des progrès et de la solution proposée par le centre SOLVIT d'origine. **L'échéance** pour trouver une solution à un problème est de **10 semaines**.

COMMENT SOUMETTRE UN CAS?

Vous pouvez soumettre un cas au centre SOLVIT de votre pays par téléphone, télécopieur, courrier électronique ou à l'aide d'un formulaire en ligne. Voir le site Web de SOLVIT (<http://europa.eu.int/solvit>) pour les références.

Si vous n'êtes pas connecté à Internet, vous pouvez appeler 'Europe direct' au 00 800 6 7 8 9 10 11 (ce numéro est gratuit) et demander les coordonnées du centre SOLVIT de votre pays.

"Mes contacts avec SOLVIT m'ont permis de reprendre confiance dans le fonctionnement de l'Union européenne", déclare un médecin britannique après la résolution par SOLVIT de son problème de permis de travail en Espagne. Les réactions des États membres sont tout aussi favorables. Onze États membres ont même transmis à SOLVIT des cas portant sur la mauvaise application des règles dans leur propre pays!

UE 25 – faciliter l'intégration des nouveaux États membres

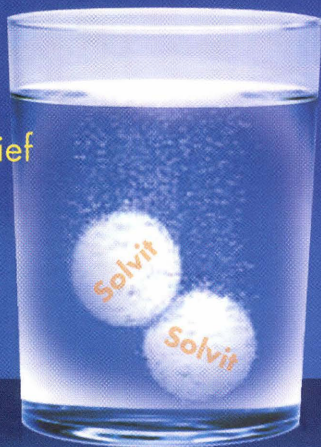
SOLVIT devrait gagner en importance à la suite de l'élargissement de l'UE, en raison à la fois de l'augmentation des transactions transfrontalières dans un marché beaucoup plus étendu et des exigences élevées auxquelles sont soumis les fonctionnaires des nouveaux pays.

Les nouveaux États membres avaient tous mis en place un système SOLVIT entièrement opérationnel avant la date de l'élargissement et un grand nombre d'entre eux avaient même déjà traité des affaires au travers de SOLVIT. "SOLVIT est prêt et devrait permettre à nos citoyens et à



SOLVIT*

For fast effective relief



Pour une solution rapide et efficace.

nos entreprises d'exploiter toutes les possibilités qui s'offrent à eux", déclare Anikó Kátai, responsable du centre SOLVIT hongrois.

SOLVIT traite un large éventail de problèmes

Au cours des deux premières années, SOLVIT a traité plus de 300 cas et résolu plus de 70% d'entre eux.

La plupart des plaintes portent sur la reconnaissance des qualifications professionnelles:

Reconnaissance des qualifications professionnelles	21 %
Accès au marché des produits	16 %
Sécurité sociale	14 %
Fiscalité	11 %
Immatriculation des véhicules	7 %
Accès au marché des services	6 %
Permis de séjour	5 %
Droits liés au travail	4 %

Domaines d'action de SOLVIT

Même si, en général, le marché intérieur fonctionne bien, il est pratiquement impossible d'éviter les erreurs ou les problèmes d'interprétation sur les droits d'un individu au regard de la loi. SOLVIT intervient en principe pour tout problème transfrontalier entre une entreprise ou un citoyen, d'une part, et une autorité publique nationale, de l'autre, concernant le non-respect éventuel de la législation communautaire. Les domaines les plus traités par SOLVIT jusqu'à présent sont les suivants: la reconnaissance des qualifications professionnelles et des diplômes, l'accès à l'éducation, les permis de séjour, les droits de vote, la sécurité sociale, les droits liés au travail, les permis de conduire, l'immatriculation des véhicules, les contrôles aux frontières, l'accès au marché des produits, l'accès au marché des services, l'établissement en tant qu'indépendant, les marchés publics, la fiscalité et la libre circulation des capitaux ou des paiements.

Toutefois, SOLVIT étant une approche informelle de la résolution des problèmes, il ne doit pas être utilisé dans les cas où une procédure judiciaire est déjà en cours. En outre, SOLVIT ne traite pas les problèmes entre deux entreprises ou entre un consommateur et une entreprise.

SOLVIT*

Adresse du site Web:
<http://europa.eu.int/solvit>

Autres sources d'information en ligne

Les problèmes sont parfois liés à un manque d'information ou de sensibilisation en ce qui concerne les droits des citoyens en Europe ou les procédures appliquées dans d'autres États membres de l'UE. Dans pareil cas, le portail "L'Europe est à vous" sur le site Europa peut vous apporter des éclaircissements: <http://europa.eu.int/youreurope>

Le service d'orientation pour les citoyens, qui fait partie intégrante de l'initiative "Dialogue avec les citoyens" (voir article sur le sujet p. 33), permet aux

citoyens de l'UE de recevoir des conseils personnalisés sur la façon de traiter les problèmes pratiques qu'ils ont rencontrés en tentant de faire valoir leurs droits dans le marché intérieur:

<http://europa.eu.int/citizensrights>

Si vous êtes une entreprise et que vous aimeriez plus d'informations ou de conseils sur vos droits dans le marché intérieur, veuillez consulter le site web intitulé "Dialogue avec les entreprises":

<http://europa.eu.int/business/>

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SOLVIT - Die Lösung grenzüberschreitender Probleme im Binnenmarkt

Was tun, wenn die Regeln und Vorschriften des Binnenmarktes in dem Land, in dem Sie leben, falsch angewendet werden und Sie oder Ihr Unternehmen dadurch benachteiligt werden? Wenden Sie sich einfach an SOLVIT! SOLVIT wurde von der Europäischen Kommission eingerichtet, um Ihre Probleme rasch und wirksam zu lösen! Nach zweijähriger Laufzeit, in der sich SOLVIT ständig weiter entwickelte, kann das Problemlösungsnetz beeindruckende Ergebnisse aufweisen. Über 70 % der von SOLVIT behandelten Fälle konnten gelöst werden - und zwar in durchschnittlich weniger als 70 Tagen. Derzeit wird SOLVIT weiter ausgebaut und wird auch lokale Beratungsstellen in sein schnell wachsendes virtuelles Netz integrieren.

Ein Netz von Fachleuten

Die tägliche Arbeit für SOLVIT findet in den Mitgliedstaaten statt. Jeder EU-Mitgliedstaat - sowie Norwegen, Island und Liechtenstein - hat seine eigene SOLVIT-Stelle, die in einem nationalen Ministerium angesiedelt ist und deren Mitarbeiter auf die Lösung grenzüberschreitender Probleme spezialisiert sind.

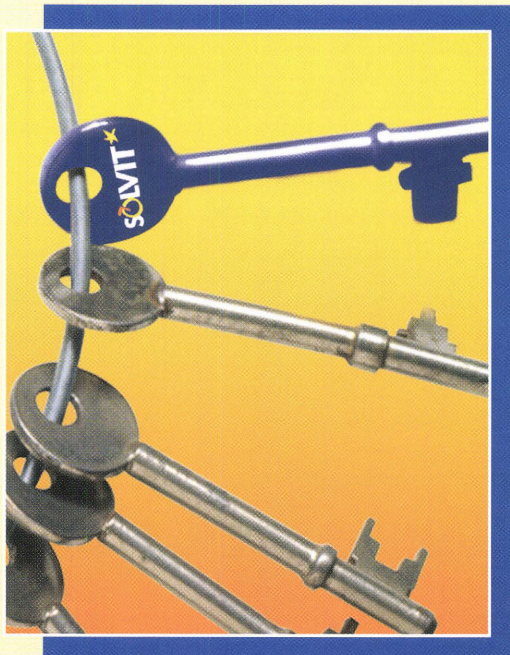
Jede SOLVIT-Stelle steht in direktem Kontakt zu ihren Kollegen in den anderen Mitgliedstaaten. Mit Hilfe einer Datenbank, in der nationale Fachleute für alle Bereiche des Binnenmarktrechts verzeichnet sind, können die mit einem SOLVIT-Fall-Beauftragten sofort die zuständigen nationalen Fachleute ermitteln, einschalten und so rasch dem Problem auf den Grund gehen.

Online in 20 Sprachen

Speziell zur Unterstützung des SOLVIT-Dienstes hat die Kommission ein ausgeklügeltes, internetgestütztes Datenbank- und Kommunikationswerkzeug entwickelt. Die SOLVIT-Software arbeitet in allen 20 EU-Amtssprachen.

Transparent, nachvollziehbar und schnell

Des weiteren zeichnet sich das Problemlösungsverfahren dadurch aus, dass die Fortschritte im jeweiligen Fall leicht zu verfolgen sind. Der aktuelle Stand der Dinge kann jederzeit abgerufen werden, was die Lösungsfindung beschleunigt.



Der SOLVIT-Service löst grenzüberschreitende Probleme in weniger als 70 Tagen und manchmal sogar innerhalb einer Woche.

