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DRAFT REPORT

on Governance and Partnership in the Single Market
(2010/2289(INI))

Committee on the Internal Market and Consumer Protection

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CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	3
EXPLANATORY STATEMENT.....	8

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Governance and Partnership in the Single Market (2010/2289(INI))

The European Parliament,

- having regard to the Commission Communication ‘Towards a Single Market Act for a highly competitive social market economy: 50 proposals for improving our work, business and exchanges with one another’ (COM(2010)0608),
- having regard to the Commission Communication ‘Europe 2020 – a strategy for smart, sustainable and inclusive growth’ (COM(2010)2020),
- having regard to the Commission Communication ‘A single market for 21st century Europe’ (COM(2007)0724) and the accompanying Commission staff working document ‘The Single Market: review of achievements’ (SEC(2007)1521),
- having regard to its resolution of 4 September 2007 on the Single Market review¹ and the Commission staff working document ‘The Single Market review: one year on’ (SEC(2008)3064),
- having regard to the Commission Communication on ‘Smart Regulation in the European Union’ (COM(2010)0543),
- having regard to the Commission’s 27th Annual Report on Monitoring the Application of EU Law and to the accompanying Commission staff working document entitled ‘Situation in the different sectors’ (SEC(2010)1143),
- having regard to the Commission Recommendation of 29 June 2009 on measures to improve the functioning of the single market (C(2009)4728),
- having regard to the Council Conclusions of 10 December 2010 on the Single Market Act,
- having regard to Professor Mario Monti’s report to the Commission on revitalising the single market,
- having regard to its resolution of 20 May 2010 on delivering a single market to consumers and citizens²,
- having regard to the Internal Market Scoreboard no 21 (2010), and to its resolutions of 9 March 2010³ and 23 September 2008⁴ on the Internal Market Scoreboard,
- having regard to the Commission Communication on ‘A Europe of Results - Applying Community Law’ (COM(2007)0502),
- having regard to the Articles 258 to 260 of the Treaty on the Functioning of the European Union (TFEU),

¹ OJ C 187E, 27.7.2008, p. 80.

² Texts Adopted, P7_TA(2010)0186.

³ OJ C 349E, 22.12.2010, p. 25.

⁴ OJ C 8E, 14.1.2010, p. 7.

- having regard to Article 10 of the Treaty on the Functioning of the European Union,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Legal Affairs and ... (A7-0000/2010),
- A. whereas relaunching the Single Market requires the active support of all European institutions, Member States and stakeholders,
- B. whereas a substantial gap still persists between the single market rules and the benefits that citizens and businesses can draw from them in practice,
- C. whereas the EU's average transposition deficit amounts to 1.7% when taking into account the cases in which the transposition time of a directive exceeds the deadline and in which an infringement proceeding for non-conformity has been initiated by the Commission,

I. Introduction

1. Welcomes the Commission Communication 'Towards a Single Market Act' and especially its third chapter;
2. Urges the Commission and the Council to reinforce the holistic approach to relaunching the Single Market, mainstreaming Single Market priorities to all policy areas which are crucial to achieving the Single Market for the benefit of European citizens, consumers and businesses;
3. Believes that enhancement of European economic governance, implementation of the EU 2020 strategy and the relaunch of the Single Market are equally important for revitalising the European economy;

II. Strengthening political leadership and partnership

4. Is convinced that one of the main challenges in relaunching the Single Market is ensuring political leadership, commitment and coordination; believes that comprehensive guidance from the highest political level is crucial for the relaunch of the Single Market;
5. Urges Member States' governments to take ownership of the relaunch of the Single Market; welcomes initiatives taken by Member States to optimise the way in which they deal with Single Market directives in terms of improving coordination, creating incentive structures and increasing the political importance given to transposition;
6. Notes that Single Market rules are frequently implemented by local and regional authorities; calls on the Commission and Member States to further develop and broaden partnership with local and regional authorities from cohesion policy to Single

Market policies;

7. Highlights the enhanced role of national parliaments in the process of adopting EU legislation under the Lisbon Treaty; encourages national parliaments to engage with Single Market rules throughout the legislative cycle and participate in joint activities with the European Parliament;
8. Welcomes the intention of the Commission to increase consultation and dialogue with civil society;

