



## How can SOLVIT further enhance compliance with EU law

2022



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## 1 Executive Summary

SOLVIT is a problem-solving network when individuals or businesses face problems with their free movement rights within the Internal Market. SOLVIT contributes to strengthening compliance with EU law in the Internal Market.

The network is currently in a phase of change. This is for several reasons. SOLVIT has been given new tasks, regulated by existing or new binding legal acts from the EU. Organisationally, the network has also been linked more closely to the Commission's compliance work. The network now functions as a by default tool for dispute resolution within the Internal Market,<sup>1</sup> according to the Commission's ambition. Discussions regarding how to further develop SOLVIT and the network's future have been carried out on several levels. Various initiatives to strengthen SOLVIT have been brought forward both by the Commission and by national centres of certain Member States.

SOLVIT Sweden (at the National Board of Trade Sweden) participates in the discussion by taking part in the network's internal working group *Think Tank on the Future of Solvit* ("Think Tank"), consisting of members of different national SOLVIT centres. The Think Tank has drafted several proposals on how the network can be strengthened, focusing on the legal basis that is best for the network.

In this analysis, we have put these proposals into the context of our broader compliance work. We believe that SOLVIT's legal basis needs to be changed. We strongly advocate that the network should be based on a legally binding act of EU law. This would make the network's existence increasingly certain legally and enhance compliance with EU law in the Member States overall. For such a change, political will amongst the Member States is necessary. If Member States cannot agree on such an amendment, we recommend as the second-best option to improve SOLVIT's current recommendation, or alternatively to change it to a Council recommendation.

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<sup>1</sup> European Commission, COM(2020) 94 final, action 18.

Based on improvement areas within SOLVIT, identified in this analysis and from a general compliance perspective, we also provide concrete proposals on amendments in the network to strengthen SOLVIT. For any of these recommended amendments, we consider it essential that *all* national centres are adequately equipped and staffed. We also believe that a strengthened SOLVIT network would ideally be combined with the introduction of a Single Market Ombudsman (“SMO”) in all Member States, which is a proposal that we have analysed in the past.

## 2 The assignment

### 2.1 Purpose

The Internal Market is based on rules adopted at an EU level that facilitate the freedom of movement of goods, services, persons, and capital. For the Internal Market to function effectively, it is crucial that these EU rules are timely and correctly transposed, implemented and applied by the Member States.

Yet, the Internal Market notoriously suffers from a huge compliance deficit, as evidenced by numerous reports published since the early 2000s.<sup>2</sup> Recent studies even seem to indicate a worsening situation in the last few years.<sup>3</sup> This sense of deterioration was highlighted in the summer of 2022, when the five major European business associations expressed their deep concern for the future of the Internal Market and, in particular, for “the Commission’s enforcement policy [...] lacking teeth against Member States which introduce national rules or administrative requirements leading to further market fragmentation”.<sup>4</sup>

It is within this context that the Swedish Government commissioned us to assess means to strengthen SOLVIT, one of the central enforcement tools for internal market rules.<sup>5</sup> This assignment also covers the issue of a possible change of SOLVIT’s legal basis, an issue long debated within the network (see 3.1).

Compliance of EU law is at the core of our work with the Internal Market. In our capacity as the Swedish agency for the Internal Market, we aim at facilitating a correct application of the EU rules on free movement.<sup>6</sup> We do this in two ways. First, we are active in assessing possible breaches of EU law in concrete situations. Notably, we act as the Swedish SOLVIT centre and are involved in various consultations at both EU and national levels.<sup>7</sup> Second, we are engaged in a long-term

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<sup>2</sup> See for instance the European Commission’s reports on the compliance deficit from 2002 (COM(2002) 725 final), 2007 (COM(2007) 502 final), 2016 (COM(2016) 1600 final) and 2020 (COM(2020)93).

<sup>3</sup> For instance, compare the cost of non-compliance estimated at a “*large two-digit billion loss in euros*” ten years ago (Copenhagen Economics (2012)) with the recent estimation of €713 billion losses for breaches of the rules on goods and services alone (European Commission (March 2020)).

<sup>4</sup> Joint Industry Statement (2022).

<sup>5</sup> Regeringen, Regleringsbrev, point 3; National Board of Trade Sweden, case number 2021/01772-7.

<sup>6</sup> Swedish Regulation (2012:990), Section 3.

<sup>7</sup> For instance, within its responsibilities for notifications of requirements on goods and on services, in accordance with Directive 2015/1535/EU and Directive 2006/123/EC.

reflection on methods to reduce the compliance deficit. We have published several reports highlighting the structural nature of compliance problems and, therefore, the need for an ambitious reform of the EU's enforcement policy.<sup>8</sup> In our latest publication, we proposed to set up a Single Market Ombudsman ("SMO") in every Member State to significantly reduce the compliance deficit.<sup>9</sup>

Apart from our above-mentioned compliance work, SOLVIT Sweden has initiated the connection of existing problem-solving functions in the Nordic region.<sup>10</sup> A working group amongst the SOLVIT centres of the Nordic countries has been established to strengthen the Nordic cooperation from a perspective of further integration and compliance with EU law. One important achievement is the establishment in the Nordics of a structured follow-up, at a political level, for SOLVIT data on existing barriers to free movement which stem from non-compliance with EU law.

We draw from this general reflection, and from our experience, to address the Swedish Government's assignment to reflect on means to strengthen the SOLVIT network.

As a preliminary remark, we note, however, that, for as important as it is to strengthen SOLVIT, such action would merely have a marginal effect on the overall level of compliance in the Internal Market. In our view, a significant reduction of the compliance deficit calls for structural solutions that go beyond the type of soft law mechanisms, such as SOLVIT, that are currently in place in the EU. As explained in previous studies,<sup>11</sup> the creation of a culture of compliance in the Member States would call for a more systematic and compelling monitoring mechanism set up in the Member States. Taking examples from a growing number of other EU areas (from competition law to data protection, energy, or financial services), such decentralised enforcement of the internal market rules could, for instance, take the form of the establishment of Single Market Ombudsmen in every EU State.

It is with this perspective in mind that our proposals and recommendations for the strengthening of SOLVIT should be understood.

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<sup>8</sup> National Board of Trade Sweden (2016), (2019) and (2022b).

<sup>9</sup> National Board of Trade Sweden (2022b).

<sup>10</sup> National Board of Trade Sweden (2022a), p. 38.

<sup>11</sup> National Board of Trade Sweden (2019) and (2022b).