„SOLVITs Hightech-Infrastruktur ist wichtig, aber letztendlich sind es die Mitarbeiter im SOLVIT Netz, die die Probleme lösen“

SOLVIT arbeitet schnell: die Mehrzahl der Fälle wird innerhalb der vorgegebenen Frist von 10 Wochen gelöst.

Nach erst zweijähriger Laufzeit hat sich SOLVIT schon jetzt als äußerst attraktive Alternative zu formellen Gerichtsverfahren erwiesen, die zeit- und kostenaufwändig sein können.

SOLVIT-Partner

Die Liste der Erfolge reicht von der Unterstützung einzelner Bürger bei Problemen im Zusammenhang mit Aufenthaltsgenehmigungen oder Sozialversicherungen bis hin zur Aufhebung von Beschränkungen des Dienstleistungsverkehrs für Unternehmen. Doch SOLVIT hat weitere ehrgeizige Ziele! Zusätzlich zu den 350 eingetragenen Euro-Info-Zentren baut SOLVIT ein großes Netz lokaler „Partnerorganisationen“ auf, zu dem Handelskammern,



„Bei SOLVIT kenne ich den Kollegen in dem anderen Mitgliedstaat und weiß, dass ich ihm jeden Fall anvertrauen kann, den ich in das System einbege“

- Rosarinho Melancia, Leiterin der SOLVIT-Stelle Portugal

Ein informelles System

SOLVIT ist ein Mechanismus zur alternativen Problemlösung. Dabei muss die vorgeschlagene Lösung nicht akzeptiert werden, kann aber durch SOLVIT auch nicht formal angefochten werden.

Kann ein Problem nicht gelöst werden, hat der Betroffene immer noch die Möglichkeit, bei einem nationalen Gericht Klage zu erheben oder bei der Europäischen Kommission offiziell Beschwerde einzulegen.

SOLVIT baut auf den europäischen Teamgeist

In regelmäßigen Abständen finden, häufig in den SOLVIT-Stellen der Mitgliedstaaten, Workshops mit allen Mitgliedern des Netzes statt. Dies fördert den Teamgeist und eine Problemlösungskultur, die unabdingbar sind, um Verwaltungsverfahren kundenorientiert und pragmatisch zu gestalten.

„SOLVITs Hightech-Infrastruktur ist wichtig, aber letztendlich sind es die Mitarbeiter im SOLVIT-Netz, die die Probleme lösen“ betont Rosarinho Melancia, Leiterin der SOLVIT-Stelle Portugal, die den ersten SOLVIT-Workshop in einem Mitgliedstaat organisiert.

„Bei SOLVIT kenne ich den Kollegen in dem anderen Mitgliedstaat und weiß, dass ich ihm jeden Fall anvertrauen kann, den ich in das System einbege,“ fügt sie hinzu.

Verbraucherverbände, Handelsvereinigungen, Mitglieder des Europäischen Parlaments und verschiedene andere natürliche Beratungsgremien gehören.

Nach ihrer Registrierung bei SOLVIT haben diese lokalen SOLVIT-Organisationen direkten Zugang zur Datenbank und können im Auftrag ihrer Klienten oder Mitglieder Beschwerden einreichen. Auf diese Weise werden noch mehr Bürger und Unternehmen mit binnenmarktrelevanten Problemen ihren Weg zu SOLVIT finden.

EINIGE ERFOLGSGESCHICHTEN

Finnland hebt Vermarktungsverbot für schwedisches Obstprodukt auf

Die finnischen Zollbehörden belegten ein schwedisches Obstprodukt mit einem Verkaufsverbot, weil auf der Verpackung die Zutaten nicht getrennt und in absteigender Reihenfolge ihres Gewichtsanteils aufgeführt waren. Die finnischen Behörden können zwar verlangen, dass die Etikettierung den EU-Vorschriften entspricht, ein Vermarktungsverbot dieser Produkte in Finnland wäre jedoch eine unverhältnismäßige Maßnahme, da das Erzeugnis keine Gefahr für die öffentliche Gesundheit darstellt. SOLVIT Finnland konnte die Behörden davon überzeugen, dem schwedischen Unternehmen drei Monate zur Berichtigung des Etiketts zu geben und zwischenzeitlich das Produkt für den finnischen Markt zuzulassen. **Lösung des Falls innerhalb einer Woche.**

Beschränkung neuer Geschäftstätigkeit aufgehoben

Ein portugiesischer Staatsangehöriger mit Wohnsitz in Luxemburg wollte sich als Reifenhändler selbständig machen. Die luxemburgischen Behörden verlangten von den portugiesischen Behörden einen Nachweis darüber, dass er in der Lage ist, ein solches Geschäft zu führen. Nach dem Eingreifen von SOLVIT und den portugiesischen Behörden folgten die luxemburgischen Behörden einer Erklärung ihrer eigenen Handelskammer, in der die Berufserfahrung des Betroffenen bestätigt wurde. **Lösung des Falls innerhalb von 6 Wochen.**

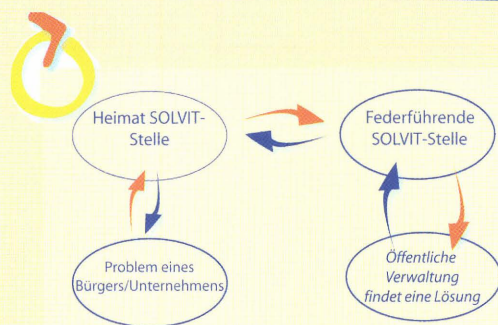
Grünes Licht für Arbeit in der Kommunalverwaltung

Eine spanische Staatsbürgerin, die im Rahmen eines Zeitvertrags bei einer Kommunalbehörde in Portugal arbeitete, durfte sich nicht auf eine Dauerstelle bewerben, da sie nicht die portugiesische Staatsangehörigkeit besitzt. SOLVIT Portugal wandte sich an die entsprechende Abteilung im Ministerium mit der Bitte, die örtlichen Behörden darüber zu informieren, dass gemäß EU-Recht bei der Besetzung von Dauerstellen in der Verwaltung eines Mitgliedstaats EU-Bürger im allgemeinen nicht ausgeschlossen werden dürfen. Ergebnis: Die spanische Staatsbürgerin wurde zu dem Auswahlverfahren zugelassen. **Lösung des Falls innerhalb 3 Wochen.**

Leistungen bei Arbeitslosigkeit

Ein deutscher Staatsbürger war in Spanien arbeitslos gemeldet. Als er nach Deutschland zurückkehrte, beantragte er dort Arbeitslosenleistungen. Das Arbeitsamt sah sich außerstande ihm seine Arbeitslosenleistungen zu gewähren, bis es von der Sozialversicherungsstelle in Spanien bestimmte Informationen erhalten hatte. Die Informationen wurden beantragt, doch einige Monate nach dem ersten Antrag waren diese Informationen immer noch nicht beim deutschen Arbeitsamt eingegangen. SOLVIT wurde mit dem Fall befasst, und die spanischen Behörden übermittelten die notwendigen Unterlagen innerhalb eines Monats. **Lösung des Falles innerhalb 1 Monats.**





Die Workshops bieten die Möglichkeit schwierige Fälle zu diskutieren und sind so angelegt, dass die betroffenen SOLVIT-Stellen Gelegenheit haben, komplizierte Probleme im persönlichen Gespräch zu lösen.

Die Kommission hat ein wachsames Auge

Die Europäische Kommission stellt die Datenbank-Infrastruktur zur Verfügung, doch für die Qualität des Dienstes und der von SOLVIT angebotenen Lösungen sind die Mitgliedstaaten selbst verantwortlich. Die Kommission steht bereit, um mit Rat und Tat eventuell Dinge zu beschleunigen und behält sich das Recht vor einzugreifen, wenn ihrer Ansicht nach die vorgeschlagenen Lösungen gegen EU-Recht verstoßen.

Immer häufiger gibt die Kommission selbst einige der Beschwerden, die bei ihr eingereicht werden, an SOLVIT weiter. Oft können diese Probleme rasch gelöst werden. Gleichwohl ist die Kommission verpflichtet, diejenigen Fälle weiterzuverfolgen, die nicht gelöst werden können.

„SOLVIT gibt die Verantwortung für die korrekte Anwendung des EU-Rechts an die Mitgliedstaaten weiter“ erklärt Gerrit de Graaf, Leiter des Referats, das SOLVIT verwaltet. „Was nützt es, für unsere Bürger und Unternehmen einen Rechtsrahmen zu vereinbaren, wenn die nationalen Behörden die Regeln dann nicht richtig anwenden? SOLVIT hilft den Mitgliedstaaten dabei, sich gegenseitig bei der Lösung von Problemen zu unterstützen, die durch fehlerhafte Anwendung der Regeln entstanden sind.“

Was denken unsere Kunden?

Häufig berichten zufriedene Kunden, aber auch Verwaltungen der Mitgliedstaaten, den SOLVIT-Stellen und der Kommission von ihren positiven Erfahrungen.