III. Regulating the Single Market

9. Believes that the overall efficiency and legitimacy of the Single Market suffers because of the complexity of Single Market governance;
10. Considers that the use of regulations instead of directives would contribute to a clearer regulatory environment and reduce the transaction costs associated with transposition; calls on the Commission to develop a more targeted approach to choosing legislative instruments, depending on the legal and substantial characteristics of the provisions to be implemented;
11. Believes that correlation tables are essential for ensuring that the Single Market rules are properly applied;

IV. Administrative coordination, information and problem-solving mechanisms

12. Supports the proposals of the Single Market Act that aim at developing further administrative cooperation between the Member States, including extending the Internal Market Information System to other legislative areas;
13. Suggests that the Commission and Member States coordinate and, where appropriate, consolidate the numerous ‘one-stop-shops’ for information and problem-solving;
14. Encourages Member States to develop points of single contact under the Services Directive into true one-stop-shops where businesses can easily obtain all the necessary information for their activities, including information on the applicable taxation regime;

V. Enforcement

15. Believes that the infringement procedure remains a key tool to ensure the functioning of the internal market;
16. Calls on the Commission to resist any political interference and immediately launch infringement procedures where pre-litigation problem-solving mechanisms fail;

17. Notes that the recent Court of Justice case law opens new scenarios for the Commission to pursue ‘general and structural infringements’ of Single Market rules by Member States;
18. Calls on the Commission to make full use of the changes introduced by Article 260 of the TFEU which are designed to simplify and speed up the imposition of financial penalties in the context of infringement proceedings;
19. Regrets that too many infringement proceedings take a long time before they are closed or brought before the Court of Justice;
20. Supports the Commission’s initiatives to develop alternative dispute resolution in the EU;

VI. Monitoring, evaluation and modernization

21. Supports a focused and evidence-based approach to market monitoring and evaluation; invites the Commission to continue developing its market monitoring tools, by improving methodology, indicators and data-collection, whilst observing the principles of practicality and cost-effectiveness;
22. Highlights the mutual evaluation provided for in the Services Directive as an innovative way of using peer pressure to improve the quality of transposition; supports where appropriate using mutual evaluation in other areas, e.g. in the area of free movement of goods;
23. Encourages Member States to regularly review national rules and procedures which have an impact on free movement of services and goods in order to simplify and modernise national rules and remove overlaps;

VII. Key actions to strengthen Governance and Partnership

24. Suggests that the President of the European Council should be given the mandate to coordinate and supervise the relaunch of the Single Market, in close cooperation with the President of the Commission;
25. Asks that each spring session of the European Council should be devoted to assessing the state of the Single Market, backed by a monitoring process through which to assess the performance of interim targets; recommends that the Competitiveness Council takes on greater responsibility for examining Single Market issues across the full range of Single Market policies;
26. Calls on Member States to provide correlation tables for all Single Market directives and to make them publicly available to citizens;

27. Calls on the Member States and the Commission to reduce the transposition deficit of Single Market Directives to 0.5%, including both outstanding and incorrect transposition, by 2012;
28. Asks the Commission to set a benchmark of 12 months for the maximum average time taken to process infringements, from opening the file to sending the application to the Court of Justice;
29. Calls on the Commission to propose a benchmark for Member States' compliance with the rulings of the Court of Justice;
30. Calls on the Commission to prepare a report on the effectiveness of existing 'best practices' in Member States, building on its recommendation of 29 June 2009 on measures to improve the functioning of the single market by the end of 2011;
31. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

Strengthening political leadership and partnership

Your Rapporteur believes that one of the key challenges in relaunching the Single Market is ensuring political leadership, commitment and coordination. The 50 proposals for relaunching the Single Market encompass numerous portfolios, crucially involving the competences of several commissioners in the Commission and touch upon jurisdiction of various committees in the European Parliament. In the Council the Single Market Act is furthermore split into different Council configurations whose role and effectiveness vary a great deal. National institutions also differ a lot in the ways that they are configured and in their organisational cultures.