The current enforcement tools consist of a plurality of soft law tools (such as SOLVIT), which focus on prevention and monitoring of non-compliance,<sup>12</sup> and a few hard law enforcement tools (such as infringement proceedings or hard law tools at a national level), which focus on the sanctioning of “bigger” problems of non-compliance within the Internal Market.<sup>13</sup>

Our long-term work with compliance of EU law in the Member States has shown SOLVIT’s important role in the field. SOLVIT functions primarily as an enforcement tool to solve individual cases (that the Commission will not act upon). In addition, the network has even become a monitoring and preventive enforcement tool for the Commission in policymaking.<sup>14</sup> The network has a central role in enforcement of internal market rights in the Member States. It is, however, restrained by some limitations (see chapter 4).

SOLVIT has grown in responsibilities during the last few years (see 3.1), with the explicit policy objective from the Commission for the network “to become the default alternative dispute resolution tool in all single market policy areas, which involve a decision by an administration”.<sup>15</sup> The fact that SOLVIT’s tasks have diversified, in combination with the political ambition for the SOLVIT network, has initiated discussions on how to strengthen the network.<sup>16</sup>

## 2.2 Scope and methodology

We start by mapping areas of SOLVIT to be improved to enhance compliance with EU law in the Member States even further. Thereafter, we present and assess several options to strengthen the network.

We analyse such options to strengthen the SOLVIT network, which presuppose a continuing existence of SOLVIT with its informal character. Option VII of the work carried out by the SOLVIT internal working group *Think Tank Future of SOLVIT*<sup>17</sup> (“Think Tank”), suggests that SOLVIT would be integrated to a Single Market Ombudsman. This option focuses on establishing a new institution and is not analysed

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<sup>12</sup> National Board of Trade Sweden (2016), p. 24 ff. and p. 12 for definitions of “compliance”, “enforcement” and “enforcement tools”.

<sup>13</sup> European Commission, COM(2016) 1600 final, point 3.

<sup>14</sup> European Commission, SWD(2022) 325 final, p. 13 f.

<sup>15</sup> See footnote 1.

<sup>16</sup> Single Market Enforcement Task Force; Think Tank “Future of SOLVIT” – a SOLVIT network internal working group that started to work as of 09.01.2021.

<sup>17</sup> Headed by SOLVIT NL and LU, other members are SOLVIT AT, BE, DK, GR, HR, FI, NO, PT, RO and SE.

further in this paper, since the governmental assignment is to investigate how SOLVIT can be strengthened to further enhance compliance with EU law in the Member States.

This analysis is based on academic literature, case-law from CJEU, and publications from the European institutions and other actors.

## 2.3 Sustainability implications

This analysis assesses how to strengthen SOLVIT, a soft law enforcement tool<sup>18</sup> for EU's internal market law. The SOLVIT network "is a high-value mechanism, performing a multitude of important roles"<sup>19</sup> that contribute to better compliance with EU law in the Member States (see 2.1). Strengthening SOLVIT increases this role of the network, which ultimately leads to a valuable contribution to several targets under the Global Goal 16:<sup>20</sup>

- "Promote the rule of law at the national and international levels and ensure equal access to justice for all.
- Develop effective, accountable and transparent institutions at all levels.
- Ensure responsive, inclusive, participatory and representative decision-making at all levels.
- Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements."

## 2.4 Outline

Chapter three briefly describes SOLVIT, presents the evolution of its current legal framework and the ongoing discussions on how to strengthen the network. Chapter four identifies three legal areas that should be improved for SOLVIT to further enhance compliance with EU law in the Member States. Chapter five presents six options to strengthen SOLVIT, focusing on the legal basis of the network<sup>21</sup> and stemming from the Think Tank. We also evaluate the options' potential to improve the areas identified in chapter four. In chapter six we present our conclusion and recommendations on which legal basis would be best for SOLVIT. Furthermore, we give several concrete recommendations on how to make best use of SOLVIT to further enhance compliance of EU law in the Member States.

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<sup>18</sup> National Board of Trade Sweden (2016), p. 24, for a definition of "monitoring tool".

<sup>19</sup> Ibid., p. 29.

<sup>20</sup> The Global Goals, goal 16, targets 16.3, 16.6, 16.7 and 16.A.

<sup>21</sup> National Board of Trade Sweden, case number 2021/01080-103, Options I to VI see chapter 5.1, Option VII – Making SOLVIT a Single Market ombudsman.



### **3 SOLVIT – a successful soft law enforcement tool with limitations**

SOLVIT is an informal problem-solving network represented in all EU and EEA Member States. It is aimed at tackling bad or non-application of EU internal market law by national authorities. The network handles cases on cross-border problems, where a national public authority has (allegedly) acted or decided in breach of EU's internal market law. The cases are largely of unique nature, but sometimes SOLVIT receives clusters of cases involving the same issue, and sometimes a particular event can trigger many cases involving the same matter. To avoid biased case-handling, SOLVIT cases involve two SOLVIT centres whose task is to facilitate cross-border contacts with complainants and authorities. The SOLVIT centres analyse the case and initiate an informal dialogue with the relevant competent national authority to find a solution to the internal market user's problem.

The Commission plays an important role in the network by providing the IT framework, administering the database, comparing, and analysing the cases handled, transmitting data on structural problems identified by SOLVIT to the relevant Commission policy departments, and organising regular training sessions and network events. In complex cases, Commission experts can provide informal legal advice ("ILA") to facilitate the work for a solution. Such legal advice is not binding and does not represent the Commission's official view.

The Commission acknowledges the importance of SOLVIT in citing: "The benefits offered by SOLVIT are at least six times higher than the cost of running the network. SOLVIT centres also act as 'agents for change' and lead to overall better compliance with single market rules by national authorities, which further increases the positive effects of SOLVIT"<sup>22</sup> and "Member States do have the obligation to implement EU law correctly and ensure that it is correctly applied. They also have the obligation to deal with complaints when problems occur. SOLVIT is an efficient and transparent way to deal with these complaints."<sup>23</sup>

We agree and consider SOLVIT to be "a high-value mechanism, performing a multitude of important roles"<sup>24</sup> among the enforcement tools for internal market law. SOLVIT is of an informal character, which we consider to be its recipe for success. Few formal requirements for

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<sup>22</sup> European Commission, SWD(2017) 210 final, p. 4.

<sup>23</sup> Centre of Strategy and Evaluation Services for the Directorate General for Internal Market and Services (2011), p. 63.

<sup>24</sup> National Board of Trade Sweden (2016), p. 29.

case-handling, little reporting duties, and an informal dialogue with the parties involved form the flexible network. SOLVIT aims to solve cases within 16 weeks and has proven to be quite successful in its enforcement work by solving around 85% of its cases.<sup>25</sup> SOLVIT's informal character is its strength and limitation at the same time.

