



Stronger Integration and Enhanced Free Movement in the Nordic Region

A contribution from the National Board of Trade Sweden

2022



Foreword

The importance of and interest in Nordic cooperation has increased in recent years. In August 2019, the Nordic Prime Ministers adopted a new vision for Nordic cooperation which aims to make the Nordic region the most sustainable and integrated region in the world by 2030. Then came the corona pandemic. It weakened the cooperation among the Nordic countries, which chose to fight COVID-19 in different ways. After free movement across Nordic borders since 1954, it was, for example, no longer possible for Nordic citizens to move freely between the Nordic countries. Against this background, the Swedish government commissioned the National Board of Trade to investigate, within the regulatory framework of the EU internal market, what opportunities that might exist to further improve Nordic integration. Our findings indicate that there are unexplored avenues to follow. In this contribution we point at five possibilities. We propose that the Nordic countries should better use the opportunities provided by existing rules on mutual recognition of goods, engage in more active cooperation regarding standardization of goods, services and processes, re-intensify cooperation on implementation of the Services Directive, deepen cooperation between the five national SOLVIT centers and further improve coordination on the implementation of new EU legislation. Ideally, all five Nordic countries should move forward jointly on the five strands. However, if that is not possible, nothing prevents a subset of Nordic countries to proceed. It is now of utmost importance to restore the borderless Nordic region and to re-intensify cooperation on economic integration. It is my hope that our proposals will find their way into the formal or informal Nordic cooperation processes and that they can be built upon in order to fulfil the well-founded vision of the Nordic Prime Ministers.

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Stockholm, March 2022

A handwritten signature in black ink, appearing to read 'Anders Ahnlid', with a stylized, cursive script.

Anders Ahnlid
Director-General, National Board of Trade Sweden

Summary

In the beginning of 2021, the Swedish government commissioned the National Board of Trade Sweden to focus on the Nordic context and to propose national measures within its existing mission that can contribute to the prevention and resolution of border barriers and to the minimisation of the negative consequences on trade of mobility-limiting decisions for the Nordic region. This is exemplified in the assignment as cooperation in the application and implementation of the Services Directive to prevent border barriers, for SOLVIT to handle Nordic border barriers related to EU law, to examine barriers to the trade of goods among the Nordic countries through mutual recognition and to examine the conditions for increased cooperation within standardisation.

In fulfilling this assignment, we focused on four core areas of the internal market in which we have substantial competence and in which we saw a rationale to analyse prospects for enhanced cooperation: mutual recognition, standardisation, services and SOLVIT. We also looked closer at cooperation with regard to the implementation of EU law in Sweden, Norway, Finland, Denmark and Iceland.

This report presents initiatives that correspond to the government's request. It presents a first step toward future enhanced Nordic cooperation as well as inspiration for continued discussions within the wider EU circle.

With this in mind, the Board makes the following recommendations for continued cooperation in the Nordic region within the framework of the given assignment.

Mutual recognition of goods

- Intensify information exchange and coordinate efforts related to the free movement of goods and mutual recognition within the network of national experts in the Nordic countries established through this project.
- Encourage further Nordic cooperation in the context of the ongoing overview of the new regulations on construction products to achieve more harmonised rules among the Nordic countries and at the EU level.
- The Swedish government should appoint members to a working group which has as its assignment the further analysis of trade barriers on the Nordic market to find potential product sectors in which enhanced future cooperation would be most beneficial. Mutual recognition could be one of the tools used to remove trade barriers.

Standardisation

- The Nordic countries should set up extended Nordic cooperation to further exchange best practices and information regarding processes related to harmonised European standardisation. This could, for example, contribute to coordinated responses when mutual interests exist.
- Stakeholders with an interest in standardisation could further encourage and initiate the possible development of common standards among the Nordic countries in areas in which there is a common Nordic interest but it is not possible or beneficial to develop European or international standards.

Trade in services/implementation of the services directive

- The Nordic Network for National Experts on the Services Directive should resume its work in 2022.
- The Board should be invited to participate in the work of the Nordic Network for National Experts on the Services Directive.
- The Nordic Network for National Experts on the Services Directive should make recommendations with regard to how notification under the Services Directive can be improved in national administrations and at the local level.

