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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Action plan on the Reinforcement of SOLVIT: Bringing the benefits of the Single Market to citizens and businesses

{SWD(2017) 210 final}

INTRODUCTION

The **Single Market** is one of Europe's great achievements. It is at the heart of the European project, but its benefits do not always materialise because Single Market rules are not always known or implemented correctly. At a time when European citizens and businesses expect a Europe that protects, empowers and defends, the Single Market is one of Europe's best assets to address the challenges of increased globalisation and build a stronger and fairer European economy.¹

In its **Single Market Strategy**² the Commission endeavoured to achieve a deeper and fairer Single Market, one of the ten priorities of the Juncker Commission. To that end, the Strategy proposed improving opportunities to access markets across borders; making life easier for consumers, businesses and public administrations; and bringing the Single Market's practical benefits to citizens and businesses. Supporting all this, the Commission announced it will work hand in hand with Member States to create a real culture of compliance for Single Market rules, with a particular emphasis on the reinforcement of existing tools such as SOLVIT.

To deliver on this, in the *Joint Declaration on the EU's legislative priorities for 2017*, released on 13 December 2016, the European Parliament, the Council and the Commission reiterated their commitment to promoting the proper implementation and enforcement of existing legislation.³ On the same day, the Commission adopted its Communication on *EU law: Better results through better application*⁴, which sets out how the Commission will step up efforts to ensure that EU law is applied, implemented and enforced for the benefit of all.

SOLVIT⁵ is a free of charge service provided since 2002 by the national administration in each EU Member State and in Iceland, Liechtenstein and Norway. It works under short deadlines and provides pragmatic solutions to EU/EEA citizens and businesses when they are experiencing difficulties with their EU rights being recognized by public authorities in particular while moving or doing business cross-border in the EU.⁶ SOLVIT deals with all cross-border⁷ problems relating to the four freedoms of movement (persons, goods, services

¹ Communication from the Commission to the European Parliament, the Council, the European Economic Committee and the Committee of the Regions, *Commission Work Programme 2017, Delivering a Europe that protects, empowers and defends*, COM (2016) 710 final of 25 October 2016.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Upgrading the Single Market: more opportunities for people and business*, COM (2015) 550 final of 28 October 2015.

³ https://ec.europa.eu/commission/publications/joint-declaration-eus-legislative-priorities-2017_en

⁴ C/2016/8600, OJ C 18, 19.1.2017, p. 10.

⁵ To resolve problems, SOLVIT centres cooperate directly via an online application. The principles governing SOLVIT were restated in its current legal basis, Commission Recommendation 2013/461/EU of 17 September 2013 (OJ L 249, 19.9.2013, p. 10). For more information, see <http://ec.europa.eu/solvit/>

⁶ As defined in the 2013 Recommendation, a cross border problem is a problem an applicant in one Member State (or EEA country) encounters involving a potential breach of EU law governing the internal market by a public authority in another Member State (or EEA country); this includes problems caused to applicants by their own public administrations, after having exercised their free movement rights or trying to do so. For example, for individuals, when moving to another country or coming back to their own country after having stayed in another country; for businesses, when establishing, providing services or selling products which are already marketed in another Member State (or EEA country).

⁷ SOLVIT cannot intervene in cases related to purely national law, where a public authority is not involved and where a court proceeding has already been launched, for example cases related to residence rights in the EU of third country nationals when those rights do not derive from a relationship with an EU citizen or cases on commercial issues between businesses (B2B).

and capital) including policies closely linked to them (such as taxation, employment, social policy and transport).

The network is coordinated by the European Commission.

Since its launch in 2002, SOLVIT has grown to become a very important means of helping EU/EEA citizens and businesses claim their place at the heart of the Single Market. Building on 15 years' experience, SOLVIT's case load has increased from 5 to 200 cases a month. In 2016, SOLVIT dealt with 2 414 cases. Its centres took an average of 59 days to handle a case and resolved 89% of the cases.

SOLVIT's achievements are built on many success stories – a few examples:

A French company requested a VAT refund from the German authorities – but the request remained unanswered for 10 months. Thanks to SOLVIT's intervention, within 6 weeks the procedure was speeded up and the company received the amount it had asked for.

Three Portuguese nurses applied to have their professional qualifications recognised in Spain. Under EU law, the authorities have to respond to the application within three months. The deadline passed but thanks to SOLVIT's intervention, within two weeks their qualifications were recognised in time.