SOLVIT is a soft law enforcement tool without sanctioning powers, which can only handle such cases that are reported to the network and cannot start cases by itself. Another non-negligible weakness is the fact that the existence of the network is legally uncertain (see 4.1). Moreover, differences in interpretation of EU law can occur in SOLVIT and the follow-up of the network's unresolved cases is currently opaque (see 4.2 and 4.3), limiting SOLVIT's effectiveness and opportunities. Finally, the centres are equipped and organised quite differently, causing fragmentation and limitation in its performance and effectiveness.

### 3.1 SOLVIT's legal framework

There is currently no binding legal act regulating the obligation for Member States to have a national SOLVIT centre or on SOLVIT's functioning or tasks.

The SOLVIT network, initiated by Commission Recommendation 2001/893/EC, started functioning in 2002.<sup>26</sup> As a next step, Regulation (EU) 1024/2012<sup>27</sup> entered into force, where the Commission rebuilt the SOLVIT database as a stand-alone module in the Internal Market Information System ("IMI"). In 2013, a new Commission recommendation<sup>28</sup> was adopted in which the national centres were, for the first time, referred to as "SOLVIT centres". This included a clarification of SOLVIT's mandate and the role of the Commission within the network,<sup>29</sup> for example concerning the administration of cases of non-compliant national legislation or application of EU law.

In 2014, Directive 2014/54/EU established the equal treatment bodies for mobile EU workers at national level to provide better enforcement of the principle of free movement of workers. Among other things, this Directive required that the bodies should collaborate with SOLVIT.<sup>30</sup> In 2019, two EU regulations entered into force, mentioning, or imposing,

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<sup>25</sup> European Commission, SWD(2022) 325 final, p. 9.

<sup>26</sup> Commission Recommendation, C(2001) 3901.

<sup>27</sup> Regulation (EU) 1024/2012.

<sup>28</sup> Commission Recommendation, COM(2013) 5869 final.

<sup>29</sup> *Ibid.*, part I. B and C and part VI.

<sup>30</sup> Directive 2014/54/EU, preamble 21 and art. 4 (4).

new tasks on the SOLVIT network: Regulation (EU) 2019/515 on the mutual recognition of goods lawfully marketed in another Member State,<sup>31</sup> and Regulation (EU) 2019/1149 establishing a European Labour Authority.<sup>32</sup>

Member States represented in the Competitiveness Council configuration, the European Parliament and the Commission have, since the 2013 recommendation, reinforced and raised SOLVIT into the landscape of enforcement tools within the Internal Market.<sup>33</sup> Organisationally, this is mirrored by the move of the Commission's SOLVIT team to the Enforcement Directorate for Single Market rules within DG GROW.<sup>34</sup>

The issue whether to change the legal basis of SOLVIT has been discussed in the network for many years. Recently, in 2019, discussions started again, initiated by a proposal from SOLVIT Denmark proposing a regulation for the network (while keeping its informal character),<sup>35</sup> followed by an analysis from SOLVIT Luxemburg, also advocating for a regulation for the network.<sup>36</sup> In November 2020, a Think Tank working group "on the future of SOLVIT" was created, based on a proposal from the Commission's SOLVIT team.<sup>37</sup> This work has culminated in seven possible options to strengthen the network,<sup>38</sup> six of which are presented

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<sup>31</sup> Regulation (EU) 2019/515, art. 8, integrating a specific SOLVIT problem-solving procedure within the field of mutual recognition of goods within the internal market.

<sup>32</sup> Regulation (EU) 2019/1149, preamble 23, setting the basis for the cross-institutional referral of cases between the European Labour Authority and SOLVIT within a mediation procedure.

<sup>33</sup> Competitive Council (2015), p. 12; Competitive Council (2016), point 16; European Parliament (2015), point 76; European Commission, COM(2016) 1600 final, chapter 4; European Commission, SWD(2017) 210 final; Commission Communication COM(2017) 255 final, p. 9; Competitiveness Council, Conclusion 9743/19, point 16; European Commission COM(2020) 94 final, action 18; IMCO committee of the European Parliament, own initiative report (2021/2043(INI)), p. 8 and 23 f.

<sup>34</sup> Information from SOLVIT Sweden's contact person at the European Commission.

<sup>35</sup> National Board of Trade Sweden, case number 2021/01080-55 (positive reaction by SOLVIT DK, FR, NL, PT, DE, IT, LU, SI LT, (UK), BE, AT and LV; negative reaction by SOLVIT FI, PL, BG, HR, SK, IR, LI and CY; neutral reaction by SOLVIT SE, CZ, HU and EE); the Commission stressed that unanimity within the network and a determination of the added value of a regulation are necessary to move forward with such a proposal within the Commission services.

<sup>36</sup> Ministère de l'Économie, Luxembourg (2021).

<sup>37</sup> See the members of the Think Tank in footnote 18.

<sup>38</sup> National Board of Trade Sweden, case number 2021/01772.

and assessed below (see chapter 5). The seventh option is not assessed in this analysis since it falls outside of the scope (see 2.2).

To conclude, there is currently no binding legal act regulating the obligation for Member States to establish or maintain a national SOLVIT center or how it should function or be equipped. At the same time, there are binding legal acts that mention and give tasks to SOLVIT in very limited areas. We consider national SOLVIT centers to be a prerequisite for the proper functioning of those tasks. We see a development towards a more certain legal basis for SOLVIT, although limited to specific areas. This discrepancy of legal grounds for SOLVIT is one of the reasons why discussions on the legal basis for the network have been revitalized. This development has shown that SOLVITs informal character can indeed be preserved, despite legally binding acts regulating parts of it.

## 4 Which areas of SOLVIT should be improved to further enhance compliance with EU law?

The following chapter maps out legal areas of improvement within SOLVIT and puts them into a broader context of better compliance with EU law in the Member States.

### 4.1 The uncertain legal status of SOLVIT centres

National SOLVIT centres face differences regarding adequate resources for the proper performance of their tasks. The fact that some SOLVIT centres lack resources causes fragmentation and holds back the network as a whole.