SOLVIT cooperation

- Nordic SOLVIT centres should hold biannual meetings prior to the regular workshops of the SOLVIT network to contribute to a coordinated response when mutual interests exist.
- In cases from the Nordic SOLVIT centres, data collected on existing cross-border problems should be shared and regularly reported (at least once a year) to the Secretariat of the Nordic Freedom of Movement Council.
- An annual networking meeting should be held between the Swedish SOLVIT centre and the Nordic Freedom of Movement Council Secretariat.

Common Nordic implementation of EU legal acts

- During its Presidency in the Nordic Council of Ministers in 2024, Sweden should work towards implementing a procedure by which the Nordic Council of Ministers provides and regularly updates a list of EU legislative initiatives in which Nordic cooperation on the implementation of those initiatives would add value.

Measures to improve integration have the best effect if coupled with a common approach and implemented by all of the Nordic countries. This work needs to be prioritised within all Nordic administrations in order for it to lead to concrete action and to continue with a strengthened ambition of Nordic regional cooperation.

In this context, political determination and action on the government level is paramount for the implementation of our recommendations. Appropriate resources should be allocated to the suggested measures in order for them to effectively contribute to a more integrated and sustainable Nordic region. The best impact would be attained if all Nordic countries could join in this endeavour. We should, however, welcome collaboration on certain parts of the report or between some countries if agreement cannot be reached by all on all matters. A highly integrated and sustainable Nordic region could be considered as a 'best practice' and as an example to be followed by other Member States, while it also has the potential to reach the ultimate goal of a more integrated and sustainable internal market.

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The tripod monument from Norway, Sweden and Finland (Triskelion) in the lake 'Göddajön' in Lapland, Finland. Photo: Veroljub/Creative Commons, CC

Introduction

The creation of an EU internal market as a single seamless market is an ongoing process in which the integration and exercise of the four freedoms¹ still contain gaps and leave room for improvement. In order to make integration work better, it is important that cross-border transactions function smoothly. Trade in goods and services, investments, labour mobility and other economic and social activity should not be hindered by cross-border restrictions that interfere with freedom of movement.

In the EU context, the Nordic countries constitute a region with strong historical, cultural and economic bonds and which shares a substantial internal trade. The 'Nordic model' is often referred to as unique from a global perspective and the Nordic countries share many common values and objectives. In general, cooperation is focussed on areas in which a Nordic approach generates added value for the countries and people of the region.

The Helsinki Agreement,² signed by the Nordic countries in 1962, guaranteed citizens in the Nordic countries the right to move freely within the region. In August 2019, the Nordic Council of Ministers and the Nordic Prime Ministers adopted a new vision³ for Nordic cooperation which aims to make the Nordic region the most sustainable and integrated region in the world by 2030.

The COVID-19 crisis with its inconsistent national restrictions revealed a wide divergence in the conditions for persons to enter and exit their neighbouring countries. It has become evident that even the supposedly integrated Nordic region with its close cooperation and willingness to coordinate relies on different practices and that there has been no coordinated response to the pandemic.

The border closures in March 2021 in the Nordic region left scars in Nordic cooperation that still need to be repaired.⁴ Every measure to re-establish trust in the Nordic region is, therefore, of importance. To fulfil the vision of 2030, all the Nordic institutions must be involved and need to work together.

1 The internal market seeks to guarantee the free movements of goods, capital, services and persons as was originally set out in the Treaty of Rome in 1957.

2 The Treaty of Cooperation between Denmark, Finland, Iceland, Norway and Sweden which was signed on 23 March 1962 is the world's oldest of its kind.

3 The [Declaration](#) of Nordic Vision for 2030.

4 [Statement](#) by the Swedish Minister for Foreign Affairs, in June 2020.

An assignment on Nordic trade cooperation

The National Board of Trade Sweden is a national governmental agency for international trade, trade policy and the EU internal market. Our mission with respect to the EU is to facilitate free movement in the EU internal market.

In the beginning of 2021, the Board was commissioned by the Swedish government to focus on the Nordic context and to propose measures within its existing mission that can contribute to prevention and resolution of border barriers and to the minimisation of the negative consequences to trade of mobility-limiting decisions in the Nordic region.

The rationale for the assignment was that the National Board of Trade has a broad mission to work for an internal market that functions well and is therefore a relevant and suitable authority to analyse and suggest improvements on horizontal work for that purpose.

