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Better Implementation of EU Legislation is not just a question of taking Member States to Court

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SOLVIT - Street-level EU law enforcement through an effective free-of-charge out-of-court dispute settlement mechanism for a better functioning of the Single Market.

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Abstract

The single market is one of the most wide-ranging and significant symbols of European integration. While it brings great opportunities to European citizens in theory, in practice, delayed and incorrect implementation of single market rules leave EU citizens with a highly fragmented ‘regulatory patchwork’, deterring citizens and businesses from exercising their rights. One way to solve such a problem is to turn to formal proceedings such as to the European Commission and its role as ‘Guardian of the Treaties’ and Treaty articles 258-260 TFEU, i.e. the infringement procedure or to a national court. An alternative way to guarantee street-level EU law enforcement is through SOLVIT; an out-of-court dispute settlement mechanism providing quicker solutions to problems of cross-border nature. This article provides a timely analysis of the reinforced infringement procedure and SOLVIT centres, how the system works and how we will be able to strengthen its strategic role to address the citizens ‘integration fatigue’.

'A fully robust and fully operational single market is the main vehicle for economic union.' - Mario Monti, Internal Market Commissioner, 1999-2004.

Introduction: Non compliance with EU legislation is Achilles heel in the EU system

The single market is one of the most wide-ranging and significant symbols of European integration. It encompasses many of the policy areas where the EU is most influential. These include the European Customs Union, the single currency, the Schengen Convention and many other policies and laws designed to unite the diverse national economies of Europe into a single unit.

While the internal market brings great opportunities to European citizens in theory, in practice, things sometimes look different. On the one hand, EU legislation is often transposed too late, with more than 70% of EU directives not being implemented by the deadline (Kaeding, 2007). The most recent European Commission scoreboard illustrates that 74 single market directives had not yet produced their full effects due to lack of national transposition measures in one or more Member States (European Commission, 2010). In addition, Member States grant themselves too often an extra 6-9 months after the deadline has expired to adopt the implementing legislation. Next to delayed transposition, single market directives are too often applied incorrectly (Versluis, 2007), which leaves us with a highly fragmented single market, i.e. a 'regulatory patchwork', deterring citizens and businesses from exercising their rights. In the long run, delayed and incorrect enforcement of EU legislation are highly problematic since they potentially jeopardize the credibility and reputation of the single market. This is a serious threat to the EU project as a whole.

Let us take the following example about a British hairdresser from Sheffield. Successfully, he had been running a hair salon in the UK for ten years and now wanted to start a business in Berlin, Germany. In order to do so he had to prove that he had sufficient experience in his profession. Being a well-informed EU citizen, he provided all necessary documents, but the local German authorities rejected his application for the needed permit. They argued that his certificate of experience from the Department of Education and Skills in Sheffield had not been issued by the right British authority. Because of that our British hairdresser was not able to open his salon.¹

What does the day-to-day case tell us? First, the local German authority was not aware of EU Directive 1999/42/EC on establishing a general system for the recognition of qualifications in respect of the professional activities listed in the directive. Already adopted in late 1999, its annex lists all organizations which can provide these certificates of experience. The British Department of Education and Skills in Sheffield is one of them. Accordingly, the hairdresser's certificate had to be accepted. Second, it was not a problem of non-transposition. In fact, Germany had transposed the Directive more or less

¹SOLVIT Brochure 2008, p.7;
<http://www.publications.parliament.uk/pa/ld200708/ldselect/ldcom/36/7121306.htm>.

on time and correctly by its *Fünfte Verordnung zur Änderung der EWG/EWR-Handwerk-Verordnung* on 09/10/2002. Years before the British hairdresser issued his request. So, this simply means, that it was not a federal problem of non-transposition, but a regional public authority applying European/national legislation incorrectly.