As mentioned above (see 3.1), at an EU level SOLVIT is based on a Commission recommendation without binding legal force.<sup>39</sup> At the same time, SOLVIT is mentioned in the IMI-<sup>40</sup> and Single Digital Gateway (“SDG”)-Regulations,<sup>41</sup> and it is even given tasks by the Mutual Recognition<sup>42</sup> and European Labour Authority (“ELA”)-Regulations,<sup>43</sup> which all are acts of EU law, binding in their entirety.<sup>44</sup>

The question arises whether Member States are obliged to establish, maintain, or equip a national SOLVIT centre according to the Commission recommendation. Since the recommendation is not binding for the Member States, its content cannot be enforced by the Commission through means of infringement proceedings.<sup>45</sup> In areas where SOLVIT is given tasks by regulations in specific areas, Member States’ failure to comply with obligations regarding SOLVIT can be subject to infringement proceedings. These infringement proceedings would, however, be limited to the parts of SOLVIT falling within the scope of the regulation concerned, not covering the existence of a SOLVIT centre or its resources and staffing generally.

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<sup>39</sup> Commission Recommendation, C(2013) 5869 final; art. 288 TFEU.

<sup>40</sup> Regulation (EU) 1024/2012, preamble 18 and art. 29 (2).

<sup>41</sup> Regulation (EU) 2018/1724, preambles 10 and 31; information from SOLVIT Sweden’s contact person at the European Commission.

<sup>42</sup> Regulation (EU) 2019/515, see preambles 35 and 37 – 39, art. 5 (12) and 8.

<sup>43</sup> Regulation (EU) 2019/1149, see preambles 16, 20 and 23.

<sup>44</sup> Art. 288 TFEU; “preambles are referred to as an aid to interpret the substantive provisions that follow in a legal act; they miss, however, binding legal force” – more detailed about legal effects of preambles: Edward/Lane (2013), p. 329 f., point 6.45.

<sup>45</sup> Opinion of Advocate General Bobek, Case C-16/16P, point 168.

The duty of Member States to maintain and/or properly equip a national SOLVIT centre could be derived from the principle of sincere cooperation according to article 4 (3) TEU,<sup>46</sup> which is “*a lex generalis* [...] applicable only where there is a failure to comply with a Union obligation over and above infringement of a more specific provision”.<sup>47</sup> However, it is not certain if a breach of the principle of sincere cooperation could be established based on the failure to comply with a recommendation, which lacks legal binding character. Alternatively, one could argue that Member States are bound to have a national SOLVIT centre (also) based on European customary law (“EUCL”). The fact that national SOLVIT centres have existed in all Member States for at least twenty years, either solely based on a Commission recommendation or even enshrined in national law, could be argued to have established a custom of having national SOLVIT centres, not limited to the functions enshrined in acts of secondary EU law. Since the case law on EUCL is extremely limited at an EU level,<sup>48</sup> and most importantly, given the fact there *is* a written act of *soft* law regarding SOLVIT,<sup>49</sup> it is uncertain whether such a custom of having a national SOLVIT centre could be established under EUCL. The outcome of eventual infringement proceedings based on article 4 (3) TEU, in combination with the SOLVIT recommendation or EUCL, is highly uncertain.

To conclude, the legal basis of SOLVIT has been discussed for many years. Our assessment is that the current recommendation does not guarantee the existence and/or adequate capacity of SOLVIT centres in Member States. Thus, in theory, the very functioning of the network is at the mercy of a political decision by a Member State to abolish or severely limit the activities of its SOLVIT center. We therefore consider it important to strengthen SOLVIT's legal basis.

## 4.2 Differences in interpretation of EU law in SOLVIT

The substantive interpretation of EU law can differ within the SOLVIT network. There are several reasons for this. National SOLVIT centres are situated and organised differently throughout the Member States. Some centres are situated in independent expert authorities or agencies – for example in Sweden, Denmark, and the Netherlands. The vast majority of national SOLVIT centres are part of ministries, which can open for political influence on the interpretation in some cases.

<sup>46</sup> This article has inter-state effect, Besson (2017), p. 119.

<sup>47</sup> Edward/Lane (2013), p. 320, point 6.31.

<sup>48</sup> Besson (2017), p. 107 and footnote 12, p. 115.

<sup>49</sup> Which per se goes against the definition of customary law.

Another reason is that SOLVIT centres are equipped differently. Uniform interpretation of EU law within the network is dependent on knowledge of relevant EU rules, guidance documents and case-law amongst all network members of national centres. Such a level of knowledge is naturally dependent on resources, staffing, continuity, and legal expertise of staff members – factors that vary considerably amongst the centres.

When SOLVIT centres are uncertain or disagree on how to interpret EU law, the Commission provides its interpretation.<sup>50</sup> The interpretation given by the Commission is, to our knowledge, accepted by all national SOLVIT centres. The Commission forwards its interpretation of EU law to SOLVIT centres through legal training sessions or within specific cases through informal legal advice (“ILA”). Such an ILA of the Commission is only provided when requested by centres handling a case. While there is generally good cooperation within the network, there is still not a legally certain and systematic way to ensure uniform interpretation of EU law throughout the network. SOLVIT centres are not bound to ask the Commission for assistance when uncertain on how to interpret EU law in a concrete case. It remains in centres’ discretion to agree upon an interpretation or to seek advice from the Commission.<sup>51</sup> Moreover, the participation in legal training sessions is not compulsory for SOLVIT members. Finally, the Commission’s SOLVIT team can intervene in SOLVIT cases where it considers that national centres have not followed a correct interpretation of EU law. This happens occasionally. However, the Commission does not systematically check each SOLVIT case.<sup>52</sup>

To sum up, at present there is no systematic tool to ensure that EU law is interpreted uniformly throughout the network. This is problematic since divergences in interpretation of EU law can lead to decisive differences in how businesses and citizens can enforce their EU rights:

- Differences in whether a “breach of EU law” has occurred or not imply that a case is handled or not handled within SOLVIT at all.<sup>53</sup>

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<sup>50</sup> Commission Recommendation, COM(2013) 5869 final, preamble 4 and point VI.1.c.

<sup>51</sup> Ibid, point VI.1.c.

<sup>52</sup> Ibid, preamble 4; Commission Communication, C(2017) 255 final, p. 5 f.

<sup>53</sup> A case shall be “refused” when no breach of EU law seems to have occurred in a specific case.

- Differences in classifying legal questions/problems as “solved”<sup>54</sup> or “unresolved”<sup>55</sup> when closing a SOLVIT case in the database are decisive for subsequent steps and procedures in terms of enforcement. Only problems classified as “unresolved” are reported and analysed by the Commission or Member States as eventual structural or recurrent problems for possible follow-up measures described below (see 4.3).