„Für Polen hat SOLVIT eine große Bedeutung, da SOLVIT bei der informellen und effektiven Problemlösung eine sehr große Unterstützung darstellt. SOLVIT gilt als Beispiel für einen neuen Weg in der öffentlichen Dienstleistung, der die Interessen des Bürgers und der Unternehmen in den Vordergrund stellt. Gerade für polnische Bürger und Unternehmen, die derzeit beginnen, sich in der neuen Umgebung des integrierten Europa zurechtzufinden, ist eine schnelle und leicht zugängliche Hilfe äußerst wichtig.“

Minister Mirosław F. Zielinski, Unterstaatssekretär, Ministerium für Wirtschaft, Arbeit und Sozialpolitik.

WIE ARBEITET SOLVIT?

Wenn eine Beschwerde bei SOLVIT eingereicht wird, prüft die lokale SOLVIT-Stelle, die so genannte „Heimat“-SOLVIT-Stelle, zunächst den Antrag genau, um sicher zu gehen, dass tatsächlich eine fehlerhafte Anwendung von Binnenmarktvorschriften vorliegt und dass alle erforderlichen Angaben gemacht wurden. Im Anschluss gibt sie die **Beschwerde in eine Online-Datenbank** ein, die dann automatisch an die SOLVIT-Stelle in dem Mitgliedstaat weitergeleitet wird, in dem das Problem aufgetreten ist. Diese Stelle übernimmt die „Federführung“.

Die federführende SOLVIT-Stelle sollte innerhalb einer Woche bestätigen, ob sie den Fall übernimmt oder nicht. Das wird im Wesentlichen davon abhängen, ob sie die Beschwerde für begründet hält bzw. ob sie gute Möglichkeiten für eine pragmatische Lösung sieht. In einigen Fällen liegt das Problem möglicherweise nicht nur bei der Anwendung, sondern bei der Rechtsvorschrift selbst. Sollte für die Lösung eines Problems die Aufhebung einer bestimmten Rechtsvorschrift erforderlich sein, kann dies mehrere Monate oder länger dauern und durchaus formaler rechtlicher Schritte bedürfen. In solchen Fällen kann SOLVIT nur wenig tun, auch wenn ein Mitgliedstaat, der sich bereit erklärt, die strittige Vorschrift zu ändern, beschließt, die Vorschrift nicht anzuwenden.

Die beiden SOLVIT-Stellen arbeiten gemeinsam an der Lösung des Problems, wobei die „Heimat“-SOLVIT-Stelle den Betroffenen über den Fortgang der Angelegenheit und Lösungsvorschläge auf dem Laufenden hält. Die angestrebte **Frist**, binnen derer eine Lösung gefunden werden sollte, beträgt **10 Wochen**.

WIE WENDET MAN SICH AN SOLVIT?

Beschwerden können bei den lokalen SOLVIT-Stellen telefonisch, per Fax, per E-Mail oder über das Online-Formular eingereicht werden. Telefon- und Faxnummer sowie E-Mail-Adressen finden Sie auf der SOLVIT-Website (<http://europa.eu.int/solvit>). Sollten Sie keinen Internetzugang haben, können Sie die kostenlose HOTLINE von Europa Direkt anrufen (00 800 67891011) und Einzelheiten über Ihre lokale SOLVIT-Stelle erfragen.

„Die Erfahrung mit SOLVIT hat mein Vertrauen in die Arbeit der Europäischen Union wieder hergestellt“, sagte ein Arzt aus dem Vereinigten Königreich, nachdem SOLVIT sein Problem gelöst hatte und er eine Arbeitserlaubnis in Spanien erhalten hatte.

Die Rückmeldungen aus den Mitgliedstaaten sind ebenfalls positiv. 11 Mitgliedstaaten haben mittlerweile bei SOLVIT sogar Fälle eingereicht, die eine falsche Anwendung der Rechtsvorschriften in ihrem eigenen Land betreffen!

EU-25 – die Integration der neuen Mitgliedstaaten erleichtern

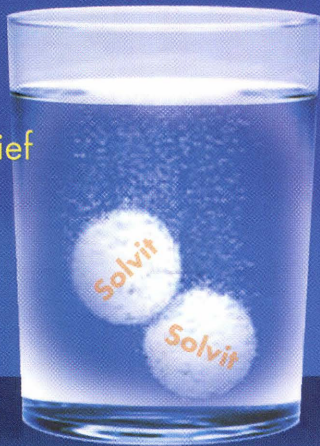
Nach der EU-Erweiterung wird SOLVIT noch wichtiger werden, einmal aufgrund der zunehmenden grenzüberschreitenden Transaktionen und aufgrund der hohen Anforderungen, die an die Beamten in den neuen Mitgliedstaaten gestellt werden.

Bereits vor der Erweiterung hatten die neuen Mitgliedstaaten SOLVIT-Stellen eingerichtet und sogar schon einige Fälle bearbeitet. „SOLVIT ist bereit dafür zu sorgen, dass unsere Bürger und Unternehmen alle Möglichkeiten nut-



SOLVIT★

For fast effective relief



SOLVIT: Für eine schnelle und wirksame Lösung

zen können“, sagte Anikó Kátai, Leiterin der SOLVIT-Stelle in Ungarn.

SOLVIT befasst sich mit vielfältigen Problemen

In den ersten zwei Jahren hat sich SOLVIT mit über 300 Fällen befasst, von denen 70 % erfolgreich abgeschlossen werden konnten.

Die meisten Beschwerden betrafen die Anerkennung beruflicher Qualifikationen.

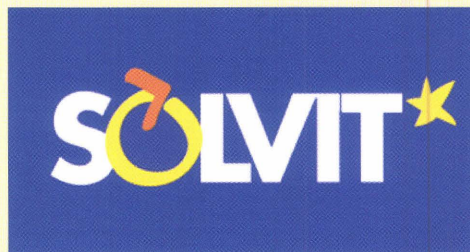
Anerkennung beruflicher Qualifikationen	21 %
Marktzugang für Produkte	16 %
Soziale Sicherung	14 %
Besteuerung	11 %
Kraftfahrzeugzulassung	7 %
Marktzugang für Dienstleistungen	6 %
Aufenthaltsgenehmigungen	5 %
Arbeitnehmerrechte	4 %

Hier kann SOLVIT helfen

Im allgemeinen funktioniert der Binnenmarkt recht gut, doch sind vereinzelte Fehler ebenso wie Probleme bei der Auslegung der Rechte eines Einzelnen fast unvermeidbar.

SOLVIT befasst sich im Prinzip mit allen grenzüberschreitenden Problemen, die die fehlerhafte Anwendung von EU-Recht zwischen einem Unternehmen oder einem Bürger (Privatperson) auf der einen Seite und einer Behörde auf der anderen Seite betreffen. Bis jetzt behandelten die SOLVIT-Fälle vorwiegend folgende Themenbereiche: Anerkennung von Berufsqualifikationen und Diplomen, Zugang zu Aus- und Weiterbildung, Aufenthaltsgenehmigungen, Wahlrecht, soziale Sicherung, Arbeitnehmerrechte, Führerscheine, Zulassung von Kraftfahrzeugen, Grenzkontrollen, Marktzugang für Produkte, Marktzugang für Dienstleistungen, Niederlassung als Selbstständiger, Vergabe öffentlicher Aufträge, Besteuerung, freier Kapital- und Zahlungsverkehr.

Da SOLVIT jedoch auf informellem Weg Probleme löst, sollte es nicht in Anspruch genommen werden, wenn das Problem bereits Gegenstand eines Rechtsverfahrens ist. Darüber hinaus befasst sich SOLVIT nicht mit Problemen zwischen Unternehmen oder zwischen Verbrauchern und Unternehmen.



Internetadresse:
<http://europa.eu.int/solvit>

Weitere Informationsquellen im Internet

Bisweilen entstehen Probleme, weil die Rechte der Bürger bzw. die Verfahren in anderen EU-Mitgliedstaaten nicht hinreichend bekannt sind. In solchen Fällen können nähere Erläuterungen über das Portal "Europa für Sie" abgerufen werden:

<http://europa.eu.int/youreurope>

Der Wegweiserdienst für den Bürger ist wesentlicher Bestandteil der Initiative „Dialog mit Bürgern“ (s. p. 33), bei dem sich die EU-Bürger kostenlos bera-

ten lassen können, wie sie praktische Probleme bei der Wahrnehmung ihrer Rechte auf dem Binnenmarkt lösen können:

<http://europa.eu.int/citizensrights>

Unternehmer erhalten Informationen und Beratung über ihre Rechte auf dem Binnenmarkt auf der Webseite „Dialog mit Unternehmen“:

<http://europa.eu.int/business/>

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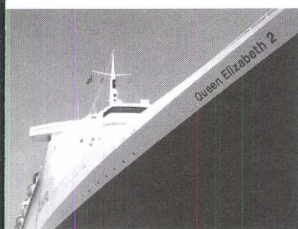


'Single Passport' proposal for EU re-insurance companies

Résumé

Proposition de 'passeport de l'UE' pour les entreprises de réassurance

De nouvelles propositions de la Commission permettront aux entreprises de réassurance de fonctionner sur le territoire d'autres États membres de l'UE sur la base de l'approbation de marché délivrée dans leur pays. Les réassureurs fournissent un service d'assurance aux entreprises d'assurance directe et représentent un élément essentiel des activités d'assurance. L'introduction d'un régime harmonisé de surveillance de la réassurance devrait conduire à l'abolition des systèmes qui, dans certains États membres, exigent des réassureurs qu'ils gagent des actifs en couverture des provisions pour sinistres en suspens. Ces systèmes de garantie, qui limitent les réassureurs dans le choix de leurs placements, peuvent rendre les couvertures de réassurance plus coûteuses. Cette proposition représente une solution rapide en attendant les dispositions qui couvriront l'ensemble du secteur de l'assurance dans le contexte du projet à long terme "Solvabilité II".