An Austrian artist wanted to register as a resident in Luxembourg. He handed in all the necessary papers to the local authorities but they refused to register him unless he presented a statement of support from a resident in Luxembourg. SOLVIT pointed out that this additional requirement was not in line with EU law. The local authority revised its position and issued the registration certificate. Thanks to SOLVIT's intervention, the case was solved within one week.

A Dutch national was prevented from importing a trailer into Bulgaria after moving there. As trailers lighter than 750 kg do not have to be registered in the Netherlands, the importer had no registration document – so the Bulgarian authorities refused to register the trailer. Thanks to SOLVIT's intervention, the case was solved within 13 weeks.

Qualified physiotherapists from Romania used to suffer long delays getting recognised to practice in France. SOLVIT intervened within 7 weeks and recognition was promptly granted.

French aviation authorities had been blocking a Norwegian aviation company from operating domestic flights in France. SOLVIT intervened and solved the problem in 10 weeks.

Whilst SOLVIT was able to solve many problems for citizens and businesses, the increased scale of the service has amplified the challenges. More needs to be done for the system to reap its full potential as a problem-solving tool. **Member States** have been calling for and supporting a strengthened SOLVIT that works to the full for citizens and businesses. Back in February 2016 the **Competitiveness Council** called on the Commission to take urgent action on this matter.⁸ Likewise, the **European Parliament** has repeatedly called for SOLVIT to be bolstered.⁹

In this context and in line with its political priorities, the Commission is committed to taking, together with Member States, further steps to **strengthen SOLVIT's strategic role** to make

⁸ See Council conclusions at <http://data.consilium.europa.eu/doc/document/ST-6622-2016-INIT/en/pdf>

⁹ See the European Parliament Resolution of 27 February 2014 on SOLVIT (2013/2154(INI)), the European Parliament report of 1 October 2015, *Towards improved single market regulation* (2015/2089(INI), rapporteur Anneleen Van Bossuyt) and the European Parliament report of 3 May 2016, *The Single Market Strategy* (2015/2354(INI), rapporteur Lara Comi).

the Single Market work better in practice for citizens and businesses. This can materialize only if Member States provide their SOLVIT centres with adequate staffing and recognition within their national administration. The weakest link impacts the performance of the network as a whole.

In achieving this objective, the Commission is **building on its assessment of the current functioning of SOLVIT**,¹⁰ accompanying this Communication. The assessment has highlighted shortcomings requiring improvements, notably as regards the administrative capacity at SOLVIT centres; meeting the quality criteria set out in the 2013 SOLVIT Recommendation; awareness of SOLVIT as a problem-solving tool, especially among start-ups, SMEs and other businesses; and its role in EU law enforcement.

The Action Plan outlined in this Communication will work alongside the other Commission initiatives included in the **compliance package**, in particular the Single Digital Gateway, which will provide citizens and businesses with a single access point to Single Market-related information, assistance, advice, problem-solving services and e-procedures. It tallies with the Commission Communication 'Europe's next leaders: the Start-up and Scale-up Initiative', as it aims to further remove barriers for start-ups wanting to operate across borders. Lastly, it complements the aims of the 'European pillar of social rights' and related initiatives, reflecting this Commission's priority of promoting social fairness and opportunities in the EU.

This Communication is setting out measures to strengthen SOLVIT with timelines to be implemented both at the EU and Member States level. Strengthening SOLVIT will be an ongoing process and the timelines will allow monitoring of the implementation of the necessary measures. They aim to promote SOLVIT by (I) further improving its quality, (II) further increasing awareness-raising activities and (III) upgrading its role in EU law enforcement.

I. PROMOTING SOLVIT BY FURTHER IMPROVING ITS QUALITY

Minimum operational and quality standards are outlined in the 2013 SOLVIT Recommendation. Respect for these standards throughout the network is important for the applicants and the cooperation between the centres. The application of these standards varies across the network as explained in the assessment accompanying this Communication. Action is therefore needed to improve the overall quality of SOLVIT notably in terms of administrative capacity, handling of complex and sensitive cases and legal expertise.

A precondition for this is that Member States ensure that SOLVIT centres are well resourced and positioned with adequate and stable staffing and with the necessary legal expertise. For its part, the Commission will continue to draw on means such as the yearly reporting on the performance of SOLVIT in monitoring adequate staffing of SOLVIT centres, and will use the Single Market Scoreboard to report on the outcome. The Commission will also use all available EU funding opportunities to offer Member States **tailored support in boosting their administrative capacity** and in making their SOLVIT centres operate more effectively. In particular, an advanced training course for staff in the national SOLVIT centres, focusing on specific legal issues of particular importance for the business community is foreseen to be funded through the COSME 2018 programme. The new Structural Reform Support

¹⁰ See Commission Staff Working document 'Assessment of the performance of SOLVIT' accompanying this Communication.

programme also, envisages support for Member States' administrative capacity (amongst other exchanges of experts and technical assistance).