To conclude, differences in interpretation of EU law can occur within the network. Individuals or businesses relying upon SOLVIT have therefore no guarantee that uniform interpretation of EU law is applied inside the network. We regard it as problematic that no uniform interpretation can be guaranteed within SOLVIT, since it is decisive for which follow-up enforcement tools are available. We consider it important to make some changes in SOLVIT to positively affect this area (see recommendations 1.2).

### 4.3 Opaque follow-up of SOLVIT’s unresolved cases

The SOLVIT network can detect two types of national compliance problems:

- national legislation in breach of EU law (structural or recurrent problems),<sup>56</sup> and
- national administrations acting in breach of EU law without a written rule or with an underlying national rule compliant with EU law (one-off or recurrent problems).<sup>57</sup>

In both categories, the SOLVIT network explains the breach of EU law to the national authority concerned through informal dialogue, with the aim to influence the authority to change its decision and/or practice. This dialogue has a certain chance of success in providing “long-term solutions where they lead to changes to administrative practices or legislation”.<sup>58</sup> Upon refusal of the national authority to act in conformity with SOLVIT’s recommendation, problems are classified as “unresolved” in the SOLVIT database.<sup>59</sup> Where the problem is of an

<sup>54</sup> To close a case as “solution – clarification” in the database means that there is no breach of EU law, since the problem could be explained or clarified satisfactorily.

<sup>55</sup> To close a case as “unresolved” in the database means that a breach of EU law has occurred but cannot be solved for the applicant through SOLVIT’s informal dialogue.

<sup>56</sup> Commission Recommendation, C(2013) 5869 final, point I.B.6.; Solvit Case Handling Manual, chapter III.1, p. 45.

<sup>57</sup> Solvit Case Handling Manual, chapter III.2, p. 46 f.

<sup>58</sup> National Board of Trade Sweden (2016), p. 40; European Commission, SWD(2017) 210 final, p. 14; examples where the Swedish SOLVIT centre has indeed achieved such changes: National Board of Trade Sweden (2019), p. 10 and case number 2019/01103.

<sup>59</sup> Solvit Case Handling Manual, chapter III.2.1, p. 46.



individual nature, this unresolved individual case will likely receive no further follow-up. The Commission generally does not act on individual cases of misapplication of EU law.<sup>60</sup>

However, the Commission's SOLVIT team follows up on unresolved problems of recurrent or structural nature. These problems are extracted from the SOLVIT database and reported quarterly to the Commission services.<sup>61</sup> The unresolved problems are published annually in the Single Market Scoreboard,<sup>62</sup> some may be reported to Single Market Enforcement Taskforce ("SMET").<sup>63</sup> All the structural/recurrent problems for each Member State are summarized in an annual Individual Report, which is sent to the relevant Member State by the Commission<sup>64</sup> or brought up in so-called package meetings between Member States and the Commission.<sup>65</sup>

SOLVIT centres are also increasingly expected to follow up national unresolved structural or recurrent problems. They should inform their respective national infringement coordinator and EU Pilot Contact Point.<sup>66</sup> There is little transparency on these dialogues, and it can be difficult to assess whether or not any of those contacts take place. Moreover, adequate resources and staff at the national SOLVIT centres is necessary to perform these tasks, which is not the case for all national centres.

The Commission's follow-up work on unresolved SOLVIT cases is affected by the Commission's double-function as initiator for legislation (falling within the legislative sphere) and guardian of the Treaties<sup>67</sup> (falling in the sphere of jurisdiction). To successfully negotiate new acts of EU law, the Commission might sometimes turn a blind eye on cases of non-compliance to get the necessary political support from Member States. Since the introduction of the EU Pilot in 2004<sup>68</sup> it seems that the Commission has been focusing more on addressing non-compliance with

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<sup>60</sup> European Commission, COM(2016) 1600 final, point 3.

<sup>61</sup> Solvit Case Handling Manual, chapter III.3, p. 47; Commission Recommendation, COM(2013) 5869 final, point VI.1.e and f; European Commission, SWD(2017) 210 final, table 3 and chapter 5.1.5.

<sup>62</sup> Solvit Case Handling Manual, chapter III.1.1, p. 46.

<sup>63</sup> Single Market Task Force set up recently based on European Commission, COM(2020) 94 final, p. 4.

<sup>64</sup> European Commission, SWD(2017) 210 final, p. 15; Solvit Sweden Performance Report 2021.

<sup>65</sup> Information from SOLVIT Sweden's contact person at the European Commission.

<sup>66</sup> European Commission, SWD(2017) 210 final, table 3 and chapter 5.1.5; Commission Communication, COM(2017) 255 final, p. 10.

<sup>67</sup> Art. 17 (1) TEU.

<sup>68</sup> See Kelemen/Pavone (2021).

EU law of Member States through soft law enforcement tools (such as EU Pilots and SOLVIT), rather than through infringement proceedings.<sup>69</sup> Figures can be interpreted as reflecting this shift in the Commission's enforcement work. While numbers of infringement cases<sup>70</sup> and EU Pilots<sup>71</sup> have decreased, the amount of SOLVIT cases has increased since 2002.<sup>72</sup>

To conclude, there is currently no guarantee of the structured and legally certain follow-up work of structural and recurrent problems detected via SOLVIT (both at EU and national level). We consider this especially problematic, given the political ambition to strengthen SOLVIT to further enhance compliance with EU law in the Member States. Predictability, reliability, and transparency are key elements of the enforcement work. To achieve compliance and proper follow-up, it is essential to take these key elements into consideration.

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<sup>69</sup> Sindbjerg Martinsen/Schrama/Mastenbroek (2018), p. 23.

<sup>70</sup> Kelemen/Pavone (2021), p. 2 ff. and figure 1; Vinocur/Hirsch (2022).

<sup>71</sup> Vinocur/Hirsch (2022).

<sup>72</sup> Sindbjerg Martinsen (2013), p. 14 and figure 1; Sindbjerg Martinsen/Schrama/Mastenbroek (2018), p. 11 f. and figure 2; National Board of Trade Sweden (2016), p. 40, referring to data from the European Commission.

## 5 Options to strengthen SOLVIT

The Think Tank has drafted several options on how to strengthen the network. Its work has focused on a review of SOLVIT's legal basis. We present and assess each option, except the last option since it falls outside the scope of this analysis (see 2.2).

### 5.1 The different options<sup>73</sup>

**Option I “Keeping the 2013 Recommendation”** proposes to keep the current recommendation as it is.

**Option II “Amending the 2013 Recommendation”** proposes to amend the 2013 recommendation. This makes it possible to change the current working methods of SOLVIT. The Commission would be the main institution involved in the revision process, in consultation with the SOLVIT centres.