New proposals from the Commission will allow re-insurance firms to operate in other EU territories on the basis of home market approval. Re-insurers, who provide insurance for the direct insurance companies, are an essential part of the insurance business, and the Single Passport approach can boost competitiveness in the sector as well as help reinforce international financial stability.

The introduction of a harmonised system for re-insurance supervision should lead to the abolition of systems in certain Member States which require re-insurers to pledge assets to cover outstanding claims provisions. Such 'collateralisation' systems restrict re-insurers' choice of investments and can make re-insurance cover more expensive. The proposal, adopted by the Commission in April, 2004, is a 'fast track' solution for re-insurance pending proposals covering the insurance industry as whole under the long-term "Solvency II" project.

Harmonisation

There are currently no harmonised re-insurance supervision rules in the EU. The lack of an EU regulatory framework for re-insurance has resulted in significant differences between different EU Member States at the level of supervision of reinsurance undertakings. These different national rules have created uncertainty for direct insurance companies (and their policy-holders), led to barriers to trade within the Internal Market, and given rise to administrative burdens and costs. The lack of a European framework has also weakened the EU's position in international trade negotiations aimed at opening up the insurance market worldwide.

Licensing system

The proposal drawn up by the Commission would establish supervision of re-insurers by competent authorities in their 'home' country, on the basis of which they could operate throughout the EU. The proposal lays down a licensing regime for re-insurance undertakings and conditions that re-insurers would have to meet before a license could be granted. The proposal includes provisions to guarantee re-insurers' financial soundness and therefore the stability of EU insurance mar-

kets, since the proposed Directive would apply to all EU re-insurance undertakings and not only those active in several Member States. Once licensed in one Member State, a company would automatically be allowed to conduct re-insurance business all over the European Union under the freedom of establishment and the freedom to provide services.

Prudential rules

The proposal also sets out prudential rules for the supervision of re-insurance undertakings. It includes rules on the establishment of technical provisions (i.e. the amount that a re-insurance undertaking must set aside to enable it to pay its contractual commitments) and rules on the investment of assets covering those technical provisions. It also lays down rules on required solvency margins and minimum capital requirements, as well as rules on measures to be adopted by regulators if re-insurance undertakings are in financial difficulties. These prudential rules are similar to those already applied in the Insurance Directives.

International aspects

The proposed Directive is in line with the direction of the ongoing re-insurance supervision project being carried out by the International Association of Insurance Supervisors (IAIS) of which all Member States and the European Commission are members. In addition, it will be a useful tool in international trade negotiations as it could help to improve access for European re-insurers to foreign markets.

Consultation and impact assessment

The proposed Directive follows wide and open consultation with stakeholders and interested parties. This consultation process showed the need to set up a regulatory regime for re-insurance as soon as possible without waiting for proposals under the long-term project 'Solvency II'. The proposal has also undergone an extended impact assessment.

For further details see:
http://europa.eu.int/comm/internal_market/insurance/reinsurance_en.htm

Resümee

„EU-Pass“ für Rückversicherer vorgeschlagen

Neue Vorschläge der Kommission sollen Rückversicherungsunternehmen ermöglichen, auf der Grundlage ihrer Zulassung im Herkunftsland in der gesamten EU tätig zu sein. Rückversicherungsunternehmen versichern die so genannten Direktversicherer und sind ein wichtiger Akteur der Versicherungswirtschaft. Mit der Einführung eines harmonisierten Systems für die Beaufsichtigung von Rückversicherungsunternehmen würden einzelstaatliche Systeme abgeschafft, die die Rückversicherungsunternehmen zur Besicherung von Vermögenswerten zur Bedeckung von Rückstellungen für noch nicht abgewickelte Versicherungsfälle verpflichten. Solche „Sicherheitssysteme“ beschränken die Auswahl an Kapitalanlagen und können den Rückversicherungsschutz verteuern. Bei dem Vorschlag handelt es sich um eine „beschleunigte“ Lösung für die Rückversicherung in Erwartung der noch nicht abgeschlossenen Vorschläge, die im Rahmen des langfristigen Projekts „Solvabilität II“ für die Versicherungswirtschaft insgesamt gelten sollen.

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Plan d'action en matière de compensation et de règlement – livraison

Summary

Clearing and settlement action plan

An action plan outlining initiatives needed to achieve an integrated, safe and efficient clearing and settlement environment for securities trading in the EU, has been proposed by the Commission.

It proposes the liberalisation and integration of existing systems and the adoption of a common regulatory and supervisory framework that will ensure financial stability and investor protection. Issues of restrictive market practices and governance are also addressed.

A Communication issued on 28 April 2004 invites all interested parties to comment on the proposals by 30 July 2004.

La Commission a proposé un plan d'action exposant les initiatives requises pour créer, aux fins de la négociation des valeurs mobilières dans l'Union européenne, un marché de la compensation et du règlement – livraison intégré, sûr et efficace. Elle propose la libéralisation et l'intégration des systèmes existants et l'adoption d'un cadre de régulation et de contrôle qui assurera la sécurité financière et la protection des investisseurs. Les problèmes liés aux pratiques commerciales restrictives et à la gouvernance sont également traités. Une Communication publiée le 28 avril 2004 invite toutes les parties intéressées à commenter les propositions pour le 30 juillet 2004 au plus tard.

Par compensation et règlement – livraison, on désigne le processus qui a lieu après que deux parties ont convenu de s'échanger des titres de gré à gré, via une bourse de valeurs ou par tout autre moyen. Hormis les entités négociant des euro-obligations, les systèmes de compensation et de règlement – livraison de l'Union européenne se sont développés sur une base nationale, ce qui s'explique par le caractère historiquement très limité de la négociation transfrontalière. Les systèmes nationaux ou «quasi-nationaux» ont inévitablement pris différentes formes avec différentes pratiques commerciales. Par conséquent, les services de compensation et de règlement – livraison transfrontaliers sont encore beaucoup plus onéreux et complexes et potentiellement moins sûrs qu'au niveau strictement national. L'introduction de l'euro et l'amélioration des technologies de l'information ont contribué à l'augmentation du nombre et de l'importance relative des transactions transfrontalières.

L'objectif primordial de la Commission est de s'assurer que le système de compensation et de règlement – livraison de l'UE soit efficace et sûr et de garantir des conditions de jeu égales entre les différents acteurs du marché. Son but est d'accroître la compétitivité et l'efficacité et, par conséquent, d'abaisser les coûts.

Pour parvenir à cet objectif, la Commission propose, entre autre, l'élaboration d'une directive-cadre sur la compensation et le règlement-livraison qui traiterait des sujets suivants:

Droits d'accès

La proposition de Directive accorderait un plein droit d'accès à tous les marchés européens aux prestataires des services de compensation et règle-

ment – livraison. Elle garantirait la liberté de choix des entreprises d'investissement, des banques, des contreparties centrales (qui font généralement office d'intermédiaire entre les contreparties à une transaction), des dépositaires centraux de titres et des marchés.

Reconnaissance mutuelle des systèmes

Il serait instauré un cadre réglementaire commun couvrant les fonctions exercées par les différents acteurs de la compensation et du règlement – livraison, de façon à permettre la reconnaissance mutuelle des systèmes nationaux, leur plus grande intégration et la protection des investisseurs.

Gouvernance

La directive mettrait également en oeuvre des codes de gouvernance appropriés - obligations de publicité, séparation des comptes et dissociation des services spécifiques - pour les entités clés dans le processus de la compensation et du règlement-livraison. Ces dispositions apaiseraient certaines craintes des régulateurs quant à la concurrence et à la sécurité des systèmes.

Groupes d'experts chargés du conseil et du suivi

En outre, la Commission propose de créer un groupe de conseil et de suivi composé de hauts représentants des divers organismes de droit public ou privé impliqués dans ce projet, parmi lesquels le système européen des banques centrales (SEBC) et le comité européen des régulateurs des marchés des valeurs mobilières (CERVM). Ce groupe aurait un rôle de conseil comme de promotion et d'encadrement des actions impulsées par le marché pour supprimer les obstacles. La Commission suggère également de constituer, sur les questions juridiques et fiscales posées par la compensation et le règlement – livraison, des groupes d'experts distincts chargés d'examiner et d'apprécier ces questions complexes et, le cas échéant, de proposer des solutions ad hoc.