In addition, a **better handling of complex and sensitive cases** between the Commission and Member States should be ensured. For that purpose, more efficient **knowledge sharing** for example by using interactive tools complementing face-to-face trainings, will be promoted. This is essential taking into account the variety of legal areas covered by SOLVIT as shown in figure 1.

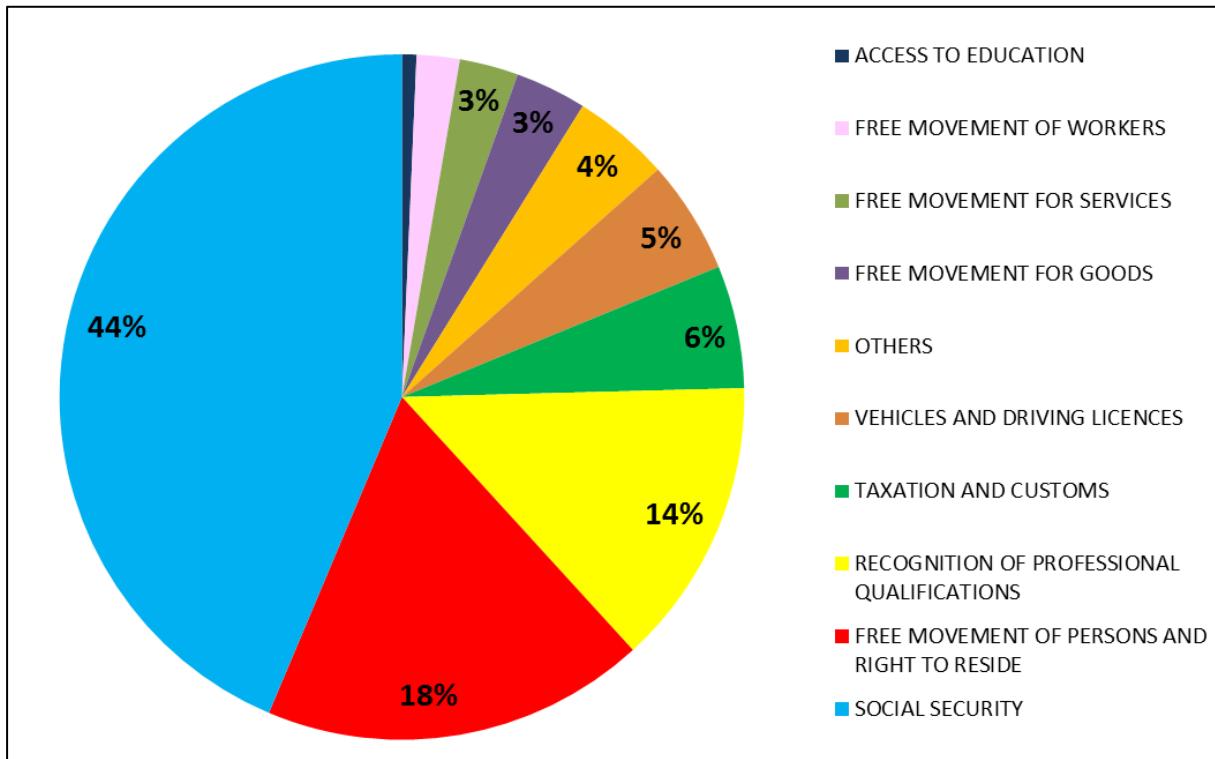


Figure 1: Legal areas SOLVIT 2002-2016 (source SOLVIT database)

In addition, further specific legal expertise could be provided by **SOLVIT branches ('antennas')** set up to respond to particular needs in a certain sector or area where national policy experts will be involved in handling complex cases directly. To avoid confusion and duplication of efforts, the Commission is striving to avoid a proliferation of problem solving tools similar to SOLVIT in specific areas of Single Market legislation. The mutual recognition of non-harmonised goods is potentially a good case in point. Here, if SOLVIT's informal approach fails, the Commission will look at the possibility of introducing an appeal procedure for businesses, as part of the review of enforcement of the mutual recognition principle. Another area identified is problems related to tax rules such as tax discrimination citizens may be facing in cross-border situations.¹¹