**Option III “Adopting a Council recommendation on SOLVIT”** proposes the adoption of a Council recommendation. This would enable the structure of the current recommendation to be kept, while amending and adding provisions. It would show a deeper involvement of the Member States, due to the national governments' role in the Council.

**Option IV “Formalizing the status of SOLVIT nationally in each Member State”** proposes to formalize SOLVIT in the Member States with national legal acts. This option could be cumulative to another one. In addition to any process related to the EU legal basis for SOLVIT (binding or not), each Member State would be invited to adopt, at a national level, a legal basis for SOLVIT.

**Option V “Adopting a European legally binding act for SOLVIT”** proposes to adopt a legally binding act for SOLVIT at an EU level. The current recommendation would be replaced by new text, most likely a regulation, that would be applicable in all Member States. This option would require a legislative process, involving the Commission, the Council and the European Parliament, in what exact form would be dependent on the legal basis for such a legal act at an EU level (which would have to be assessed in more detail).

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<sup>73</sup> All cited text on the different options in: National Board of Trade Sweden, case number 2021/01080-103, p. 3.

**Option VI “Establishing a Single Market Ombudsman complementing SOLVIT”** proposes to establish a Single Market Ombudsman (“SMO”) as a complement to SOLVIT. This option could be cumulative to another one. Establishing an SMO that complements SOLVIT would not require any legislative process related to SOLVIT. The network would keep its legal basis (binding or not) and how the SMO and SOLVIT interact would be regulated in the act establishing the SMO.

During a workshop in October 2022, the network decided to focus further discussions within the Think Tank on options II, III and V.<sup>74</sup>

## 5.2 Evaluation of the options

SOLVIT centres are generally able to successfully convince national authorities to amend individual decisions that are found to be in breach of EU law.<sup>75</sup> However, this is usually not the case for changes in national guidance, national practice, or national legislation (known as structural and recurrent problems), which by nature affect large number of businesses and individuals (see 4.3). To further enhance compliance of EU law in the Member States, we consider, at the least, that changes in the current SOLVIT recommendation (see option II) are necessary.

SOLVIT as a network is strong and resilient;<sup>76</sup> however, not in a legally certain way (see 4.1). To make SOLVIT legally certain, a change of the networks’ legal basis to a binding act (see option V), such as a regulation or decision, is necessary.<sup>77</sup> Both types of legislative acts are binding in their entirety towards its addressees, the Member States in this case. Overall consistency would increase since SOLVIT is already mentioned in other binding legal acts. One of the biggest concerns amongst the SOLVIT centres is the conception that a legally binding act automatically puts the networks’ informal character at risk. We do not share this apprehension. Parts and tasks of SOLVIT are already regulated legally by the Mutual Recognition Regulation without having jeopardized the networks’ informal character. Furthermore, there are legally binding acts at an EU level regulating informal procedures, such as the informal mediation procedure in the European Labour Authority (“ELA”) Regulation.

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<sup>74</sup> See meeting minutes: National Board of Trade Sweden, case number 2022/01744-5.

<sup>75</sup> Sindbjerg Martinsen (2013), p. 21.

<sup>76</sup> Ibid., p. 4.

<sup>77</sup> Art. 288 TFEU.

We consider a legally binding act for SOLVIT at an EU level a prerequisite for a formalized regulation of SOLVIT at a national level (see option IV). A non-binding legal act for SOLVIT at an EU level would not force Member States to adopt national legislation for SOLVIT.

Changing the SOLVIT recommendation to a Council recommendation (see option III) makes the SOLVIT network remain legally uncertain, since even a Council recommendation is an act of EU law without binding legal effect.<sup>78</sup>

We consider that completing SOLVIT with an extra hard law element, such as a SMO (see option VI), would enhance compliance with EU law in the Member States even further.<sup>79</sup> SOLVIT is successfully contributing to compliance with EU law in the Member States. This success is usually attributed to the informal nature of the dialogue between SOLVIT centres and national authorities, keeping the network flexible and without many requirements for formality. However, SOLVIT is a soft law enforcement tool, setting the network's limitations. It cannot solve problems where the authorities in the Member States do not have the goodwill to do so. Also, unresolved cases of individual character are not covered by SOLVIT's follow-up measures. However, such problems of non-compliance could be rectified by the SMO, a hard law enforcement tool. SOLVIT is also limited to such compliance problems that are reported to the network; it cannot investigate *ex officio* alleged breaches of EU law, unlike the SMO.

Completing SOLVIT with an SMO would have several positive effects on better compliance with EU law in the Member States:

- A hard law element above SOLVIT could take on cases that currently fall between SOLVIT's informal dialogue and what the Commission can take up within an infringement proceeding, an additional point of appeal in the current ladder of enforcement tools.
- Cases falling outside the scope of, or not being reported to, SOLVIT could be caught by the SMO, since an SMO could also act on its own initiative and investigate alleged breaches of EU law. This is particularly relevant for breaches affecting businesses which oftentimes are not referred to SOLVIT (these cases amount to 5% only of all SOLVIT cases) and could, therefore, be handled by the SMOs.

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<sup>78</sup> Art. 288 and 292 TFEU.

<sup>79</sup> This opinion is shared by Implement Consulting Group (2022), p. 25 f.

- SOLVIT would gain a partner in working for compliance with EU law in the Member States, with which it could collaborate.
- By establishing an element above SOLVIT, national authorities would have a greater incentive to observe SOLVIT's legal input and interpretation of EU law, to avoid a potential SMO process.
- The SMO would contribute to increase the overall awareness of EU law within national authorities and thereby contribute to create a culture of compliance in the Member States. This would in turn help SOLVIT when engaging in an informal dialogue with national authorities.

The concrete effect on the enforcement of EU law depends on the content of amendments (see recommendations in 6.2).

## 6 Conclusions and recommendations

This analysis assesses different options to strengthen SOLVIT, focusing on the legal basis for the network. SOLVIT is a network helping companies and individuals to solve problems with their right of free movement on the EU internal market. We conclude that SOLVIT's legal basis needs to be strengthened, and that further improvements should be introduced to address the problems of differences in interpretation of EU law in SOLVIT and the opacity of follow-up of SOLVIT's unresolved cases. An essential condition to strengthen SOLVIT is adequate capacity and staffing in *all* centres.

We first rank the options based on their capability to make SOLVIT more legally certain in all Member States and recommend the top three (see 6.1). We thereafter recommend which concrete amendments would strengthen SOLVIT to further enhance compliance with EU law in the Member States (see 6.2). The amendments we recommend would work for any of the suggested legal basis for SOLVIT.