Politique de concurrence

Enfin, la Commission plaide pour l'application rigoureuse et continue, en étroite coopération avec les autorités nationales compétentes, de la politique de concurrence dans ce secteur, dans l'objectif de mettre un terme aux pratiques de marché restrictives, actuelles ou émergentes et de surveiller toute nouvelle vague de concentration industrielle intervenant au besoin.

Resümee

Aktionsplan für Clearing und Abrechnung

Die Kommission hat einen Aktionsplan vorgestellt, in dem dargelegt wird, welche Initiativen notwendig sind, um für Clearing und Abrechnung ein EU-weit integriertes, sicheres und effizientes Umfeld zu schaffen. Der Aktionsplan schlägt die Liberalisierung und Integration der bestehenden Systeme vor sowie die Verabschiedung eines gemeinsamen Rechts- und Aufsichtsrahmens, der finanzielle Stabilität und den Schutz der Anleger gewährleistet. Die Themen restriktive Marktpraktiken und Governance werden ebenfalls angesprochen.

In einer am 28. April 2004 veröffentlichten Mitteilung werden alle interessierten Kreise aufgefordert, bis zum 30. Juli 2004 zu den Vorschlägen Stellung zu nehmen.

STOCK		STOCK	
Index	Change	Index	Change
FTSE 100	+10.20	DAX	+12.50
NASDAQ	+15.50	IBEX 35	+8.70
EURO STOXX	+12.30	ATX	+5.40
...

info

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Pour plus d'informations:

http://europa.eu.int/comm/internal_market/financial-markets/clearing/index_en.htm

Implementing measures for the Prospectuses and Market Abuse Directives

The European Commission has adopted a technical Regulation on disclosure requirements as part of the implementation of the framework Prospectus Directive adopted in November 2003.

There is no 'one-size-fits-all' model for prospectuses distributed to potential investors. The Regulation therefore sets out different minimum disclosure requirements for different products, depending on the types of information needed by investors in each case. The Regulation will apply from 1 July 2005 – which is also the deadline for Member States to implement the framework Directive.

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The Commission has also adopted a second set of measures to implement the Market Abuse Directive. The implementing Directive covers accepted market practices in the context of market manipulation, the definition of inside information in relation to derivatives or commodities, the drawing up

of lists of insiders by issuers and persons acting on their behalf or for their own account, and notification to the relevant authorities of suspicious transactions and of transactions undertaken by issuers' managers. The implementing Directive will have to be written into national law by Member States by 12 October 2004, which is also the deadline for implementing the Market Abuse Directive itself.

The measures have been proposed by the Commission in consultation with the Committee of European Securities Regulators (CESR).

For further information | Pour plus d'informations |
Für weitere Informationen

http://europa.eu.int/comm/internal_market/securities/prospectus/index_en.htm

http://europa.eu.int/comm/internal_market/securities/abuse/index_en.htm

Green light soon for Transparency Directive

The European Parliament and the Council have agreed on the proposed Transparency Directive on the requirements for information provided about issuers whose securities are admitted for trading on a regulated market.

Political agreement on the proposed Directive was reached in the European Parliament at the end of March (first reading) and confirmed at the ECOFIN Council of 11 May 2004. For technical reasons, formal adoption is scheduled for next autumn. The new Directive will have to be implemented within two years.

The Directive, a key part of the Financial Services Action Plan, would upgrade information requirements for the benefit of investors. Its key achievements will be that in future investors will receive interim management statements from share issuers who do not publish quarterly reports, half-yearly financial reports from bond issuers as regards new bond issues and, within a maximum period of four months, annual financial reports by all securities issuers after the end of the issuer's financial year.

The Directive will also pave the way for better dissemination of information on issuers across Member States. The EU legislation is built on the Lamfalussy approach according to which implementing rules will have to be adopted by the Commission following technical advice from the Committee of European Securities Regulators (CESR). Accordingly, the Commission will grant mandates to CESR on certain issues, such as dissemination of information, in the coming weeks. A separate mandate will be issued to deal with the assessment of equivalence between international accounting standards and certain third country accounting standards used by third country issuers. Since the equivalence issue is also relevant to EU rules governing the preparation of a prospectus, the technical advice from CESR would be relevant for that area as well.

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For further information | Pour plus d'informations |
Für weitere Informationen

http://europa.eu.int/comm/internal_market/securities/transparency/index_en.htm

MARKETS		12 noon		12 noon		12 noon	
	PRC	CHG	PRC	CHG	PRC	CHG	PRC
ASIA-PACIFIC							
Australia	1,101	+1.15	1,102	+2.27	1,077		
Hong Kong	1,000	-1.15	1,000	-1.15	1,000		
Japan	11,100	+1.15	11,100	+1.15	11,100		
South Korea	1,100	+1.15	1,100	+1.15	1,100		
Taiwan	1,100	+1.15	1,100	+1.15	1,100		
USA	11,100	+1.15	11,100	+1.15	11,100		
EUROPE							
Germany	1,100	+1.15	1,100	+1.15	1,100		
France	1,100	+1.15	1,100	+1.15	1,100		
UK	1,100	+1.15	1,100	+1.15	1,100		
Spain	1,100	+1.15	1,100	+1.15	1,100		
Italy	1,100	+1.15	1,100	+1.15	1,100		
EUROPEAN							
Germany	1,100	+1.15	1,100	+1.15	1,100		
France	1,100	+1.15	1,100	+1.15	1,100		
UK	1,100	+1.15	1,100	+1.15	1,100		
Spain	1,100	+1.15	1,100	+1.15	1,100		
Italy	1,100	+1.15	1,100	+1.15	1,100		
EUROPEAN							
Germany	1,100	+1.15	1,100	+1.15	1,100		
France	1,100	+1.15	1,100	+1.15	1,100		
UK	1,100	+1.15	1,100	+1.15	1,100		
Spain	1,100	+1.15	1,100	+1.15	1,100		
Italy	1,100	+1.15	1,100	+1.15	1,100		

Recommandations pour les investissements dans les instruments financiers dérivés et la transparence

Summary

Recommendations for investment and transparency

Collective investment undertakings (UCITS) such as unit trusts, common funds and SICAVs are established in all Member States and their total assets amount to around four thousand billion Euros.

The investments of a UCITS and the UCITS' transparency are important issues for client investors. The Commission has therefore adopted two Recommendations, worked out in close cooperation with Member States experts, which will help Member States' regulators interpret in the same way the rules on how UCITS may invest in financial derivatives, such as options, futures or swaps, and on how fund managers should present the main elements of their funds to retail investors in a "simplified prospectus".

Les organismes de placement collectif en valeurs mobilières (OPCVM) (c'est-à-dire les fonds d'investissement au sens de la législation communautaire), tels que les «unit trusts», les fonds communs de placement et les SICAV, sont présents dans tous les États membres. Le total de leurs actifs s'élève à quatre mille milliards d'euros environ.

Les investissements réalisés par les OPCVM et la transparence de ceux-ci sont des questions importantes pour les clients investisseurs. La Commission a donc adopté deux recommandations, élaborées en étroite coopération avec les experts des États membres. Ces recommandations aideront les autorités de contrôle nationales à donner une même interprétation, d'une part, aux règles d'investissement des OPCVM dans les instruments financiers dérivés tels que les options, les contrats à terme ou les contrats d'échange, et, d'autre part, aux règles de présentation par les gestionnaires de portefeuille des principales caractéristiques de leurs fonds aux investisseurs de détail dans un 'prospectus simplifié'.

Instruments financiers dérivés

La première recommandation contient des règles et des principes essentiels destinés à servir de base à des normes solides de gestion des risques liés aux instruments dérivés, autorisés conformément à la Directive 2001/108/CE de janvier 2002 sur les investissements des OPCVM. Ces normes visent à protéger les investisseurs en faisant en sorte qu'un OPCVM puisse à tout moment honorer les obligations auxquelles les expose l'utilisation d'instruments dérivés. Elles doivent être calibrées en fonction du profil de risque réel des investissements dans ces instruments. La gestion du risque dans ce domaine est une question centrale, puisque les obligations éventuelles découlant des instruments financiers dérivés peuvent être très importantes.

Prospectus simplifié des OPCVM

La seconde recommandation porte sur certains éléments essentiels du prospectus simplifié que les OPCVM doivent mettre à la disposition des investisseurs. Ce prospectus a été introduit par la Directive 2001/107/CE de

janvier 2002 et contient les informations de base concernant le fonds, tels que ses objectifs et sa stratégie d'investissement, son profil de risque, etc. Il est conçu pour faciliter la commercialisation transfrontalière des OPCVM et améliorer la comparabilité des informations qui sont fournies aux investisseurs.

La recommandation introduit, en particulier, des ratios standardisés devant permettre aux investisseurs de détail de comparer les informations sur les frais d'exploitation des fonds et disposer en toutes circonstances d'informations sur le volume de transactions d'un fonds.