One way to solve such a problem is to turn to the European Commission in its role as ‘Guardian of the Treaties’. As such, the Commission firmly supervises, controls and, if need be, files complaints to the Court of Justice of the EU in order to ensure that other EU institutions, Member States, companies and individual citizens comply with the Union *acquis communautaire*. But this does not necessarily lead to the redress for the individual problem/person. Alternatively, the British hairdresser could have brought his case to the German court. But these options are often very time-consuming and costly (Conant, 2002), which can be fatal for smaller businesses or citizens, who e.g. want to take up a pending job offer in a different Member State. (*remark: another difference is that infringement proceedings do not necessarily lead to the redress for the individual problem/person, while SOLVIT and national court rulings do by determining that for example mr or ms x can should be authorised to work as a teacher in MS x.*)

This is where SOLVIT steps in: an out-of-court dispute settlement mechanism providing quick and informal solutions to problems of cross-border nature, involving a public authority, which applied EU law incorrectly.² The current *acquis communautaire* comprises 1521 directives and 976 regulations related to various single market areas such as the recognition of diplomas, providing ample room for similar misapplications and, therefore, demands for less formal solutions. In our case, the German SOLVIT intervened and informed the local German authority about their misapplication of EU legislation. It only took one week then until the permit was delivered and the hairdresser was able to start his business in Berlin.³

This article is structured in two parts: First, we explain the infringement proceeding as redefined by Articles 258 and 260 TFEU to then compare this long-standing procedure with the innovative and complementary out-of-court dispute settlement SOLVIT system. The second part, then, will assess the performance of SOLVIT centres across EU Member States. Clearly, not every case is solved within one week. There are considerable differences across SOLVIT centres. Based on SOLVIT reports and interviews with staff from the centres and the European Commission’s support team we compare four centres with contrasting handling speeds and resolution rates of cases (Belgium, Sweden, Greece and Italy) to identify two success factors related to the centres institutional capacity: number and qualification of human resources and administrative support of the host administration.

² SOLVIT is an informal network between civil servants from national administrations which are cooperating to resolve problems for citizens and businesses in a pragmatic way. The European Commission has a facilitating role in the network, but is not a direct party to the problem solving.

³SOLVIT Brochure 2008, p.7;

<http://www.publications.parliament.uk/pa/ld200708/ldselect/ldecom/36/7121306.htm>

INFRINGEMENT PROCEDURE AFTER LISBON

Each Member State is responsible for the implementation of EU law (adoption of implementing measures before a specified deadline, conformity and correct application) within its own legal system. Under Article 258 TFEU the Commission is defined as the guardian of the treaties. Consequently, where a Member State fails to comply with EU law, the Commission has powers of its own (action for non-compliance) to try to bring the infringement to an end and, where necessary, may refer the case to the Court of Justice of the European Union. Here, the Commission takes whatever action it deems appropriate in response to either a complaint or indications of infringements which it detects itself.

Three phases can be distinguished. Under the non compliance procedure started by the Commission, the first phase is the pre litigation administrative phase. The letter of formal notice represents the second stage in the pre-litigation procedure, during which the Commission requests a Member State to submit its observations on an identified problem regarding the application of EU law within a given time limit. If a Member State has not taken the necessary measures to comply with a judgment of the Court of Justice, the Commission may refer the matter to the Court of Justice (third stage). The decision on a second referral to the Court is always accompanied by a proposal for a penalty and/or lump sum payment, which takes account of the seriousness of the infringement (i.e. importance of the rules breached, the impact of the infringement on general and particular interests, its duration and the Member State's ability to pay). In the end, rulings by the Court are binding on all EU Member States as well as on the EU institutions themselves.

The Treaty of Lisbon brought about two new elements. First, the Commission may ask the Court of Justice of the European Union to impose financial sanctions on a Member State for late transposition of a directive when bringing a case before the Court under Article 258 TFEU. Secondly, the Commission has only to give the Member State the opportunity to make any observations before making a second referral to the ECJ under Article 260.2 TFEU, following a first ruling under Article 258 TFEU. The expected result will be a considerable reduction of handling time, which has amounted to an average of 27 months over the last years (1999-2008) (European Commission, 2010).

In 2009, the Commission was handling around 2900 complaints and infringement files of which around 77 % of complaints were closed before the first formal step in an infringement proceeding; around a further 12 % of the total were closed before the reasoned opinion and around a further 7 % before a ruling from the Court (European Commission, 2010).

All in all, the Commission has worked hard to enforce EU legislation through bringing court proceedings against Member States under the revamped Articles 258 and 260 TFEU. These legal procedures are time consuming and involve many procedural steps. Moreover, they represent a political instrument at the Commission's disposal (Steunenbergh, 2010).

But there are even more fundamental problems with the use of court proceedings as the sole means of enforcing EU legislation: Most EU legislation has to be applied on a daily basis by large numbers of people throughout the Member States. It is neither possible nor practical for all the legal actions which could arise from lack of compliance with the EU rules in these multitudes of situations to be channelled through one enforcing authority, the Commission, and one court of law, the Court of Justice of the European Union. The Commission is unable to oversee, on the ground, the application of individual decisions necessary to comply with Union legislation.