### 6.1 Recommendation for a legal basis for SOLVIT to further enhance compliance with EU law in the Member States

SOLVIT is set up in a non-binding recommendation adopted by the European Commission. In the absence of a legally binding act guaranteeing its very existence, the network is always at the mercy of political decisions by some Member States to abolish, or otherwise radically limit the functioning of their national SOLVIT centres. To address this uncertainty, we strongly recommend a legally binding act at an EU level as the basis for SOLVIT (see 5.1, option V). The existence of a SOLVIT centre in all Member States would be assured, entirely addressing the area of the legal uncertainty of the centres (see 4.1). One of the biggest concerns amongst the SOLVIT centres seems to be the perception that a legally binding act automatically puts the network's informal character at risk, and therefore its factor for success. However, we argue that those are two distinct issues and that guaranteeing the very existence of the SOLVIT centres does not necessarily impact the way they function and interact with each other. The risk of confusion between the two is, therefore, unfounded (see 5.2).

Should the Member States not agree on a legally binding act, we recommend, as a second-best option, replacing the Commission recommendation by a Council recommendation as a basis for SOLVIT (see 5.1, option III). The status of SOLVIT centres would remain legally

uncertain (see 4.1), since even a Council recommendation is not a legally binding act. However, compared to a Commission recommendation, national governments participate in drafting such a recommendation in the Council, raising the political commitment to the network within the Member States.

Finally, as a third-best option, we recommend strengthening the content of the current Commission recommendation. The maintenance of SOLVIT centres in the Member States remains legally uncertain (see 4.1) but provides the opportunity to address other areas for improvement (see 4.2 and 4.3) within the network.

To summarize, we recommend strengthening the current basis for SOLVIT. A change of the content of SOLVIT's legal basis also gives the opportunity to address other areas for improvement within the network: for example, differences in interpretation of EU law in SOLVIT, and opacity in the follow-up measures for unresolved SOLVIT cases. Having a binding act at an EU level as the legal basis for the network would guarantee the existence of the national SOLVIT centres. There are thus strong arguments to recommend this as the legal basis. If this is politically not possible, we recommend a Council recommendation or an amendment of the current Commission recommendation.

## 6.2 Recommendations for changes in SOLVIT to further enhance compliance with EU law in the Member States

The concrete effect of better compliance with EU law in the Member States of any of the options regarding a legal basis for the SOLVIT network mentioned above, is dependent on the concrete amendments contained in them.

Addressing the issue of capacity of SOLVIT centres is an essential condition for any of the recommendations mentioned below. Since its inception, SOLVIT suffers from a lack of resources resulting in understaffed and/or underqualified SOLVIT centres, centres with a high turnover affecting the continuity of case-handling, as well as a lack of independence of certain centres vis-à-vis the national authorities which they are dealing with. The unequal allocation of resources available to the national SOLVIT centres negatively affects the functioning of the network as a whole. The single market scoreboard highlights national differences in staffing and resources which affects the performance of



SOLVIT centres. Approximately a third of the Member States are assessed as inadequately staffed and in need of urgent attention, according to the scoreboard. We therefore consider it necessary to find a solution to provide adequate resources and staffing in *all* centres to enable any further changes to strengthen SOLVIT. As a starting point for finding a solution, we recommend looking at article 79 (1) of the proposal for a new regulation for construction products, specifying how contact points within the scope of the regulation shall be equipped to properly fulfil the tasks given to it.<sup>80</sup> We recommend basing staffing requirements at national centres on the eight assessment criteria set out for this purpose in the Commission’s Individual Reports sent to each Member State.<sup>81</sup>

Independent of which of the above-mentioned options is chosen as the legal basis for SOLVIT, we also consider how the possible establishment of a Single Market Ombudsman (“SMO”) in every Member State<sup>82</sup>, as a means to enhance compliance of EU law, may impact the role of SOLVIT in the Member States overall (see 5.2). We believe the soft law enforcement tool SOLVIT would be strengthened through an additional opportunity to address unresolved problems in the Member States. As a hard law enforcement tool, an SMO could bring problems to national courts, enabling preliminary questions to be asked at the Court of Justice of the European Union (“CJEU”). We consider this to be an important upgrade for ensuring a correct and uniform application of EU law within the Member States

Aside from the question of resources and the establishment of an SMO, we recommend addressing three areas that are problematic for the functioning of SOLVIT. Those concern the lack of uniform interpretation of EU law within the network, its lack of transparency and the insufficient use of SOLVIT’s potential. For each of these issues, we provide below some recommendations.

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<sup>80</sup> European Commission, COM(2022) 144 final, art. 79 (1): “[...] adequate resources for the proper performance of their tasks and at any rate at least one full-time equivalence per Member State and one additional full-time equivalence per each ten millions of inhabitants[...]”.

<sup>81</sup> European Commission, SWD(2017) 210 final, p. 15; Solvit Sweden Performance Report 2021, p. 2, listing the following criteria: “at least one member of staff has been working in SOLVIT for more than 2 years, a large part of case handling relies on short-term staff, the number of staff is adequate for the current caseload, other tasks take priority over SOLVIT’s tasks, the center is always operational, the staff has the capacity to address structural/recurrent problems, they can engage in awareness raising activities, and they are available to contribute to general issues of the functioning of SOLVIT, attend training courses etc.”.

<sup>82</sup> Ibid, p. 31.

To address differences in interpretation of EU law in SOLVIT, we propose:

- To upgrade the SOLVIT cooperation mechanisms in the light of existing mechanisms in other areas of EU law, such as competition and telecom rules.<sup>83</sup> These mechanisms could be assessed to see if they could be applied on SOLVIT. To give an example, in the field of competition law, National Competition Authorities and the Commission adopt guidelines via a dedicated European Competition Network.<sup>84</sup> Current existing networks that could be utilised for this purpose are the Administrative Commission (for Social Security Coordination) or the Network of National Infringement Coordinators.
- To assess the effect of the “Commission opinion” within the new SOLVIT Mutual Recognition procedure<sup>85</sup> and to investigate other areas of EU law where a Commission opinion could potentially be delivered within a SOLVIT procedure. If, to a large extent, national authorities seem keen to accept these opinions, it could be applied more broadly to all SOLVIT cases and could positively drive a more uniform interpretation of EU law within the Member States.