Travaux ultérieurs

Les États membres sont invités à informer la Commission, si possible d'ici fin septembre 2004, des mesures qu'ils auront prises pour mettre en œuvre les deux recommandations. D'ici fin février 2005, la Commission compte recevoir des informations concernant les premiers résultats de cette mise en œuvre et pourra, si nécessaire, arrêter d'autres mesures visant à renforcer les normes européennes.

Réduction des différences entre les règles nationales concernant les dépositaires d'OPCVM

Simultanément, la Commission a publié une communication visant à rapprocher les règles nationales relatives aux dépositaires responsables de la protection des actifs des OPCVM et exerçant certaines fonctions de contrôle en vue de garantir la protection des investisseurs. La Commission propose donc une action couvrant la prévention des conflits d'intérêts, la clarification de la responsabilité des dépositaires, la convergence des exigences prudentielles nationales et le renforcement de la transparence et de l'information de l'investisseur.

Cette approche sera mise en œuvre au cours des deux prochaines années, en coopération avec les régulateurs nationaux. De nouvelles mesures, éventuellement législatives, pourront être proposées si nécessaire.

Pour plus d'informations:
http://europa.eu.int/comm/internal_market/en/finances/mobil/ucits/index.htm

Resümee

Empfehlungen für Anlagen und Transparenz

Organismen für gemeinsame Anlagen in Wertpapieren (OGAW), wie Unit Trusts, Investmentfonds und SICAV sind in allen Mitgliedstaaten ansässig; ihr Gesamtvermögen beläuft sich auf rund vier Billionen Euro.

Die Anlagen eines OGAW und seine Transparenz sind wichtige Punkte für Anleger. Die Kommission hat daher in enger Zusammenarbeit mit Sachverständigen aus den Mitgliedstaaten zwei Empfehlungen erstellt, die dazu beitragen werden, dass die Regulierungsbehörden der Mitgliedstaaten die für OGAW geltenden Regelungen in Bezug auf Anlagen in Finanzderivate wie Optionen, Futures oder Swaps und in Bezug auf die Präsentation in einem „vereinfachten Prospekt“ auf gleiche Weise auslegen.

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Accident compensation amounts agreed

Motor Insurance Directive



The Commission Proposal for a 5th Motor Insurance Directive (June 2002) to modernise the existing Motor Insurance Directives and improve the protection of victims received a boost with the adoption of a Common Position by the Council on 26 April 2004.

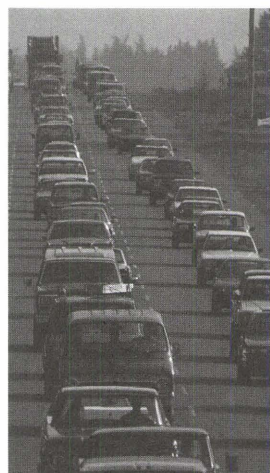
The agreement sets a new minimum insurance amount for personal injuries of €1,000,000 per victim, plus an option for Member States to apply a minimum amount of €5,000,000 per accident (as requested by the European Parliament). For damage to property, it sets a minimum amount of €1,000,000 per accident, to come into force after a transitional period of five years.

Under the Council's Common Position, pedestrians and cyclists would be designated as specific categories of accident victims. It stipulates that motor vehicle insurance would have to cover personal injuries suffered by pedestrians and cyclists and other non-motorised users of the roads who, as a consequence of an accident in which a motor vehicle is involved, were entitled to compensation in accordance with national civil law.

The Commission had indicated after the European Parliament adopted its opinion at first reading in October 2003 that it could also accept some amendments on issues such as the improvement of the protection of victims of accidents caused by unidentified vehicles, and the conditions under which statements relating to their claims record are provided to policy-holders in order to make it easier to change insurer. The Council's Common Position broadly retains these amendments. It will now be sent back to the Parliament for approval in a second reading.

Enlargement and motor insurance

On 30 April 2004, the Multilateral Guarantee Agreement was extended to include Estonia, Latvia, Lithuania, Malta and Poland, the only Accession countries that were not yet parties to the Agreement. From this date each Member State, shall refrain from making checks on insurance against civil liability in respect of vehicles which are normally based in the territory of Estonia, Latvia, Lithuania, Malta and Poland.



For further information | Pour plus d'informations | Für weitere Informationen
http://europa.eu.int/comm/internal_market/insurance/motor_en.htm

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Stronger user voice in EU financial services policy-making

The European Commission has set up a Forum of 12 experts known as FIN-USE to provide it with policy input in the field of financial services from the consumer and SME (user) perspective.

The job of the experts will be to identify key issues affecting users, provide comment on policy initiatives at an early stage, and formulate their own policy recommendations.

The experts have been selected by the Commission through an open procedure on the basis of their expertise in financial services and user background.

The range of expertise is broad, with ten different nationalities represented and a variety of user

backgrounds covered. There are plans to expand the group by a further three experts over the course of this year in order to take account of EU Enlargement.

The Forum has convened twice since the beginning of April, and has elected Udo Reifner as its Chairman.

As its first task, FIN-USE will formulate an opinion on the post financial services action plan stocktaking group reports (see page 6). The Forum also has plans to examine the report by the Mortgage Forum and the Commission's proposed New Legal Framework for payments, as soon as these become available.

For further information | Pour plus d'informations | Für weitere Informationen
http://europa.eu.int/comm/internal_market/fin-services-retail/finuse_en.htm

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Stepping up the fight against money laundering



The Commission is stepping up the fight against money laundering and has adopted a Communication listing action already taken and outlining future action to strengthen the fight against organised crime in the financial sector in general. Against the background of increasingly sophisticated methods to launder the proceeds of crime, the Communication addresses the need for effective mechanisms to identify and confiscate criminal proceeds and the need for enhanced co-operation between public and private entities to fight this type of crime more effectively. The Communication also makes the case for improved financial transparency - a key element in reducing opportunities to carry out organised financial crime.

tecting the financial system and supporting efforts to combat organised crime.

Far-reaching anti-money laundering measures are already in place, but the Commission is determined to continue the fight and develop legislation. The first and second Money Laundering Directives have already instituted significant controls designed to facilitate the detection and prevention of money laundering.

The Commission has tabled a proposal for a Third Money Laundering Directive. The intention is that this Directive will seek to consolidate and strengthen this approach. More concretely the proposal for a Third Directive will set out changes needed to the existing Directives to take account of the revised 'FATF Forty Recommendations', which are generally accepted as the international standard in the fight against money laundering. The proposed Directive will also include other changes needed to strengthen anti-money laundering defences.

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Third Directive to strengthen defences

The fight against money laundering has been a political priority of the European Union for a number of years given the importance of pro-

For further information | Pour plus d'informations | Für weitere Informationen
http://europa.eu.int/comm/internal_market/en/company/financialcrime/index.htm

Surf Europe!



Want to **live, work or study** in another EU country?

Want **practical information** on your rights as an EU citizen?

Need **personalised advice** on those rights?

Then visit the EU's new 'Dialogue with Citizens' website:
europa.eu.int/citizensrights

New 'Dialogue with Citizens' website

Résumé

Nouveau site "Dialogue avec les citoyens"

Le jour de l'élargissement (1er mai 2004), la DG Marché intérieur a lancé une nouvelle version de son site web "Dialogue avec les citoyens". Le contenu du site vise à sensibiliser les citoyens de l'UE à leurs droits dans le marché intérieur en ce qui concerne l'installation et le lieu de travail, les études et les voyages au sein de l'UE. Il indique également comment faire bon usage de ces droits, par la fourniture d'informations aux niveaux tant européen que national et offre un service de conseils personnalisés.

On Enlargement day (1 May 2004) DG Internal Market launched a new version of its 'Dialogue with Citizens' website. The content of the site aims to improve EU citizens' awareness of their Internal Market rights relating to opportunities to live, work, study and travel within the EU. It also sets out to help them make the most of these rights in practice through the provision of both EU-wide and national-level information, as well as a personalised advice service.

New interface in all 20 EU languages

All information on the site, at both EU and national level, has been fully updated. The information is presented via a completely redesigned user interface that makes the site more intuitive and easily navigable. This interface is available in all 20 official EU languages, including the languages of the new Member States.

A wide variety of information available

The information on the site is presented in a 'cascade' approach:

- **General EU-wide guides:** the citizen can begin by learning more about the general situation at EU level for a particular area.

- **Factsheets:** the citizen can then look for more specific information in factsheets on areas such as Recognition of Qualifications, Residence Rights or Social Security. These factsheets give practical information on the situation both at EU level and in specific Member States and on how to exercise his/her rights there in practice. National information is provided by the Member State itself (information for the new Member States will be added as soon as possible).

- **Useful links and addresses:** having established the situation at both EU and national level, the citizen can then directly contact the relevant EU or national institution or service that can help in the practical exercise of his/her Internal Market rights.

- **Personalised advice and problem solving:** if the citizen subsequently encounters

problems, then he/she can consult a list of EU networks that can provide personalised advice on how to assert Internal Market rights and obtain redress.