Solutions might be the ever growing number of EU agencies with competences to ensure the practical incorporation of EU legislation into legal and administrative structures and their practical application at all levels within Member States (Groenleer, Kaeding and Versluis, 2010). In addition, SOLVIT centres, which is not a Commission system, but a network between Member States to apply EU law correctly, complement the Commission's discretion to start infringements proceedings, i.e. a supplementary successful enforcement system to ensure that a failure to transpose directives or errors in implementation do not remain unsanctioned. Its first objective is to help individuals encountering a problem, the idea of 'sanctioning' the authority is not really an objective, if only to ensure that the same mistake will not be made again and thus profit also other citizens/businesses.

SOLVIT – an alternative, free-of-charge out-of-court dispute settlement mechanism

SOLVIT was set up in 2002 by European Commission Recommendation of 7 December 2001 *on principles for using "SOLVIT" – the Internal Market Problem Solving Network*. It is a European network for settling cross-border disputes informally about the incorrect and inaccurate application of single market rules arising between citizens or businesses and public administrations across EU Member States. It is a free service and has a centre in every EU Member State as well as Iceland, Liechtenstein and Norway. All centres are part of the national administration; most centres are either based in the Ministry of Foreign Affairs or the Ministry of Economic Affairs. The system is strongly supported by the European Parliament (see resolution of the EP of 9 March 2010).

Key features of SOLVIT cases: growing, citizen-cases and focus on three problem areas

The numbers of cross-border cases is continuously rising. Over the last eight years, the case volume has progressively increased in four waves starting with less than 200 (2003), 300 (2004), 400 (2005-2006) leading up to more than 1000 cases as from 2008 with more than 1500 cross-border cases reported in 2009. Next to the steady increase in overall numbers of cases, most cases (90%) are brought in by citizens. In 2009, only 162 business cases were reported (SOLVIT (annual report 2009 : 7). The third characteristic relates to the problem areas. For citizens, three main policies matter which make up for 80% of all problems reported to SOLVIT (2010: 8): residence rights, social security, and recognition of professional qualification. Thereafter follow motor vehicle registration (5%) and taxation (4%). While social security problems are especially dealt with in France and Ireland, a very large proportion of the problems regarding professional qualifications occur in Spain. This is mainly because Spain attracts a lot of migrants from other EU states. Most residence rights and visa problems are reported in the United Kingdom, which is a likely consequence of the United Kingdom not being part in the Schengen area.

How does SOLVIT work in practice? Refreshing un-bureaucratic and fast

When a citizen or business submits a case to SOLVIT, the local SOLVIT centre (the so-called ‘home’-centre) checks whether the case falls into the remit of the SOLVIT system and then enters the case into an online database, which will automatically forward the case to the SOLVIT centre of the Member State where the problem occurred (the so-called “lead”- centre). The online database serves for recording complaints, handling cases, and archive.⁴ If the case is accepted (deadline: one week), the target deadline for finding a solution to the problem is 10 weeks. Within this period of time the ‘lead’-centre seeks the necessary evidence and legal advice to solve the case in order to contact the public authority that allegedly violated single market legislation to negotiate a solution to the problem.

Note that the SOLVIT system offers help in cases concerning problems of cross-boarder nature, involving a public authority, but not in disputes between businesses and businesses and between businesses and citizens or if judicial procedures are already

⁴ Synergy, The IDABC Quarterly, January 2008 – Issue 09, p.6.

underway.⁵ Furthermore, the complainant does not have to accept the proposed solution. But she also cannot challenge it formally through SOLVIT. Alternatively, more time-consuming legal actions are at its disposal.

How does SOLVIT differ from the infringement procedure?