Moreover, the Commission will provide more **effective legal support** to the network by opening the SOLVIT application for direct communication between Commission experts and SOLVIT centres. It will also further improve the management of divergent views between the two SOLVIT centres involved in the assessment and handling of a case. The Commission will

¹¹ The better use of SOLVIT as a pragmatic tool to tackle problems related to tax rules in cross-border situations was identified as one of the actions in the EU citizenship report 2017 to strengthen citizens' rights. Every year, SOLVIT handles approximately 35 citizens cases related to personal taxation problems with a resolution rate of 86%.

follow a more structured arbitration procedure, with more systematic monitoring of SOLVIT cases to identify controversial issues and discussions with the network. Using ‘peer review’ in workshops will help identify best practice and common rules.

In addition, the Commission will monitor the quality of the case handling more closely. Here, feedback from applicants is important to improve procedures, pinpoint best practice and therefore enhance quality of service. Thus, a **comprehensive user survey system** will be developed in consultation with the SOLVIT centres.

II. PROMOTING SOLVIT BY INCREASING AWARENESS- RAISING ACTIVITIES

Although it is not possible to assess the exact size of the cross border dispute resolution ‘market’ where SOLVIT is potentially active, a Single Market of 500 million citizens and businesses would imply that there is a greater need for SOLVIT than its current 2 500 cases would indicate.¹²

Figure 2 shows the number of cases submitted to the network by the SOLVIT home centres. These are the centres from the EU/EEA Member State¹³ where the applicant is originally from (nationality), is residing, is established or derives rights from. Although the difference in the case load can to some extent be explained by the differences in size and cross-border mobility, there is room for targeted awareness raising activities in all EEA/EU Member States. These activities will focus on making sure citizens and businesses are directed to SOLVIT the moment they seek redress for a problem within SOLVIT’s remit according to the needs of each EEA/EU Member State.

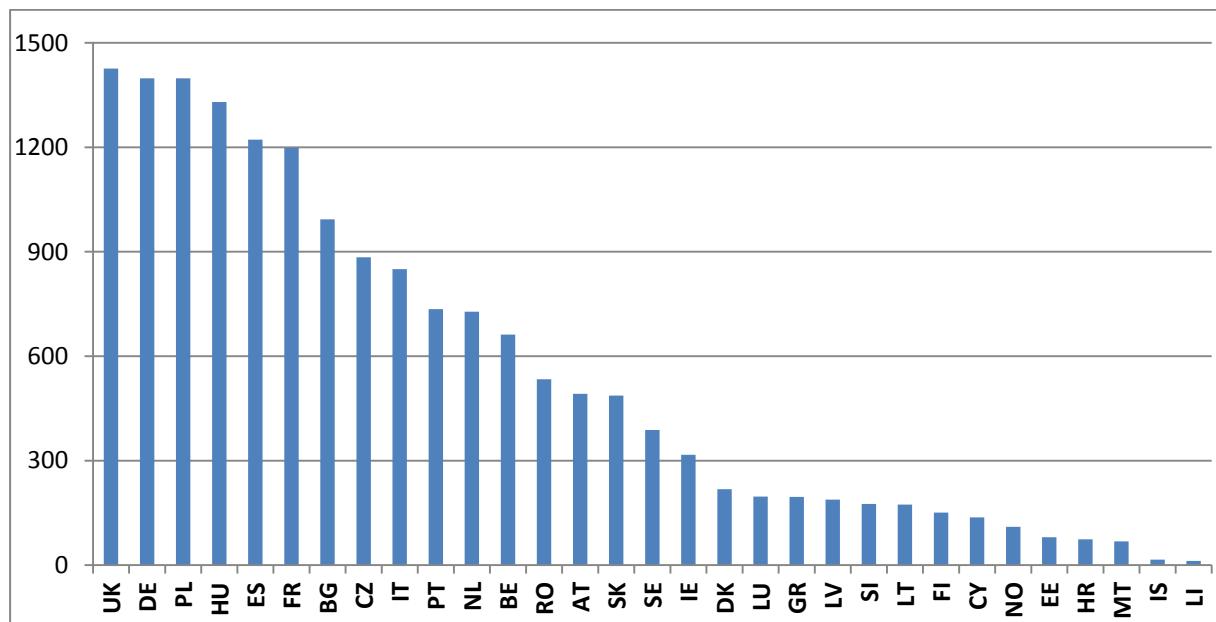


Figure 2: Cases per home SOLVIT centre 2002-2016 (source SOLVIT database).