To address opacity in the follow-up of SOLVIT’s unresolved cases:

- Introduce, at the national level, a structure for follow-up similar to the one the Commission performs at an EU level. SOLVIT centres could be instructed to report quarterly national structural problems to the responsible ministries within their Member States. SOLVIT centres could be equipped with the potential to forward cases not only to the Commission’s database for complaints (“CHAP”), but also to the National Compliance Officer within their Member State. SOLVIT centres could be provided with quarterly information on which complaints were registered in CHAP concerning their Member States and which EU Pilots were started by the Commission against their Member State.
- CHAP and the SOLVIT database are interconnected for complaints at an EU level. Such a connection could be established

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<sup>83</sup> National Board of Trade Sweden (2019), p. 27 and 30 ff.; for example, the European Competition Network (enforcement of the EU rules on competition), the European Data Protection Board (enforcement of the EU data protection rules) or the Consumer Protection Cooperation Network (enforcement of the EU rules on consumer protection).

<sup>84</sup> National Board of Trade Sweden (2019), p. 31.

<sup>85</sup> Commission Opinion of 30.9.2021; Commission Opinion of 27.1.2022.

at a national level, for example by establishing a link to national ombudsmen's databases (or the SMO database, if established).

- Existing mechanisms for reporting unresolved problems detected via SOLVIT could be introduced in an amended or new legal basis for the network. Reporting to the Single Market Enforcement Taskforce ("SMET"), yearly follow-ups by the Commission with Member States on what measures have been taken to address their national structural problems, etc.
- SOLVIT centres enter case related information in the SOLVIT database. To make it clearer for SOLVIT centres and applicants regarding what happens with their unresolved problems, a tab to be filled in by the Commission services for eventual follow-up measures could be introduced. As a starting point, the Commission services could be obliged to enter start and end date of the measure, and which type of follow-up measure was taken.

To further enhance compliance with EU law in the Member States overall, we even recommend looking into the following measures to make better use of SOLVIT:

- The Commission already makes use of SOLVIT to see which areas of legislation are difficult to apply. Revision of guidelines on specific areas of law are partly based on cases from SOLVIT. Guidelines, as a preventive enforcement tool, contribute to more uniform application of EU law within the Member States. We recommend making greater use of SOLVIT data in policymaking, both at an EU and a national level to achieve more uniform interpretation of EU law.
- Using SOLVIT as a tool for better regulation, even at a national level. The Commission has included SOLVIT in its Better Regulation Toolbox and thereby makes use of the SOLVIT network in regulatory processes to prevent barriers emerging within the internal market. This could be introduced in a similar way at a national level.
- At an EU level, SOLVIT cooperates closely with the information network, Your Europe Advice ("YEA"), to inform citizens of their EU rights within the internal market. This collaboration could be extended to inform national authorities of applicable EU law and its interpretation. Since national authorities play an important role in applying EU law to individuals and businesses, we consider such a collaboration to have potential to enhance

better compliance with EU law at a regional level within Member States.

- SOLVIT assesses whether national law or practice is compliant with EU law. It can be valuable for national judges to get access to such assessments if individuals or businesses decide to appeal their unresolved SOLVIT case before a national court. We recommend looking into the possibility to give national courts access to SOLsVIT's legal assessments.

This analysis was written by Waltraud Heinrich and reviewed by Olivier Linden and Lena Nordquist.

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## Sammanfattning på svenska

### Summary in Swedish

Solvit är ett nätverk som löser problem för den fria rörligheten i EU som individer eller företag möter. Nätverket bidrar till att stärka efterlevnaden av EU-rätten på den inre marknaden.

Solvit är av flera skäl inne i en förändringsfas. Nätverket har tillskrivits nya arbetsuppgifter, reglerade av befintliga eller nya bindande EU-rättsakter. Nätverket har också rent organisatoriskt knutits närmare kommissionens efterlevnadsarbete. Nätverket fungerar numera som standardverktyg för tvistlösning på den inre marknaden,<sup>86</sup> enligt en ambition som har uttryckts av kommissionen. Diskussioner om Solvits utveckling och framtid har uppkommit på flera nivåer och olika initiativ att stärka Solvit har förts fram, både av kommissionen och vissa medlemsländers Solvit centers.

Solvit Sverige (vid Kommerskollegium) deltar i diskussionen om Solvits framtid genom att medverka i den nätverksinterna arbetsgruppen *Think Tank on the Future of Solvit*, som består av medarbetare från ett antal Solvit center. Arbetsgruppen har utarbetat flera förslag på hur Solvits roll kan stärkas, utifrån vilken rättslig grund som är bäst för nätverket.

I den här utredningen analyserar vi dessa förslag mot bakgrund av vårt breda efterlevnadsarbete. Vi bedömer att en förändring av Solvits rättsliga grund behövs. Som framgår av utredningen finns det starka skäl till att vi förespråkar att reglera Solvit i en bindande EU-rättsakt. Det kan stärka nätverkets mandat och bidra till en ökad efterlevnad av EU-rätten i medlemsländerna. En sådan förändring kräver en politisk förändringsvilja i de flesta medlemsländerna. Om sådan inte finns, skulle det näst bästa alternativet vara att förbättra Solvits nuvarande rekommendation, alternativt ändra den till en rådsrekommendation.

Utifrån de identifierade förbättringsområden inom Solvit och ett generellt efterlevnadsperspektiv, ger vi därefter även konkreta förslag på hur Solvit nätverket kan stärkas ytterligare och därmed bidra till en bättre efterlevnad av EU-rätten i medlemsländerna. En viktig förutsättning för förbättringar inom nätverket är att alla nationella center är adekvat utrustade och bemannade. Vi anser också att ett stärkt Solvit nätverk med fördel skulle kunna kombineras med inrättandet av en

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<sup>86</sup> European Commission, COM(2020) 94 final, action 18.

inremarknadsombudsman i varje medlemsland, ett förslag som vi har analyserat tidigare.

**The National Board of Trade Sweden** is the government agency for international trade, the EU internal market and trade policy. Our mission is to facilitate free and open trade with transparent rules as well as free movement in the EU internal market.

Our goal is a well-functioning internal market, an external EU trade policy based on free trade and an open and strong multilateral trading system.

We provide the Swedish Government with analysis, reports and policy recommendations. We also participate in international meetings and negotiations.

The National Board of Trade, via SOLVIT, helps businesses and citizens encountering obstacles to free movement. We also host several networks with business organisations and authorities which aims to facilitate trade.

As an expert agency in trade policy issues, we also provide assistance to developing countries through trade-related development cooperation. One example is Open Trade Gate Sweden, a one-stop information centre assisting exporters from developing countries in their trade with Sweden and the EU.

Our analysis and reports aim to increase the knowledge on the importance of trade for the international economy and for the global sustainable development. Publications issued by the National Board of Trade only reflects the views of the Board.

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