Compared to the infringement procedure as defined under Article 258 and 260 TFEU, SOLVIT is an alternative complementary out-of-court dispute settlement mechanism. Although it is not an information network providing legal advice on Union matters either, it is no legal authority intervening in legal proceedings once under way. Other than infringement cases under Article 260 TFEU, SOLVIT is without legal basis. Secondly, there are no legal proceedings as in the infringement proceeding. Thirdly, SOLVIT is an informal way of solving misapplications of internal market legislation. By that it is a lot faster; the average case handling time is 69 days (2009), while the respective case handling time for the Court of Justice of the European Union is 16.9 months (2009).⁶

Table 1. Comparing the infringement system with the SOLVIT system

INFRINGEMENT PROCEDURES	SOLVIT
<ul style="list-style-type: none"> - between Commission and Member State - legal basis (Articles 258 and 260 TFEU) - legal proceedings - formal - addresses non-implementation and misapplication of EU law - average case handling time if referred to the Court in 2009: 27 months - any breach of EU law - Court ruling legally binding - can propose penalty payments or a lump sum at stage of first referral to the Court 	<ul style="list-style-type: none"> - between Member States - no legal basis - without legal proceedings - informal - addresses misapplication of EU law and when possible also bad transposition - average case handling time in 2009: 69 days - only cross-border problems - negotiated solutions not legally binding - no pecuniary penalties foreseen

Consequently, SOLVIT is a cost-saving mechanism for citizens, businesses, but also public administrations. It is estimated that the total amount of costs saved in 2009 was 128 million Euros⁷ Fourthly, while infringement procedures can be initiated against any breach of EU law, the SOLVIT system applies only on the misapplication of EU law in cross-border cases. Last but not least, fifthly, in case the CJEU decides that there has been an infringement, the Member State is legally obliged to correct this and may be forced to pay penalty payments or a lump sum at stage of first referral to the Court. The SOLVIT system, to the contrary, does not foresee any pecuniary penalties, but aims to have a pragmatic redress of the situation for the individual client. Furthermore, its negotiated solutions are not legally binding (see table 1).

⁵ SOLVIT Brochure 2008, p.3.

⁶ Interview with Stefaan van der Jeught, European Court of Justice.

⁷This estimate applies to 26% of all resolved cases and are based on client estimates of the cost of failing to solve a problem (see also SOLVIT Annual Report 2008, p.5).

The growing number of SOLVIT cases over the last eight years and the fact that SOLVIT cases have, in the meantime, outpaced the total number of infringement cases under Art.260 TFEU, show that SOLVIT is a well functioning alternative for individuals when they encounter problems when moving or doing business in the EU. This is good news for citizens and businesses in Europe. While the use of infringement procedures by the European Commission has left a great deal to be desired in recent years, SOLVIT does not have this political ballast. It is a European network between Member States for settling cross-border disputes informally about the incorrect and inaccurate application of single market rules arising between citizens or businesses and public administrations across EU Member States with a target deadline for finding a solution to a problem of 10 weeks. Every pediment less to the enforcement of EU legislation increases the credibility and reputation of the single market and the EU project as a whole. *The quicker and more problem-focused, the better.*

Two Success Factors for Good Performance of SOLVIT centres across Europe

How well do SOLVIT centres perform? Do they stick to their target deadline of 10 weeks for finding a solution to a cross-border problem? Data show that it is possible to handle cases even faster. The average case handling time in 2008 was 69 days (2008: 5). But the figures differ considerably across EU Member States. Not all SOLVIT centres perform equally successful. As regards handling time, particularly France, Greece and Italy are comparatively slow scoring far beyond the SOLVIT centres' average of 69 days. While five centres (the Netherlands, Portugal, Spain, Hungary and Poland) meet the target deadline, the remaining 9 centres perform significantly better with an average handling time of around 45 days.

Another indicator for the performance of SOLVIT centres is the case resolution rate.⁸ Three performance groups can be identified (Solvit, 2009: Annex 1). The best performing centres (Germany, Ireland, Cyprus, Portugal, Czech Republic, Romania, Italy, and Belgium) have resolution rates above 90%. Five centres (Austria, Poland, France, United Kingdom and Hungary) managed the finalisation of 80-90% of cases in 2008. The remaining five centres, headed by Greece and Sweden, however, perform comparatively weak. The worst performing centres have resolution rates below 80%, with Sweden and Greece close to the 50% threshold. Table 2 summarises the Member States' performances on both dimension.

Table 2. Performance of SOLVIT centres with regard to handling speed and resolution rate, 2008

	Handling speed <i>fast</i>	Handling speed <i>Average</i>	Handling speed <i>slow</i>
Resolution rate <i>high</i>	Belgium , Cyprus, Czech Republic, Germany, Ireland, Romania	Latvia, Portugal	Italy
Resolution rate <i>average</i>	Austria, Bulgaria, Slovakia, United Kingdom	Hungary, Luxembourg, Netherlands, Poland, Spain	France, Norway
Resolution rate <i>Low</i>	Sweden	Slovenia	Denmark. Greece , Malta

Not included, because the relevant data was not provided: Estonia, Finland, Iceland, Liechtenstein, Lithuania.