To increase the overall ‘findability’ of SOLVIT, the **Commission will further improve SOLVIT’s overall visibility** on the *Your Europe* web portal (the main current access point).

In this context, the future Single Digital Gateway would provide citizens and businesses with easy access to comprehensive, high-quality information on the Single Market, to personalised

¹² See Staff Working document ‘Assessment on the functioning of SOLVIT’ accompanying this Communication.

¹³ These cases are submitted against the SOLVIT centre of the EEA/EU Member State where the problem occurred.

advice, effective assistance and problem-solving services. It would link existing EU and national mechanisms, including SOLVIT, and thereby increasing its findability.

The Commission will also work closely with Member States through the national SOLVIT centres, Commission representations in Member States and intermediary organisations (representing certain sectors, professions or interests, chambers of commerce etc.) and step up cooperation with other relevant networks¹⁴ to develop **targeted awareness-raising activities** (for example joint meetings and training courses, joint social media actions).

Better enforcement benefits citizens and **businesses** alike. When their rights are breached, they should be easily able to identify and make use of the most appropriate redress mechanism available. As shown in figure 3, over the years, the proportion of citizens' in comparison to business cases submitted to SOLVIT has increased. On the one hand, this shows that SOLVIT has become increasingly important for mobile citizens in the EU/EEA. On the other hand, it has resulted in relatively fewer businesses benefitting from the services SOLVIT offers. The main legal areas for business cases in 2016 were taxation, free movement of services and free movement of goods. The resolution rate of business cases at 80% was lower than the network average (89%). It is nonetheless particularly good for the taxation field (where there are many cases of late VAT reimbursement) although less as far as the free movement of goods and services is concerned.

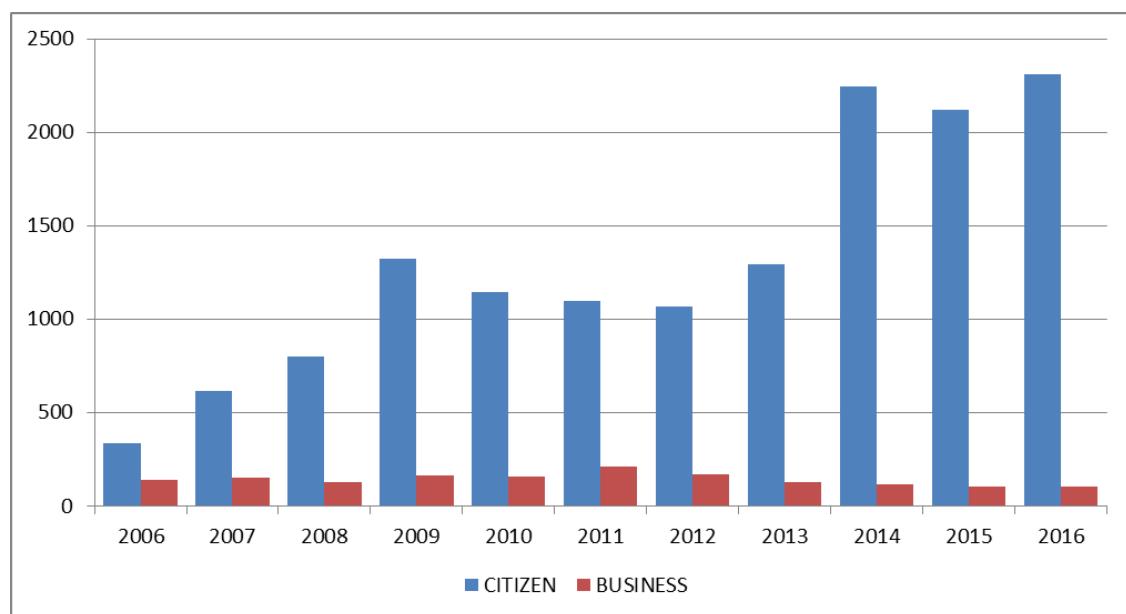


Figure 3: Evolution of citizens' vis-à-vis business cases 2006-2016 (source SOLVIT database).

¹⁴

This cooperation is wide ranging. The EU and national networks concerned here are the European Enterprise Network, European Consumer Centres, EURES, Fin-net, Product Contact Points, Europe Direct Information Centres and European Network of Ombudsmen. It includes the very close links between technical applications enabling complaints to be passed on directly (to Your Europe Advice and the Europe Direct call centre, for instance). It also covers joint seminars or training sessions to make networks aware of each other's remits, so that each can be signposted correctly when necessary. Moreover, this cooperation is provided for in EU legislation: for example, Member States must ensure that bodies responsible for promoting equal treatment and supporting EU workers and their families cooperate with SOLVIT (Directive 2014/54/EU).