Citizens Signpost Service

One of these EU networks is the 'Citizens Signpost Service' (CSS), which is an essential part of the 'Dialogue with Citizens' initiative. It enables EU citizens to receive free personalised advice on how to tackle practical problems they have encountered while trying to exercise their rights in the Internal Market. Users of this service receive an answer in their own language within three working days.

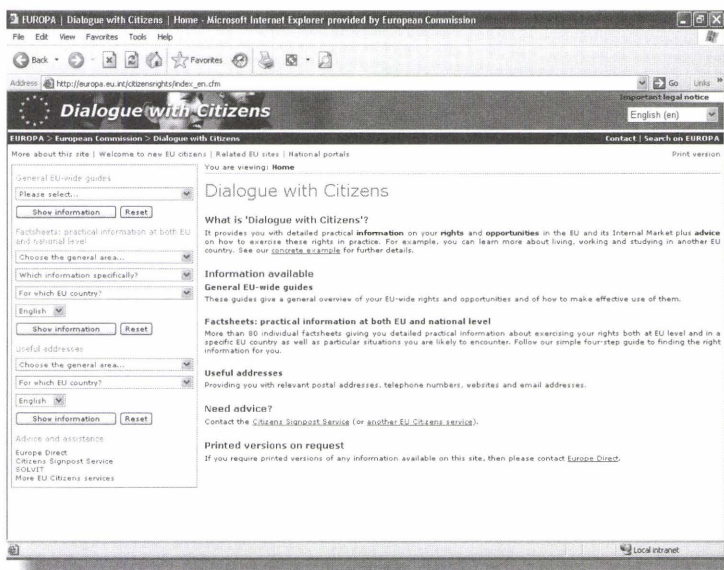
As of 1 May 2004, this service is also open to the citizens of the new Member States and covers all 20 official EU languages.

To contact CSS, visit the 'Dialogue with Citizens' website or call 'Europe Direct' on its single EU-wide freephone number 00 800 6 7 8 9 10 11.

Resümee

Neue Website 'Dialog mit Bürgern'

Am 1. Mai 2004, dem Tag der EU-Erweiterung, hat die GD Binnenmarkt eine neue Version ihrer Site „Dialog mit Bürgern“ ins Web gestellt. Diese Internetseite soll den Informationsstand der Bürger über ihre Rechte im Binnenmarkt verbessern, d. h. die Rechte, die ihnen zustehen, wenn sie in anderen Ländern der EU wohnen, arbeiten, studieren oder reisen, und sie in die Lage versetzen, diese Rechte in der Praxis optimal zu nutzen. Zu diesem Zweck werden Informationen über EU-weit geltende und einzelstaatliche Regelungen angeboten sowie ein Dienst, der die Bürger gezielt berät.



Visit the 'Dialogue with Citizens' website at:
<http://europa.eu.int/citizensrights>

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SGEI competition is improving performance without compromising public service

Résumé

La concurrence des SIEG améliore les performances sans compromettre le service public

Les performances des services d'intérêt économique général (SIEG) – Télécommunications, énergie, poste et transport – en termes de prix, d'emploi, de productivité, de qualité des services, du coût, d'accessibilité et de satisfaction du consommateur sont bonnes et continuent de s'améliorer, bien qu'il subsiste des écarts importants entre les secteurs et les États membres. C'est la principale conclusion du troisième rapport d'évaluation de la Commission européenne sur les performances du secteur SIEG.

Cependant, dans certains États membres, les retards dans l'ouverture du marché et dans la suppression des entraves juridiques et techniques pour les nouveaux arrivants ont nui aux performances.

The performance of services of general economic interest (SGEI) – telecommunications, energy, post and transport – in terms of price, employment, productivity, service quality, affordability, accessibility and consumer satisfaction is good and improving further, although there are wide variations between sectors and between Member States. That is the main conclusion of the European Commission's third evaluation report on the performance of the SGEI sector. However, in some Member States delays in market opening and in removing legal and technical barriers to new entrants have held back performance. Providers of essential services are continuing to meet or exceed their universal service obligations and access to services at affordable prices for the less well-off is slowly improving in most Member States and sectors.

Cheaper prices

The report covers seven sectors: electricity, gas, telecommunications (fixed and mobile), postal services, air, road and rail transport, in the 15 'old' Member States.

Opening national markets to competition has allowed consumers and business users of SGEI to benefit from cheaper prices, according to the evaluation report. Over the period 1996-2003, telecommunications and electricity prices have increased by less than the consumer price index. Rises in prices for rail transport and postal services were in line with those of consumer prices generally. Prices of gas and road transport increased almost twice as fast as the consumer price index but for gas, that appears to have been due to increases in the source price.

Above-average productivity

The average annual growth of labour productivity per hour in network industries outpaced the corresponding figure for the economy as a whole between 1996 and 2001. While the former grew by between 2.35% (inland transport) and 9.6% (communications), the latter grew by 1.65% on average. In addition, in telecommunications

and air transport, improved productivity went hand-in-hand with increased employment.

Surveys suggest that consumers are, by and large, satisfied with SGEI but there are several areas for improvement. Though there are some specific problems concerning service quality in a number of markets, these problems do not affect public services obligations. Overall, consumer satisfaction is relatively lower with railways and local transport.

The reasons for dissatisfaction are often the same in all countries. Insufficient coverage of the mobile telecommunications network, problems understanding invoices in almost all sectors, or poor punctuality in the three transport sectors are the main sources of dissatisfaction. Some problems, however, seem to have a distinctive national dimension. Examples of this are repairs in the gas sector in Spain, roaming charges for mobile telephony in Ireland or the lack of continuity of electricity supply in Portugal.

Pressure of competition is positive

Consumers' views about opening markets to competition vary across countries, but in general, they regard pressure of competition on service providers increasingly as a positive element.

The importance of price in the choice of a provider is reflected in the dissatisfaction with a perceived difficulty in comparing prices because, for example, tariffs are complex or are non-transparent. This leads to some customer frustration and suspicion of possible concerted behaviour by service providers.

White Paper adopted

Separate from the evaluation report on the performance of SGEI, the Commission adopted on 12 May a White Paper setting out the European Union's general approach to fostering the development of high-quality services of general interest. The White Paper stresses the role of national, regional and local authorities in defining, organising, financing and monitoring services of general interest and develops the main elements of an EU strategy aimed both at ensuring that all citizens and businesses have effective access to a broad range of services of general interest and at improving legal certainty.

Resümee

Wettbewerb bei den Dienstleistungen von allgemeinem wirtschaftlichen Interesse verbessert die Leistung, ohne die Grundversorgung zu gefährden

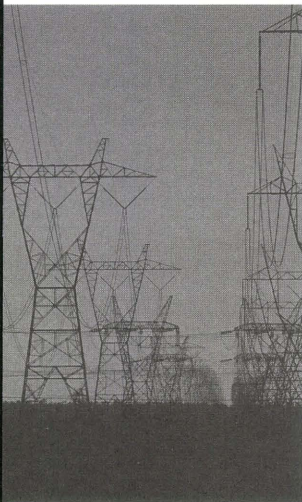
Der Leistungsstandard bei Dienstleistungen von allgemeinem wirtschaftlichen Interesse wie Telekommunikation, Energieversorgung, Post und Transport, d. h. Preise, Beschäftigung, Produktivität, Dienstqualität, Erschwinglichkeit, Zugänglichkeit und Kundenzufriedenheit, ist gut und verbessert sich weiter trotz großer Unterschiede zwischen den Branchen und zwischen den Mitgliedstaaten. So lautet das wichtigste Ergebnis des dritten Berichts der Kommission zur Bewertung dieser Dienstleistungen.

In einigen Mitgliedstaaten haben indessen Verzögerungen bei der Marktöffnung und der Beseitigung gesetzlicher und technischer Markteintrittsschranken die Leistungsverbesserung behindert.

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Further details at: http://europa.eu.int/comm/internal_market/en/update/economicreform/index.htm



Preventive monitoring of red tape affecting services – public consultation

Member States are currently required to notify the Commission in advance of proposed national regulations in the area of products and Information Society services.

In view of the usefulness of this procedure (set up by Directive 98/34/EC) as an instrument for avoiding the introduction of new unnecessary bureaucratic obstacles and to prevent new barriers to the free movement of services in the Single Market, the Commission plans to extend it to more widely to regulations applied to other services.

Public consultation launched

Before putting forward a legislative proposal on the matter, the Commission is gathering the opinions of stakeholders, particularly national administrations, economic operators and the users of services, through an on-line public consultation launched in April.

The Commission believes that the *ex ante* notification procedure has worked well in

the sectors of products and on-line services. Extending preventive monitoring to other service sectors will make it possible to eliminate divergent and inconsistent national regulations and therefore the legal fragmentation of the Single Market before new obstacles emerge. At the same time, there will be greater transparency, stability and coherence in the regulatory activities of the Member States to the benefit of operators and users.

The results of this consultation (concluded in June) will form part of an impact study that will accompany any proposal for a Directive amending Directive 98/34/CE.