In order to identify success factors for SOLVIT centres, we selected four centres (Belgium, Sweden, Italy and Greece) varying on both performance dimensions (handling speed and resolution rate).

⁸ Note that the statistics do not tell 100% how a centre performs; unresolved cases do not necessarily mean that that a centre is not competent. It could also be that a certain problem is already at a high political level, so there is no room anymore for informal interventions, or there are political reasons behind the misapplication of a certain EU Rule etc. The same would hold for case handling time.

What explains the variation of performance indicators across SOLVIT centres?

Assuming that all Member States are generally willing to solve cross-border problems effectively, we follow a sociological institutionalist argument, that actors have also to be capable of abiding by the law. That is, they should be able to take swift, effective and efficient decisions. That in turn depends on governments having resources, expertise, bureaucratic organization and other sources of power. Such government capacity for effectiveness will obviously facilitate speedy dispute settlements, assuming, of course, a willingness of the actors to find a solution. Hence, institutional capacity is key. The successful handling of cases depends on the right set of institutions. Based on our analysis two factors are of particular importance: human resources and administrative support.⁹

Institutional capacity: Human resources

The staffing level of the centres has a significant influence on handling speed and resolution rate. Especially the ratio of the number of cases to the number of staff, and the background of staff member matter.

Table 3. Ratio: Number of cases/number of staff and number of lawyers

	RATIO: NUMBER OF CASES/ NUMBER OF STAFF	NUMBER OF LAWYERS
Belgium	19 (38/2)	1 (out of 2)
Italy	35 (106/3)	0 (out of 3)
Sweden	11 (54/5)	4 (out of 5)
Greece	26 (26/1)	0 (out of 1)

Source: Interviews with staff members of all four centres, including the European Commission's support centre.

Whether staffing is adequate depends to a large extent on the size of the case load. Table 3 provides the ratio numbers of a centre's staff number compared to the case load we find a clear positive relationship. The figures illustrate that the lower the ratio figure, the better the performance scores of a centres. The SOLVIT centre in Rome, for example, has a ratio of 35 with only three staff members working on a high number of 106 cases. This leads to a slow handling speed in the case of Italy. In Sweden, to the contrary, the staffing level was, with five members of staff, adequate. Belgium is also still adequately

⁹Other factors, like working methods, may have some degree of influence, Especially Sweden was able to raise its resolution rate considerably lately by a change to more effective working routines combined with considerable efforts in raising its profile. Actually, the resolution figures for Sweden in 2009 are significantly better than in 2008.

staffed with two employees as the number of cases is less than forty percent of that of Italy. Greece, on the other hand, relatively under-staffed with a ratio of 26.

'Especially in these times of economic difficulties, there are few possibilities for the necessary increase of staffing in the SOLVIT centres. Also in some centres SOLVIT tasks are combined with other tasks, which in certain periods may mean that there is not enough time to deal with SOLVIT cases and to promote the service to the outside world to develop SOLVIT to its full potential' , reports Anoushka Janssens, the Team Leader of the Commission's SOLVIT support team.¹⁰ Interview partners add that, in order for SOLVIT to function properly, each centre should have at least 6 man months available on a yearly basis (SOLVIT, 2010: 14), the figures for medium-sized SOLVIT centres (18) and large centres (24) respectively. In addition, with the annual case load growing year by year it is clear that staffing will continue to be a critical success factor.

Next to the number of staff it is the legal qualification of staff that matters. Here, SOLVIT centres also differ strongly.¹¹ And again, table 3 points at a clear relationship between performance scores and legal expertise of staff members. We see that only few centres have legal experts in their team.¹² While in the Swedish centre four out of five employees are lawyers, the Greek and Italian Centres do not employ any legal experts at all.

For centres without lawyers it is sometimes difficult to get the needed legal information in order to settle cross-border disputes quickly.¹³ Consequently, the centres require the support from legal experts of other ministries. This often delays the solution finding process. The Italian SOLVIT centre, for example, reports that they spend a lot of time just searching for experts, leading to slow handling speed. Alternatively, the centres may contact the European Commission's SOLVIT support team for assistance. But this support may also not always come timely. The SOLVIT support team of the European Commission relies on experts within other services of the Commission themselves, and it is not always possible to get operational informal advice within the imposed deadlines.¹⁴ The need to rely on others, due to a lack of legal qualified staff or easy access to this expertise, is therefore potentially diluting the work of a centre.