SOLVIT should be geared towards handling more business-related cases. There is a strong need to promote a broader knowledge of the help SOLVIT can offer within the business community. It is equally important that similar activities are undertaken at the national level.

Over the years the SOLVIT network has built up its cooperation with other relevant networks.¹⁵ To this end, the Commission will support moves to step up cooperation with these networks, which is particularly relevant to attracting more business cases. Of particular importance is the cooperation with the Enterprise Europe Network, which assists SMEs and start-ups that operate or plan to operate across borders.

The Commission will make more regular contact with intermediary organisations to receive their input on possible improvements to SOLVIT and knowledge-sharing. It will also introduce new arrangements to allow intermediary organisations to submit and follow cases directly in SOLVIT.

In general, more strategic awareness-raising activities about SOLVIT and the development of more structured cooperation with intermediary organisations and relevant networks, will enhance SOLVIT's role in providing useful feedback and evidence on how the Single Market is functioning in practice: with a larger 'critical mass' of cases, involving more businesses, there will be more relevant and significant input in terms of Single Market governance. This can be done for instance by using its evidence base in evaluations of possible changes in Single Market policies and adoption of EU legislation to address gaps of EU law, as was the case in the revision of the 2005/36/EC Directive on professional qualifications.¹⁶ Promoting quality and awareness of SOLVIT will contribute to a more significant role of SOLVIT in EU law enforcement.

¹⁵ Idem.

¹⁶ Directive 2013/55/EU OJ L 354, 28.12.2013, p. 132–170.

III. PROMOTING SOLVIT BY UPGRADING ITS ROLE IN EU LAW ENFORCEMENT

Many problems relating to the implementation of EU law are detected by the network. Figure 4 shows the number of cases submitted against the lead SOLVIT centre in each EEA/EU Member State.¹⁷

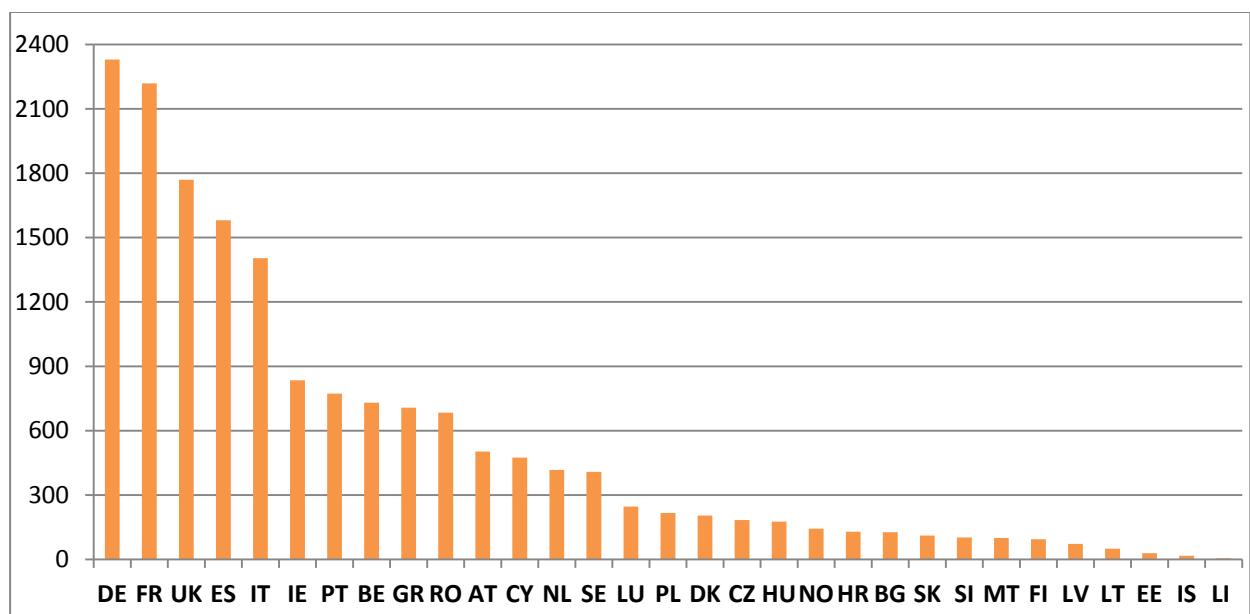


Figure 4: Cases per lead SOLVIT centre 2002-2016 (source SOLVIT database).