Further details on the consultation at:
http://europa.eu.int/yourvoice/consultations/index_en.htm

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Government Procurement Agreement extended to new EU Member States

The 10 new Member States of the EU can now benefit from the Government Procurement Agreement (GPA) of the World Trade Organisation (WTO).

This arrangement opens up government contracts of its members to international competition. Suppliers of each GPA member (including the EU, the United States, Canada, Hong Kong, China, Japan, Korea, Switzerland etc.) have the right to participate in procedures for the award of government contracts of other GPA members, under the conditions laid down in the GPA.

To ensure that suppliers from the new EU Member States would enjoy access to the markets of the other GPA Parties, the Commission negotiated the

extension of the GPA to include the new Member States. These negotiations resulted in a decision of the GPA Committee recognising that after Enlargement the GPA also applies to the new Member States.

Suppliers from these countries now enjoy similar access to government procurement contracts in other GPA Parties as suppliers from the 'old' Member States. In return, suppliers from other GPA Parties have been given the same access to the government procurement markets of the new Member States as they have to markets of the EU-15.

The GPA is the first WTO Agreement that has successfully been adapted to the enlargement of the EU.

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COMPANY LAW & FINANCIAL INFORMATION

Public support for transparency of directors' remuneration

Following a public consultation undertaken earlier this year, the Commission intends to present a Recommendation on directors' remuneration in autumn 2004.

The consultation on 'Fostering an Appropriate regime for the Remuneration of Directors' was published in February 2004, and proposed a set of measures primarily covering disclosure of remuneration policy and of individual remuneration, as well as shareholder approval of share-based remuneration schemes.

The consultation which closed in April 2004 received more than a hundred responses from 14 countries, mainly from industry, issuers' representatives, institutional investors and professional service providers (auditors, accountants, lawyers etc.).

Consensus on Commission's approach

There was widespread support for the Commission's proposal to raise transparency in directors'

remuneration by disclosing remuneration policy for the next financial year and by unveiling the remuneration of individual directors in the preceding financial year. Most respondents also agreed with the Commission's plan to boost shareholders' role in approving share-based remuneration schemes – for example share options – for directors. Concerns were expressed, however, over the Commission's intention to invite Member States to implement the requirements of the future Recommendation through regulatory measures. Doubts were also expressed as to the need to involve the Annual General Meeting in discussing and approving directors' remuneration policy.

The gaps between Member States on transparency and shareholders' rights are currently still quite wide. The Commission's forthcoming Recommendation will aim to bridge those gaps and contribute to creating a truly pan-European securities market which inspires investor confidence.

The full report is available on the Europa website at:
http://europa.eu.int/comm/internal_market/company/directors-remun/index_en.htm

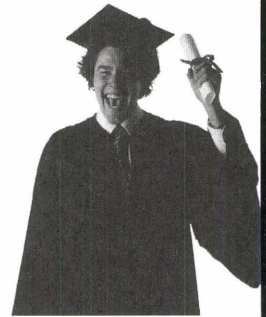
Council agreement is latest step towards a simpler system

The Council reached political agreement by qualified majority on May 18 on the proposal for a Directive on the recognition of professional qualifications. Once this text has been formally adopted it will be submitted to the European Parliament for a second reading.

The Commission has supported the compromise adopted by the Council as it is broadly in line with its original proposal and recognises the need to introduce a lighter regime for the provision of services than for establishment. The compromise also incorporates amendments made by the European Parliament in February 2004, in particular those linked with the role of common platforms as a facilitator of mutual recognition and the need to

take new educational modalities such as education delivered under franchising agreements, into account. The proposed Directive, presented in March 2002, would replace fifteen existing Directives in the field of the recognition of professional qualifications and constitutes the first comprehensive modernisation of the EU system since it was conceived over forty years ago.

A number of changes have been proposed by the Commission compared to the existing rules, including making it easier for qualified professionals to provide services across borders, more automatic recognition of qualifications, increased flexibility in the procedures for updating the Directive and more cooperation between the Commission and Member States



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INTELLECTUAL AND INDUSTRIAL PROPERTY

Report advocates legislation on the governance of collecting societies

Community legislation on the collective management of rights, and particularly on the governance of collecting societies, would be highly desirable. This is one of the conclusions of a Communication adopted by the Commission, 16 April 2004, on the management of copyright and related rights.

The term 'management of rights' refers to the means by which copyright and related rights are marketed. Rights management can be carried out individually by the right holder, or collectively by a collecting society acting as a trustee.

The Communication deals with all questions linked to the management of intellectual property rights (i.e. their commercialisation) within the Internal Market: individual management, the growing demand for Community-wide licences to exploit the rights, the emergence of Digital Rights Management (DRM), and the collective management and good governance of the rights management societies.

The Commission concludes that:

- individual management does not necessitate action at this stage at the Community level;
- the emergence of DRM necessitates interoperability as well as its acceptance by all stakeholders including consumers;
- the development of Community-wide licences for the exploitation of rights continues to be driven by the market itself but in the future Community rules on collective management could favour this development;
- a legislative initiative at Community level is highly desirable for the collective management and the good governance of collecting societies.

The Commission has launched an additional consultation on the draft legislative initiative on the collective management of rights.

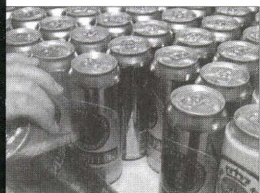


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Commission requests change to 'Dosenpfand' packaging deposit system



The Commission believes that Germany's packaging deposit system ('Dosenpfand') contravenes Internal Market rules.

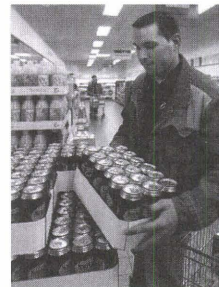
After considering Germany's response to an initial request for information on its 'Dosenpfand' system sent in October 2003, the European Commission decided on 20 April 2004 to send Germany a formal request to change the rules in its packaging law ("Verpackungsverordnung") on the deposit and return of one-way packaging (typically cans and plastic bottles).

While the Commission appreciates the environmental benefit of charging a deposit and of taking back packaging, it believes that the way in which the deposit and return systems function in Ger-

many constitutes a disproportionate barrier to the free movement of packaged beverages from other Member States, in violation of the Treaty's Internal Market rules (Article 28 of the Treaty) and of Article 7 of Directive 94/62/EC (the 'Packaging Directive').

These measures particularly affect imported drinks, given that, for reasons mainly related to long distance deliveries, some 95% of imported drinks are in 'one way' packaging.

The Commission's request takes the form of a reasoned opinion, the second step of an infringement procedure under Article 226 of the EC Treaty. If Germany does not respond satisfactorily within two months, the Commission could decide to take the case to the European Court of Justice.



More detailed information on the items mentioned and on other Internal Market cases can be found at: http://www.europa.eu.int/comm/internal_market/en/update/infr/index.htm

Organic farming restrictions Freedom to provide services

The new German law on organic farming of 15 July 2002 requires all inspection bodies to be established in Germany. Similarly, Austrian law requires private inspection bodies for organic farming to be established in Austria if they are to be approved. This represents in the Commission's view an infringement of EC Treaty rules on the freedom to

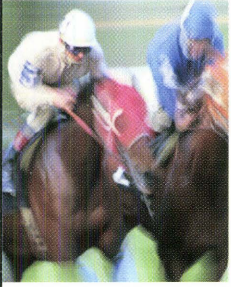


provide services (Article 49) and it has decided to take Germany and Austria to the Court of Justice on account of this establishment requirement, which prevents inspection bodies established in other Member States from providing cross-border services unless they set up new facilities in each country of operation.

Under Article 49 of the EC Treaty, any company or firm providing a service in a Member State in accordance with the national law of that State should be allowed to provide the same service without hindrance in the other Member States.

Failure to respect this principle in the case of organic farming inspection bodies has the effect of restricting competition and is likely to adversely affect the producers of organic products who use their services and, indirectly, the consumers of these products.

Commission inquires into Danish restrictions on sports betting



The European Commission has decided to send Denmark an official request for information on its legislation, adopted on 26 March 2003, which prohibits the supply or advertisement of, and the facilitation of participation in, gambling services offered by providers licensed in other Member States. Danish law restricts in particular the provision of sports betting services. The Commission

intends to verify the compatibility of the ban in question with the provisions of the EC Treaty on the free movement of services and on the freedom of establishment. The Commission's request will take the form of a letter of formal notice, the first step of an infringement procedure under Article 226 of the EC Treaty. Denmark will be asked to respond within two months.

Infringement procedures

If the Commission obtains or receives from a complainant convincing evidence that an infringement of EU law is taking place, it first sends the Member States concerned a **letter of formal notice**.

If the Member State does not reply with information allowing the case to be closed, the Commission sends a

reasoned opinion, the second step of the infringement proceedings under Article 226 of the EC Treaty. If there is no satisfactory response within two months, the Commission may then decide to **refer the case to the European Court of Justice** in Luxembourg.



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