Institutional capacity: Administrative support

The second main factor that influences the work of the centres is administrative support. As we already know from the previous argument, national SOLVIT centres depend on other departments and ministries for assistance in getting cases solved. But they also depend on the willingness in the other departments and ministries to assist them. Therefore, the SOLVIT system needs to be promoted in order to become known and to make the SOLVIT centre carry enough weight to make people cooperate. But the raising of awareness of the SOLVIT dispute settlement system cannot be done by the centres

¹⁰ SOLVIT Annual Report 2007, p.15.

¹¹ The Citizen and the Application of Community Law, Alain Lamassoure, p.62.

¹² http://www.5qualiconference.eu/bib_res/349.pdf, p.2.

¹³ SOLVIT Annual Report 2004, p.17; SOLVIT Annual Report 2005, p.14.

¹⁴ SOLVIT Annual Report 2006, p.13; SOLVIT Annual Report 2007, p.14.

alone. Next to own promotion exercises, they need the support from the government and the hosting general directorate/ministry.

The Belgian SOLVIT centre was, for example, able to participate in the Open Day of the Ministry of Foreign Affairs in 2008 and in 2009 where the Belgian Minister of Foreign Affairs issued a communiqué on the performance of SOLVIT. In addition, the centre was invited by the Advisory Committee for European Affairs of the Belgian Chamber of Representatives to present the network in 2009 and to the Belgian Senate in early 2010. Sweden, only recently relies on a very strong support from the Swedish government in the promotion of the SOLVIT system. They received a budget of almost 35.000€ annually for promotion. In the end, it is expected that their support will also influence the willingness of other public authorities to cooperate with SOLVIT.¹⁵

Still, many public authorities are reluctant to work on an informal basis and do not accept the intervention of the SOLVIT centre.¹⁶ Especially Greece with a long case handling time and a low resolution rate is struggling with a lack of willingness of other parts of the administration.¹⁷ The fact that the SOLVIT system is still unknown to wide numbers of people, contributes to this. This can only be counteracted by internal and external promotion because SOLVIT centres might require internal backing when they have to convince other national administrations of their solution. Sometimes it is just difficult to persuade national authorities that EU law prevails over national law.¹⁸ In Sweden, for example, this sometimes causes problems since the governmental agencies are independent from their ministries and the ministries are not allowed to interfere in the assessment of such agencies in individual cases. So the Swedish centre has to rely on good cooperation directly with these agencies, a priority for the coming years in order to even more improve the recently emerging better resolution rates , despite the governmental support itself is strong.

Another very important aspect as regards administrative support is the question whether the centre is working in close contact with the persons coordinating EU affairs in other Ministries (E These EU coordinators are generally responsible for the follow-up on the transposition and implementation of certain areas of European legislation into national law. The closer the cooperation between SOLVIT centres with these EUcoordinators in other ministries, the easier it is for centres to find the right information and to get the needed support from other authorities.

The Belgian case, in particular, underlines the importance of the cooperation between SOLVIT and persons coordinating EU affairs in other ministries. . The Belgian centre shows an outstanding handling speed and a high resolution rate also because the exemplary support from their ministry, Belgian authorities and close contacts with the Belgian network of EU-coordinators, which seems to be less for the other centres.

¹⁵SOLVIT Annual Report 2004, p.23; SOLVIT Annual Report 2007, p.17.

¹⁶SOLVIT Annual Report 2004, p.16.

¹⁷SOLVIT Annual Report 2006, p.8.

¹⁸ SOLVIT Annual Report 2006, p.14.

Table 4. National support of SOLVIT centres in Belgium, Italy, Sweden and Greece

	Promotion by directorate general/ministry	Support in negotiations	Close contact with EU-Coordinators
Belgium	Very strong support in external and internal promotion	Very strong: providing help of legal experts	yes
Italy	Numerous promotion activities organised by centre and targeting exclusively at students and universities, but weak promotion by host institution	Weak	no
Sweden	Very strong support in promotion of the system	Good backing in negotiation from the government, but room for improvement in relations to government agencies	no
Greece	Weak support	Weak	no

Source: Interviews with SOLVIT centres' staff.

Conclusion: How to Liberate the EU from the Sup-Optimal Enforcement/Confidence Trap?