Against this background and with a focus on Nordic integration as expressed in the assignment, we began with areas with which we were already familiar and that are subject to potential improvement to ensure a properly functioning internal market within which there is room for further Nordic integration: mutual recognition, standardisation, services and SOLVIT.

An important prerequisite to the achievement of Nordic cooperation is to establish networks at all levels of government; the work within the framework of this project has shown the importance of networks between national experts. Additional work is required on a political level and within national administrations to realise the vision of making the Nordic region the world's most sustainable and integrated region by 2030.

With the initiatives and recommendations, we hope to both inspire other Member States and encourage continued discussions on the thematic areas within a wider EU circle.

1 Nordic cooperation

This section will briefly introduce the foundation of Nordic cooperation and the different bodies of the Nordic region which engage in cooperation. The section also reflects on the background of the assignment given to the National Board of Trade and how this report can play a part and contribute to the implementation of the Nordic vision.

1.1 Foundation of cooperation

The multilateral agreements among the Nordic countries which established a common Nordic Labour Market in 1954⁵ and the Nordic Passport Union in 1957⁶ were some of the most visible results of post-war Nordic cooperation and have been seen as successful in facilitating free movement in the region ever since.

Cooperation among the Nordic countries involves Denmark, Finland, Iceland, Norway, Sweden, the Faroe Islands, Greenland and the Åland Islands. The Nordic Council of Ministers and the Nordic Council are the main forums for official Nordic cooperation. Their vision is to make the Nordic region the most sustainable and integrated region in the world.⁷

The Nordic Council was created by Denmark, Sweden, Norway and Iceland in 1952, and Finland joined shortly thereafter in 1955. In 1962, the Helsinki Treaty⁸ which set out the ground rules for formal Nordic cooperation was ratified. It seeks to globally safeguard Nordic and regional interests and values, and hence it plays an important role in the Nordic region in a European and worldwide context.

1.1.1 The Helsinki Treaty

The Helsinki Treaty⁹ (the Agreement) is the foundation of Nordic cooperation and constitutes the general framework and institutional structure for the Nordic region. The Agreement states that Nordic cooperation is centred around seven areas: legal, cultural, social, economic, transport, communications and environmental protection.¹⁰ The first part of the Agreement contains material provisions which specify the obligations of the contracting parties. Provisions are included on the facilitation of the acquisition of citizenship in a Nordic country by citizens of another Nordic country, instruction in the languages, cultures and general social conditions of the other Nordic countries in educational institutions, and placing the environmental interests of the other Nordic countries on an equal footing with their own in matters of national legislation, etc.¹¹

5 According to the agreement, it was considered a fundamental right for nationals of the Nordic countries to be able to freely take up employment and settle in another Nordic country. The agreement on the Common Nordic Labour Market was signed on 6 March 1954 and came into effect on 1 August 1954, replacing a previous agreement of 22 May 1954.

6 The Nordic Passport Control Agreement of 12 July 1957 between Sweden, Denmark, Finland and Norway on the waiving of passport checks at internal Nordic borders (subsequently acceded to by Iceland on 24 September 1965; the Faroe Islands have been covered by the agreement since 1 January 1961).

7 [Nordic Cooperation | Nordic cooperation \(norden.org\)](https://norden.org)

8 Treaty of Cooperation between Denmark, Finland, Iceland, Norway and Sweden.

9 The original text has been amended by Agreements that were signed on 13 February 1971, 11 March 1974, 15 June 1983, 6 May 1985, 21 August 1991, 18 March 1993 and 29 September 1995. The most recent amendments entered into force on 2 January 1996.

10 Article 1 of the Helsinki Agreement.

11 Articles 2–38 of the Agreement.

1.1.2 The institutions

Nordic cooperation takes place in several different forums: in the Nordic Council, in the Nordic Council of Ministers, at the meetings of the Prime Ministers, at the meetings of the Foreign Ministers and those of other Ministers, in special cooperative bodies and between the specialised public authorities of the Nordic countries.¹²

The Nordic Council

The primary objective of the ideas and proposals for cooperation presented by the Nordic Council's politicians is the desire to make the Nordic region an attractive place in which to live and work.