Your Rapporteur considers that enhancing the role of the Competitiveness Council as proposed in the Council Conclusions on the Single Market Act of 10.12.2010 is a necessary but not a sufficient condition to ensure political leadership, commitment and coordination.

Your rapporteur believes that a top-level political guidance is crucial for the relaunch of the Single Market. She therefore proposes that the President of the European Council should be given the mandate to coordinate and supervise the relaunch of the Single Market, in close cooperation with the President of the Commission. Each spring session of the European Council should be devoted to assessing the state of the Single Market, backed by a monitoring process through which to assess the performance of interim targets. In this context, your Rapporteur observes that the Hungarian Presidency already plans to hold the first ever European Council on a sectoral theme in February 2011.¹

Your Rapporteur is convinced that Member States' support and commitment will also be crucial for relaunching the Single Market. She commends the Member States on the efforts taken to improve the transposition and implementation of Single Market rules. Such 'best practices' include setting up periodical evaluations of transposition systems, introducing a system of points of contacts in different ministries and setting-up warning systems when nearing the transposition deadline.

Your Rapporteur notes that different measures can be taken by the Member States before the publication of a directive in order to facilitate transposition and implementation. Such measures include developing transposition plans as soon as there is a political agreement, pre-emptive identification of competencies and/or analysis of legislative impact, a regular transmission of information between the departments responsible for negotiating and those involved in transposition and parliamentary involvement at an early state of the negotiations of new European legislation, which seems to ease transposition once the legislation has been adopted.

Your Rapporteur also considers that Member States should set their own priorities and develop their own agenda in accordance with Single Market priorities in order to take true

¹ The Hungarian Presidency is planning an European Council summit on EU Energy Policy.

ownership of the Single Market.

Your Rapporteur believes that the partnership approach suggested by the Commission needs to be strengthened by two elements.

Firstly, she considers that partnership with local and regional authorities needs to be broadened from cohesion policy to Single Market policies. Single Market rules are very often implemented and enforced by Member States' authorities at regional or local levels. The experience with the implementation of the Services Directive has clearly shown that involvement of regional and local authorities can be extremely important to ensure that Single Market legislation is properly implemented and applied.

Your Rapporteur notes that some Member States have already taken specific measures in order to develop a partnership with local and regional actors, inter alia, by setting up specific networks, e.g. in the area of public procurement or market surveillance, which link regional and local authorities.

Secondly, your Rapporteur believes that the dialogue and partnership element of Single Market governance should be strengthened by a stronger involvement of National Parliaments. The entering into force of the Lisbon Treaty offers a 'window of opportunity' for the National Parliaments to engage with Single Market rules throughout the legislative cycle and participate in joint activities with the European Parliament. She notes that involvement of national parliaments at an early stage in deliberating the Directive proposal at the European level could speed up the adoption of subsequent transposition measures at the member state level. A constant exchange of information with national parliaments on transposition regarding progress of transpositions could also facilitate the transposition process.

Regulating the Single Market

Your Rapporteur considers that the Single Market governance structures and processes are excessively complex. This complicates accountability and undermines the overall efficiency and legitimacy of the Single Market. She believes that in developing further the governance of the Single Market more weight should be given to the principles of transparency and accountability.

Your Rapporteur believes that a more targeted approach to choosing legislative instruments, depending on the legal and substantial characteristics of the provisions to be implemented, would contribute to a clearer regulatory environment and reduce the transaction costs associated with transposition.

Your Rapporteur highlights that in accordance with the Article 4 (3) of the TEU Member States are bound to facilitate the achievement of the Commission's task of ensuring that the provisions of the Treaties and the measures taken by the institutions are applied. Consequently, Member States should supply the Commission with clear and precise information in relation to the implementation of Directives.

Your Rapporteur considers that Member States should provide correlation tables listing the

provisions of Member State rules that transpose the obligations of directives into the national legal system for all Single Market directives and make them publicly available for citizens (SMA proposal no. 47).

Administrative coordination, problem-solving mechanisms

Your Rapporteur supports the SMA proposal no. 45 that aims at developing further the administrative cooperation between the Member States through the IMI system which could be extended to other policy areas, including e-commerce and public procurement.