The initial idea behind a single market is to have an area where people are free to trade goods, invest their money and move around looking for work without facing legal, technical or physical barriers. In practice, however, we face many barriers in the European Union, too often due to Member States' delayed and incorrect compliance with EU legislation. Instead of uniting the diverse national economies of the European Union into a single unit, we risk to end up with a 'regulatory patchwork' where citizens and businesses loose confidence and trust incrementally in the EU project. This is particularly risky in a crisis-battered European Union which needs a functioning single market and its citizens' open support more than ever to boost its productivity and competitiveness in a fast changing world with aggressive global competition from emerging countries.

There might be two ways to liberate Europe from the sup- optimal enforcement/confidence trap: First, it is necessary to strengthen the infringement procedure, second, the European Union needs to invest and further develop 'grass-root private enforcement'. To ensure enforcement effectiveness it is crucial that citizens know about their rights and have easy access to fast dispute resolution mechanisms (Monti, 2010).

The Treaty of Lisbon introduced changes to the infringement procedure which will speed up the average handling time of cases. In addition, the SOLVIT system provides a useful supplementary informal tool to remove enforcement barriers to the single market quickly. Since the reasons for misapplication are too often simply lack of knowledge by regional and local authorities, which do not have to deal with cross-border problems on a regular basis and, therefore, are often not aware of the most up to date information regarding EU legislation, frequently, only an explanation of how EU law has to be applied is needed. With resolution rates beyond 80% and handling speed of less than 70 days, SOLVIT centres offer an effective alternative free-of-charge out-of-court settlement mechanism for cross-border disputes related to misapplications of EU single market rules.

But, SOLVIT centres' strategic role in addressing the governments and citizens 'integration fatigue', which primarily stems from its fast handling of street-level enforcement misapplications and high resolution rates, will only flower out if they are guaranteed appropriate institutional capacity, i.e. sufficient qualified human resources in combination with consistent administrative support from the host ministry. The Belgium case has clearly shown the reinforcing dynamics surrounding both factors of institutional capacity. Completing the Single Market requires imagination and political will, with a focus on ensuring that Member States implement and enforce EU legislation. SOLVIT centres help citizens to feel served by the Single Market.

References

Articles:

Conant, L. (2002) *Justice contained. Law and Politics in the European Union*, New York: Cornell University Press.

Falkner, G., O. Treib, M. Hartlapp and S. Leiber (2005) *Complying with Europe. EU Harmonisation and Soft Law in the Member States*, Cambridge: Cambridge University Press.

Groenleer, M., M. Kaeding and E. Versluis (2010) 'Regulatory governance through agencies of the European Union? The role of the European agencies for maritime and aviation safety in the implementation of European transport legislation', *Journal of European Public Policy* 17(8): 1210-1228.

Kaeding, M. (2007) *Better regulation in the European Union: lost in translation or full steam ahead: the transposition of EU transport directives across member states*, Leiden: Leiden University Press.

Monti, M. (2010) *A new strategy for the single market. At the service of Europe's economy and society*, Brussels: BEPA Report.

Steuenberg, B. (2010) 'Is big brother watching? Commission oversight of the national implementation of EU directives', *European Union Politics* 11(3): 359-380.

Versluis, E. (2007) 'Even rules, uneven practices: Opening the 'black box' of EU law in action', *West European Politics* (30)1: 50-67.

Reports

European Commission (2010) 27th Report on monitoring the application of EU law [COM(2010) 538, Luxembourg: Publications Office of the European Union.

European Parliament (2009) Opinion of the Committee of the Internal Market and Consumer Protection for the Committee on Budgets on the draft general budget of the European Union for the financial year 2010, Section III – Commission, C6-0300/2009-2009/2002(BUD)).

SOLVIT (2004) Report. Development and Performance of the SOLVIT network, Luxembourg: Publications Office of the European Union, 2003.

SOLVIT (2006) Report. Development and Performance of the SOLVIT network, Luxembourg: Publications Office of the European Union, 2005.

SOLVIT (2007) Report. Development and Performance of the SOLVIT network, Luxembourg: Publications Office of the European Union, 2006.

SOLVIT (2008) Report. Development and Performance of the SOLVIT network, Luxembourg: Publications Office of the European Union, 2009.

SOLVIT (2009) Report. Development and Performance of the SOLVIT network, Luxembourg: Publications Office of the European Union, 2010.