The Nordic Council has 87 elected members who are members of the national parliaments and are nominated by the party groups. The Council is run by a Presidium that comes together at two annual meetings in which the Nordic politicians make decisions on issues that they call on the Nordic governments to implement.¹³ The Secretariat of the Nordic Council prepares and follows up on the issues discussed by its Presidium and by its committees and other organs.¹⁴

The Nordic Council of Ministers

The Nordic Council of Ministers is the official body for intergovernmental cooperation in the Nordic region. It seeks Nordic solutions in areas where the Nordic countries can achieve greater results by working together than by working on their own.¹⁵ The priorities of the Nordic Council of Ministers are further elaborated in the following section (Section 1.2).

The Nordic Freedom of Movement Council

The Nordic Freedom of Movement Council was set up in 2014 by the Nordic governments to promote freedom of movement in the Nordic region for people and companies. The Freedom of Movement Council should cooperate with actors on the national and regional levels that can contribute to solving cross-border issues, such as the Nordic information services, Ministers, the national administrations and Members of Parliament.¹⁶

The work of the Council and its role in problem solving and the removal of border obstacles arising in the border regions, particularly those related to the various restrictions in the Nordic countries during the pandemic, is further elaborated in Section 7.

12 Article 40 of the Helsinki Agreement.

13 The Control Committee of the Nordic Council recently examined and published a [report](#) on the work which contained recommendations and political dialogue from the Nordic Council.

14 Article 54 of the Helsinki Agreement.

15 [Nordic Cooperation | Nordic cooperation \(norden.org\)](#)

16 [Om Nordiska ministerrådets gränshinderarbete | Nordiskt samarbete \(norden.org\)](#)

1.2 The Nordic Vision of 2030

To challenge global climate change and a Nordic climate in which integration and inclusion come under pressure, the Nordic countries felt an urge to lead the way and find good solutions for the future. In August 2019, it was declared by the Nordic Council of Ministers and the Nordic prime ministers that they had a joint vision to make the Nordic Region become the most sustainable and integrated region in the world by 2030.¹⁷

The cooperation of the Nordic Council of Ministers must serve the purpose of this vision and all of the ministerial councils and Nordic institutions must make concrete contributions to ensure that the vision is achieved together. In order to realise the Nordic vision for 2030 over the next four years, three strategic areas are being given priority in the work of the Nordic Council of Ministers:

- a green Nordic region
- a competitive Nordic region
- a socially sustainable Nordic region

To succeed in these efforts, all of the individual Councils of Ministers and Nordic institutions as well as the Nordic Council have been involved in providing concrete proposals for projects as well as priority areas. The outcome of these efforts is an Action Plan for 2021 to 2024 for the work of the Nordic Council of Ministers which is based on the twelve objectives linked to the strategic priority areas.¹⁸

The Nordic Prime Ministers have the overall responsibility for Nordic cooperation. The ongoing coordination of intergovernmental cooperation is delegated to the Ministers for Nordic Cooperation. The Ministers for Nordic Cooperation have an overall responsibility to follow up on the implementation of the vision and strategic priorities. The first report of the ministers for Nordic Cooperation to the Nordic heads of government about how to achieve the vision and the strategic priorities is progressing and will be delivered during autumn 2022.¹⁹

It is our hope that the assignment given to the National Board of Trade Sweden and the different recommendations of this report will contribute in part to this work and to help facilitate increased economic integration in the Nordic Region.

17 Our Vision 2030 | Nordic cooperation (norden.org)

18 The Nordic Region – towards being the most sustainable and integrated region in the world, [Action Plan for 2021 to 2024](#)

19 Our Vision 2030 | Nordic cooperation (norden.org)

2 The Nordic region from an economic perspective

Given the common vision of the Nordic countries²⁰ to create the most sustainable and integrated region in the world with a focus on mobility across the Nordic borders, it is valuable to demonstrate the extent to which movement of goods, services, persons and capital across borders actually takes place within the Nordic region today.