Over the years, as shown in figure 5, SOLVIT has received an increasing number of cases linked either to a structural problem in the national legislation incorrectly implementing EU law in a EEA/EU Member State,¹⁸ or where the problem is recurrent. Nevertheless, as laid out in the assessment accompanying this Communication, the current handling, follow-up and reporting on these cases does not allow for a systematic use of the evidence amassed through SOLVIT to improve Member States' compliance with EU law. Out of the 97 structural cases handled by SOLVIT in 2016, 78 were unresolved and 19 solved. This corresponds to a resolution rate of only 20%.

¹⁷ Lead SOLVIT centre is the centre in the EEA/EU Member State where the problem occurred.

¹⁸ As defined in the 2013 SOLVIT Recommendation structural problem is a breach caused by a national rule running counter to EU law (as opposed to a one-off administrative mistake). A recurrent problem relates to a breach of an administrative practice (not a written rule) running counter to EU law.

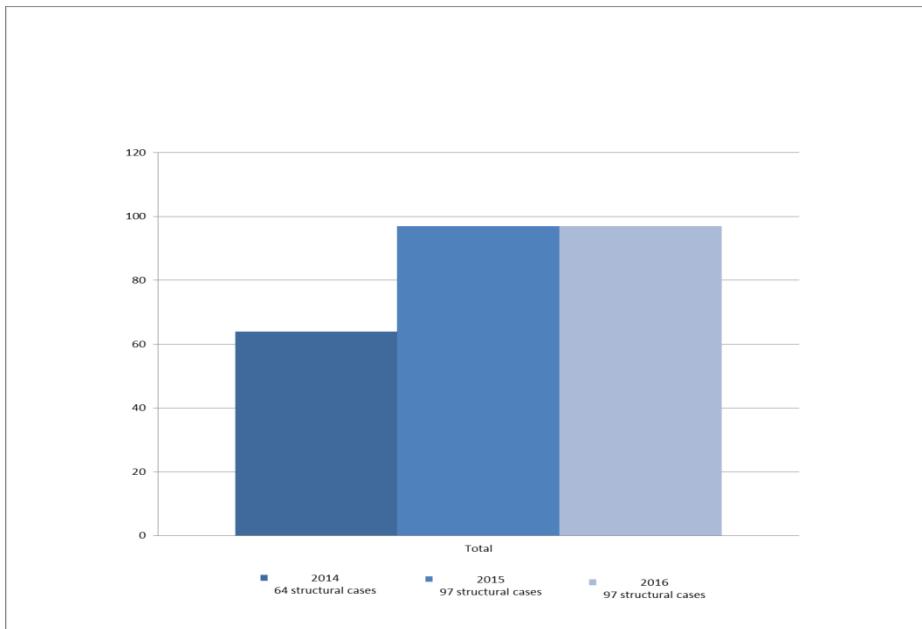


Figure 5: Evolution of cases linked to structural problems in SOLVIT 2014-2016 (source SOLVIT database).

Member States have the primary responsibility for transposing, applying and implementing EU law correctly. As a result, the relevant **SOLVIT centres need to turn first to the competent authorities within the Member State concerned to try and find a solution to cases linked to structural and recurrent problems identified by the network**. However, if a SOLVIT centre cannot persuade these authorities to address the problem, any evidence gathered ‘on the ground’ should be explored further in order to identify problems with significant impact on the functioning of the Single Market as envisaged in the strategic approach to the Commission’s enforcement actions set out in its Communication on *EU law: Better results through better application*. This is presently being done on an *ad-hoc basis* but a more comprehensive and systematic approach should be developed. Furthermore, in particular structural cases and where necessary and proportionate, the envisaged Single Market Information Tool, could be used by the Commission to request information, such as cost structure, pricing policy, profits or employment contracts directly from concerned market players.

Commission investigations of issues detected through SOLVIT will provide an incentive to national authorities to cooperate more closely with the SOLVIT network. At the national level there should be stronger links between SOLVIT centres, complaint handling contact points and infringement coordinators so that Member States do more to remedy structural and recurrent problems. In addition, **available data and evidence in such cases could be disseminated and used in a more structured and systematic way** across the Commission and at national level. The SOLVIT database should be improved to record structural and recurrent problems and allow Member States to report on the action taken to remedy them. Using means such as the Single Market Scoreboard, the **Commission will regularly inform Member States** and relevant stakeholders about such breaches of EU law and other obstacles to the Single Market detected through SOLVIT.