She believes that increased interaction between Member States' authorities competent for single market issues not only helps to resolve immediate problems in implementing specific Directives, but also contributes to building of mutual trust between MS authorities and to a more viable Single Market in the long term (European dimension of public administration in the MS).

Your Rapporteur observes that a number of Single Market information and problem-solving mechanisms exist to help citizens and businesses. She proposes that the Commission and Member States coordinate and where appropriate consolidate the 'one-stop-shops' for information and problem-solving (SMA proposals no. 49 and 50).

Your Rapporteur supports the strengthening of informal problem-solving tools, in particular the SOLVIT Network. She considers that the Commission should strengthen SOLVIT in accordance with Parliament's report on SOLVIT of 2 March 2010 (2009/2138(INI)).

Your Rapporteur also suggests that the Member States and the Commission should strive to develop true 'one-stop-shops' through which the same target group is able to obtain all necessary information, e.g. to exercise a particular activity. In this context, she suggests that points of single contact under the Services Directive should also provide information on the applicable taxation regime.

Enforcement

Your Rapporteur believes that infringement procedure should remain a key tool to ensure the functioning of the internal market. She encourages the Commission to stringently use infringement procedures where pre-litigation problem-solving mechanisms fail, making full use of the changes introduced by Article 260 of the TFEU which simplify and speed up the imposition of financial penalties in the context of infringement proceedings.

Your Rapporteur furthermore considers that the recent Court of Justice case law provides for new possibilities for the Commission to pursue 'general and structural infringements' of Single Market rules by Member States. Traditionally, the Commission has focused on bringing enforcement actions based on individual incidents. However, in *Commission v. Ireland* case¹, the Court accepted that the Commission can bring proceedings against a

¹ Case C-494/01 Commission vs Ireland [2005] ECR I-3331.

Member State not only for specific violations of EU law, but also against a ‘general and structural infringement’ by a Member State of its EU law obligations. Instead of putting forward specific incidents, the Commission aimed to demonstrate the existence of ‘systemic and deficient administrative practices’ and argued that Ireland had systematically failed to comply with the Waste Directive.

The notion of ‘general and structural infringement’ has two important implications. Firstly, the Commission can adduce new examples of infringements of a given EU law obligation during the Court procedures. Secondly, the Member State found in breach needs not merely to remedy the instances of violation, but more fundamentally to change its administrative practice.

Your Rapporteur believes that the notion of ‘general and structural infringement’ could pave the way for a more effective enforcement of the Single Market law obligations in areas such as public procurement.

Your Rapporteur suggests that more work needs to be done not only to ensure timely transposition, but also to step up efforts to ensure correct transposition. She suggests that the Member States should aim at reducing the average transposition deficit to 0,5 per cent by 2012, including both outstanding and incorrect transposition of Single Market Directives.

Your Rapporteur observes that the formal infringement proceedings usually take a long time (the average duration to resolve such proceedings ranging from 28 months for EU 15 to 16 months for EU 12). She urges the Commission to set a benchmark of 12 months for the maximum average time taken to process infringements.

Your Rapporteur notes that national authorities take an average of 17.7 months to comply with the Court judgements, which have found that certain Member States had not complied with their obligations. She asks the Commission to propose a benchmark for Member States’ to comply with the rulings of the Court of Justice.

Monitoring, evaluation and modernization

Your Rapporteur believes that good governance of the Single Market can only be based on good quality information about the functioning of the Single Market. Appropriate instruments for monitoring and evaluation of Single Market policies should be used to link the different stages of the policy cycle from design to implementation.

Your Rapporteur encourages the Commission to work on developing market monitoring tools, building on its experiences with successful tools, including sweeps. She considers that priority should be given to improving methodology, indicators and data-collection, while observing the principles of practicality and cost-effectiveness.

Your Rapporteur believes that Member States should become more engaged with evaluation and monitoring of Single Market rules. She encourages Member States in particular to undertake regularly Single Market legislation evaluation exercises, reviewing national rules and procedures which have an impact on free movement of services and goods in order to

simplify and modernize national rules and remove overlaps.