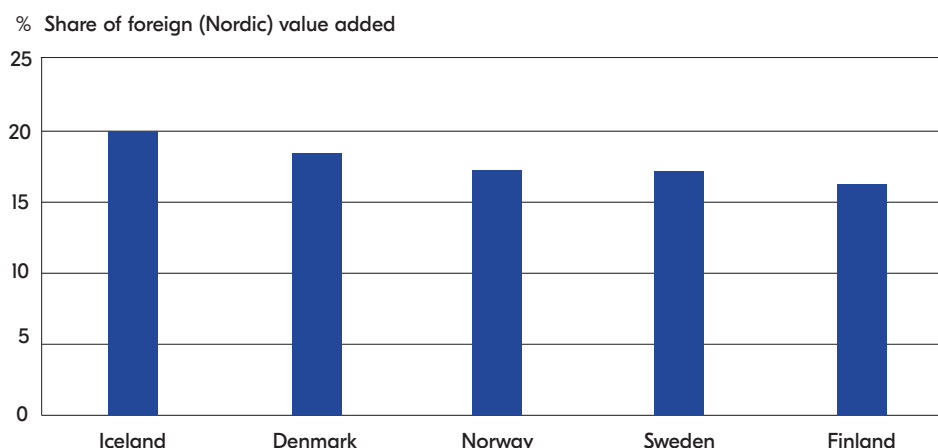
This section will therefore present some economic indicators which describe the Nordic region's integration from a value chain perspective and in terms of trade and the mobility of persons and labour²¹.

2.1 Trade and integration within the Nordic region

2.1.1 Integration among the Nordic countries

Figure 1 illustrates the integration among the Nordic countries from a value chain perspective. Since data on trade in value added²² from the OECD-WTO database (TiVA) takes into account countries' imports of input goods and services used in production and also accounts for the origin of these imports, it gives a good indication of the economic integration among the five countries²³.

Figure 1. Foreign value added originating in the Nordic countries as a share of the total foreign value added in the respective countries' exports, 2015.



Source: TiVA, OECD-WTO, National Board of Trade's calculations.

Figure 1 examines the share of foreign value added that originates in the Nordic countries as a share of the total foreign value added in the countries' exports. Iceland has the highest share of value added, indicating that 20 percent of the foreign value added in the country's exports came from the Nordic region in 2015. The Nordic region is thus particularly

²⁰ See previous footnote.

²¹ Unfortunately, trade in services at a more aggregated level is not available for all countries of interest, so the section that describes trade within the Nordic region will only cover trade in goods. If you are also interested in what Sweden's trade with the Nordic countries looks like, this is described in the Appendix.

²² Value added reflects the value generated from the production of goods and services and is measured as the value of output less the value of intermediate consumption. Value added also represents the income available for the contributions of labour and capital to the production process.

²³ OECD (2013): 'Interconnected economies: Benefitting from global value chains'.

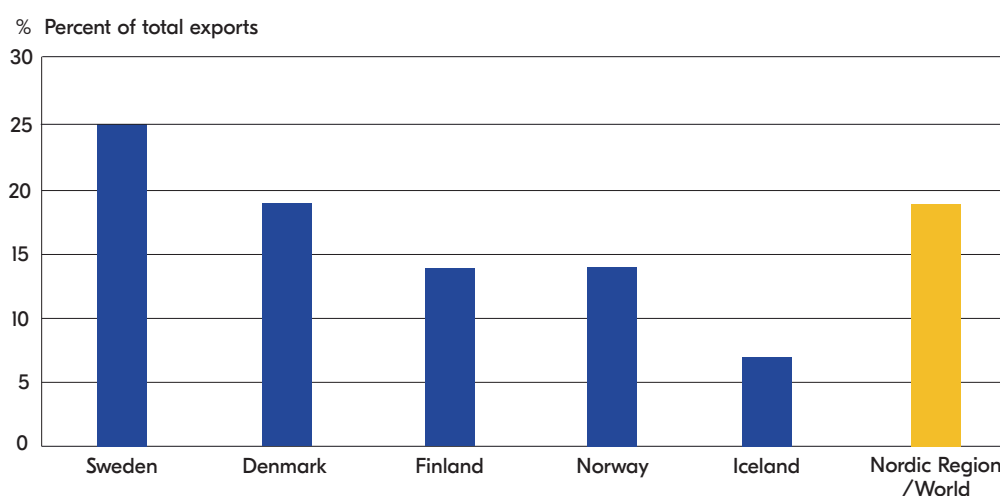
important for Iceland. However, all Nordic countries are at a relatively comparable level, Denmark at 18 percent, Sweden and Norway at 17 percent and Finland at 16 percent, which indicates that they are all equally dependent on each other.

2.2 Trade within the Nordic region

2.2.1 Trade in goods

Figure 2 shows the share of goods exported to other Nordic countries as a share of total exports of goods for the Nordic countries in 2019.