In line with the strategic approach to the Commission’s enforcement actions, **citizens and businesses should be advised and encouraged to use the most appropriate problem-**

solving mechanism available. Subject to the complainant's agreement, SOLVIT's fast and informal redress mechanism could deal with individual complaints submitted to the Commission when appropriate and within SOLVIT's mandate.

In the context of the EU e-Government Action Plan, the **Commission will explore the feasibility of the 'once only principle'**.¹⁹ This would obviate citizens and businesses wishing to complain to the Commission for the first time following an unresolved SOLVIT case from having to re-submit information already held in SOLVIT. This will allow the Commission, in assessing the case, to make full use of the legal analysis and evidence already collected through SOLVIT, in a more effective and efficient process.

IV. CONCLUSIONS

The Commission is committed to ensuring that citizens and businesses enjoy to the full all the benefits of the Single Market: its full potential in terms of new jobs and growth opportunities can only be realised when rights enshrined in EU legislation are well known to all actors, as well as fully and consistently respected across borders.

The Commission will bring its full support to improving the quality of the SOLVIT network through capacity building and knowledge sharing with Member States. In addition, by boosting the use of SOLVIT by businesses and fostering further cooperation with other relevant networks, the Commission will ensure that feedback from SOLVIT is more significant and is fully taken on board when designing future Single Market policies and legislation. Finally it will upgrade its role in EU law enforcement by using the evidence gathered through SOLVIT in a more structured and systematic way.

The three areas identified in this Action Plan complement each other. Making the planned measures a reality will only be possible through joint commitment and ownership between the Commission and the Member States, at all levels of administration. Adequate staffing and recognition of SOLVIT centres within their national administrations is a prerequisite for strengthening SOLVIT. The Commission, in cooperation with the EEA/EU Member States, will coordinate activities and regularly report on progress on implementation of this Action Plan through the bi-annual SOLVIT workshops.

This joint effort will reinforce SOLVIT in its unique role of ensuring compliance with EU law by national authorities, whilst delivering practical redress for problems encountered by businesses and citizens for problems with their rights within the Single Market. This will in turn provide new opportunities for citizens and businesses and help them make sure they can enjoy their Single Market rights to the full.

¹⁹

EU e-government action plan 2016-2020, COM (2016) 179 final. Under the 'once only' principle, public administrations should ensure that people and businesses supply the same information only once to a public administration. Public administration offices take action if permitted to internally re-use this data, in due respect of data protection rules, so that no additional burden falls on people and businesses.

Roadmap to strengthening SOLVIT²⁰

Commission measures:	Timeline
<i>explore the possibility of an appeal procedure for businesses in the area of mutual recognition for goods;</i>	Q2 2017
<i>make use of the existing funding possibilities at EU level such as the COSME and the Structural Reform Support programme to build up the administrative capacity of SOLVIT centres;</i>	Q3 2017
<i>develop, in cooperation with the SOLVIT centres, a comprehensive user survey system;</i>	Q3 2017
<i>provide more direct and effective legal support to the network using an improved facility for informal legal advice, interactive training tools and managing divergent views;</i>	Q2 2018
<i>enhance cooperation and partnerships with intermediary organisations (representing certain sectors, professions or interests, chambers of commerce etc.) and relevant networks by enabling a direct connection with SOLVIT;</i>	Q2 2018
<i>improve SOLVIT's findability through Your Europe, subsequently as part of the wider Single Digital Gateway;</i>	Q2 2018
<i>make more structured and systematic use, through an improved facility, of the data and evidence available in the SOLVIT database for targeted EU law enforcement;</i>	Q2 2018
<i>explore the feasibility of the 'once only' principle in cases where applicants wish to file a formal complaint with the Commission following an unresolved SOLVIT case.</i>	Q2 2018
Member States measures:	
<i>ensure adequate and stable staffing, continuity of service and an adequate level of knowledge of EU law in their SOLVIT centres;</i>	ongoing
<i>ensure cooperation with national intermediary organisations and the national contact points of the different existing networks by using a direct connection with SOLVIT;</i>	Q2 2018
<i>ensure seamless cooperation between the SOLVIT centres and the national complaint and infringement coordinators; through their national SOLVIT centres, report systematically on progress made to address structural and recurrent cases.</i>	Q2 2018

²⁰

Actions indicated for 2018 are either related to a substantial development of the SOLVIT application or a foreseen adoption of EU legislation (e.g. the Single Digital Gateway).