Figure 2. The share of goods exported to the other Nordic countries as a share of total exports of goods, 2019.



Source: Nordic Statistics, National Board of Trade's calculations.

Sweden exported the largest share in 2019, with 25 percent of the country's total exports of goods going to the other Nordic countries. This is most likely because of Sweden's geographic location in the Nordic region. The corresponding figure for Denmark was 19 percent. Both Finland and Norway's export share amounted to 14 percent, and Iceland's was 7 percent.

The yellow bar in Figure 2 illustrates the share of Nordic countries' total exports of goods that went to other Nordic countries. It shows that of the region's total exports of goods, 19 percent went to the Nordic countries. Hence, almost one fifth of the goods exported ended up in any of the Nordic countries in 2019.

2.3 Mobility of persons within the Nordic region

Given the geographical vicinity of the Nordic countries, it is well known that many Nordic citizens tend to be highly mobile. Compared to other countries in Europe, the populations of the Nordic countries also stand out as being the most mobile, with 13 to 16 percent of the population changing residence in any given year²⁴.

²⁴ Nordic Region, 'State of the Nordic Region 2020'.

Table 1. Number of residents from other Nordic countries (citizenship), 2019 and 2020.

Country of residence	Number of Nordic citizens (excl. host country)		
	2019	2020	Change 2019–2020
Sweden	68,462	69,041	1%
Finland	60,863	58,778	-3%
Denmark	55,998	54,778	-2%
Norway	52,504	52,610	0%
Iceland	21,853	21,669	-1%

Source: Eurostat, National Board of Trade's calculations. Residents of the country of residence for at least 12 months or if they have settled in the country in 2019 or 2020 with the intent to reside in the country for at least 12 months.

Yet, if we examine the mobility during the last two years, the statistics indicate that two out of five Nordic countries have experienced a decline in the number of Nordic citizens living in other parts of the region.

In Table 1, we see that the number of Nordic citizens in Denmark and Iceland have declined by two percent and one percent, respectively. The number of Nordic citizens living in Sweden and Finland has increased by one percent and two percent, respectively, during the same period. It should be kept in mind, however, that the number of citizens in the Nordic countries is probably higher than what appears from the statistics.

2.4 Labour mobility within the Nordic region

To better understand labour mobility within the Nordic region, we will examine how many Nordic citizens are crossing the border to another Nordic country on a yearly basis for work. At the end of 2015, a total of 51,234 Nordic citizens resident in one Nordic country commuted to a job in another Nordic country.

Table 2: Number of cross-border commuters to other Nordic countries for work, region of residence, age 16 years and older, both sexes, 2015.

Region of residence	Number of commuters
Sweden	40,556
Denmark	5,720
Finland	2,356
Norway	1,752
Iceland	850
Nordic region	51,234

Source: Nordic Statistics²⁵.

As shown in Table 2, the spread of cross-border commuters in the Nordic countries and see indicates that Swedes commute to a job in another Nordic country to the highest extent, while Icelanders commute the least. This spread is expected given the geography of the countries.

²⁵ The statistics refer to the year with the latest available data for all countries.

2.5 Conclusion

It is clear that the Nordic countries are highly integrated with each other in terms of trade and foreign direct investments as well as mobility of persons and workers. For example, of the Nordic countries' total exports of goods, 19 percent went to the Nordic region. The Nordic region is furthermore seen as a greenhouse for the internationalisation of small- and medium-sized enterprises (SMEs). The internationalisation experiences of these enterprises in terms of trade and foreign direct investments often lead to another Nordic country as the first international market they enter.²⁶ Nordic citizens furthermore frequently commute to a job or permanently reside in another Nordic country.

There are many factors that can explain the already high level of integration. In addition to all Nordic countries having strong links to the EU, either as members or as part of the EEA, the geographical proximity and cultural and linguistic similarities play a role.

Despite the already high level of integration, there is still room for enhanced cooperation. In the following chapters, we identify and explain the areas in which we find rationale for further integration.

26 [Origin of FDI inflows 2003-2016 | Nordregio & Nordics: main export challenges of SMEs 2017 | Statista](#)

3 Cooperation on mutual recognition of goods

Harmonisation of product rules provides a clear and predictable legal framework for businesses and ensures an internal market for goods that functions well. However, there are still many products that fall outside the scope of harmonised rules or are only partly covered by harmonised legislation in the EU. These products are subject to different national legislation in the Member States, making the legal framework less clear and predictable which may also create unjustified barriers to trade. In order to facilitate the free movement of goods in the unharmonized areas, a variety of legal tools may be used.

As part of this project, The National Board of Trade has assessed the implementation of one of these tools, the Regulation on Mutual Recognition of Goods²⁷ among the Nordic countries. We have also made an initial analysis of the possibility to use the principle of mutual recognition to facilitate the free movement of goods among the Nordic countries.

We reached out to the officials in the Nordic countries who are responsible for the implementation of the Regulation to find out if there was any interest in participating in this project. All Nordic countries expressed an interest to learn more about the project and there have been meetings with the officials responsible for the implementation of the Regulation on Mutual Recognition of Goods.

3.1 The Regulation on Mutual Recognition and its implementation

3.1.1 The Regulation on Mutual Recognition

The principle of mutual recognition derives from the case law of the EU Court of Justice.²⁸ According to the principle of mutual recognition, products that have been lawfully marketed in one Member State should be able to be sold freely in another Member State. Derogations from the principle could only be made if the applicable national technical rule aimed to protect a legitimate interest.²⁹ If the principle of mutual recognition is correctly applied, there will be goods on the market in the receiving Member State that are not fully compliant with the national technical rules in that state. Hence the principle to a large extent is dependent on mutual trust between Member States. The national authorities in the receiving Member State must be confident that the technical rules in the first Member State are sufficient to ensure an equal level of protection for the legitimate interest they aim to protect without additional requirements or testing.

The principle of mutual recognition can be a useful tool to facilitate the free movement of goods on the internal market in the product sectors not subject to fully harmonised rules. While the principle is clear and simple in theory, its application is not without difficulty.³⁰ Instead of relying on the principle of mutual recognition when entering new markets, businesses, in particular SMEs, tend to adapt their product to different national technical rules or even decide not to enter a market at all.³¹

27 Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State.

28 C-120/78 Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein, *Cassis de Dijon*.

29 Article 36 TFEU and the case law on mandatory requirements.

30 European Commission — The Goods Package: Reinforcing trust in the single market COM(2017) 787 final, p. 6 f.

31 Commission Staff Working Document — Business Journey on the Single Market: Practical Obstacles and Barriers SWD (2020) 54 final, p. 23.

The EU adopted the Regulation on Mutual Recognition in April 2020 with the aim of improving the application of the principle and strengthening the functioning of the internal market.

The Regulation stipulates different procedural rules that a competent national authority³² must follow when assessing restricted or denied market access for a product. The Regulation also gives economic operators an opportunity to hand in a voluntary declaration on mutual recognition to prove that the product has been lawfully marketed in another Member State. According to the Regulation, a decision from a national authority to stop a product that has been legally marketed in another Member State should be notified to the Information and Communication System for Market Surveillance (ICSMS).

The Regulation entered into force in April 2020 but is yet to be incorporated in the EEA agreement which is necessary before it can enter into force in the EFTA countries. Therefore, it is not presently in force in Norway and Iceland.

3.1.2 Experiences from comparing implementations

Various information efforts were carried out in Denmark, Sweden and Finland when the Regulation entered into force. In Denmark, information on the practical application of the Regulation was sent to all competent Danish authorities who reported back on how the Regulation had been implemented. In Finland, information seminars were held for national authorities at the time the Regulation went into force. No particular efforts to follow up on the implementation are planned at the moment; however, this might be done when the Regulation has been in force for a longer period of time. In Sweden, the National Board of Trade offers individual information seminars for competent national authorities concerning implementation and application of the Regulation.

Certain Danish authorities have been more active with regard to the implementation of the Regulation, for example, with regard to strategies for the application of the Regulation and updates of standard forms for decisions and guidelines. A national authority also established a contact group for stakeholders.

In Finland, businesses have been making inquiries about the Regulation, mainly through the SOLVIT function. These inquiries indicate that companies often have expectations about the new Regulation that are not always correct. The Board shares this experience.

In both Finland and Denmark, the national authorities responsible for the decision to stop a product carry out the notifications. This differs from the Swedish implementation of the Regulation in which the National Board of Trade is responsible for carrying out the notifications upon receipt of a notice from the national authority responsible for the decision.³³

In Denmark, there is an ongoing examination of the possibility of automatic transfer of information from national authority databases to the ICSMS.

Since the Regulation is not yet in force in Norway and Iceland, only preparatory measures have been taken at this stage. Iceland has not yet planned for information campaigns, while Norway has some information efforts planned. In Norway, national authorities will be responsible for notifications in the ICSMS.

32 A competent national authority is a national agency with legal competence to hinder the free movement of a product in accordance with a national technical rule.

33 Förordning (2014:1039) om marknadskontroll av varor och annan närliggande tillsyn.

3.2 Accelerated mutual recognition project — construction products

The principle of mutual recognition could facilitate the free movement of products not covered by harmonised rules. If the principle is correctly applied, a Member State can allow products to circulate on the market even if the products are not fully compliant to national technical rules, as long as products are legally marketed in another Member State and the receiving Member State trusts that the rules in the first Member State ensure the same level of protection and safety.

In order to increase the use of the principle and to facilitate trade on the internal market, the Commission has initiated an accelerated mutual recognition project. The aim of the project is to find areas in which mutual recognition can be used to enforce the internal market.

The inspiration for the project comes from an initiative among the national authorities in Belgium, France and Italy in which they decided to make a common effort to facilitate cross-border exchanges of food supplements. They agreed to establish a mutual list of vegetable substances and preparations used in food supplements which would facilitate cross-border exchanges of food supplements. The list covers around one thousand vegetable substances and preparations that could be accepted for use in food supplements by the participating countries as long as necessary measures to ensure consumer safety are respected and the manufacture of the products complies with other legislative requirements applicable to food supplements.³⁴

The Commission has put construction products forward as a relevant product category for an accelerated mutual recognition project.³⁵ Food, food supplements, fertilisers and precious metals have also been pointed out as relevant sectors. Earlier this year, the Commission launched an initial assessment on the possibility of an accelerated mutual recognition project in the precious metals sector.

In order to contribute to the strengthening of Nordic cooperation and to remove trade barriers within the field of mutual recognition, the National Board of Trade is of the view that construction products are a suitable sector for further analysis.

3.2.1 Business organisations survey

The National Board of Trade sent out a survey³⁶ to business organisations in the construction product sector in order to gather information about possible national technical rules for which mutual recognition could be used as a tool to solve trade barriers. The National Board of Trade asked for information on specific construction products for which different national technical rules constituted a trade barrier on the Nordic market.

*Föreningen Svensk Betong*³⁷ replied to the survey and highlighted some questions concerning the different Nationally Determined Parameters of the Eurocodes. The Eurocodes are a collection of European building standards³⁸ that specify the structural requirements of

³⁴ European Commission Discussion Document Mutual Recognition Alliances Project, 2020.

³⁵ European Commission — Mutual Recognition Alliance Project.

³⁶ Survey — National technical rules creating trade barriers for construction products on the Nordic market, 23 September 2021.

³⁷ Business organisation for companies that manufacture ready-mixed concrete, carry out concrete pumping and companies that manufacture and/or assemble concrete product.

³⁸ The Eurocodes are (as different from other standards) mandatory in the specification of European public works and are de facto standards for the private building sector. The Eurocodes are made mandatory through national law and are freely accessible compared to harmonised European standards in other areas.

construction and building products within the EU³⁹. The Eurocodes are open for different national choices within national regulations, that is, Nationally Determined Parameters, which make national adaptations of the Eurocodes possible due to conditions such as climate.⁴⁰ According to *Föreningen Svensk Betong*, these Nationally Determined Parameters may create barriers to trade since different national choices can be made among the Member States.

The Swedish Institute of Steel Construction raised the issue that different national regulations in the Nordic countries concerning climate declarations for buildings can create barriers to trade. Due to this problem, suppliers of construction material will have to comply with several different legal frameworks. *The Swedish Institute of Steel Construction* also pointed out that more harmonised rules in this area could be environmentally beneficial.

3.2.2 Public stakeholders

The Board contacted the Swedish National Board of Housing, Building and Planning⁴¹ to investigate the replies to the survey related to the ongoing efforts in the sectors mentioned.

Swedish building regulations are performance-based at the building level and contain very few requirements at the construction product level. The building regulations do, however, indirectly set legal requirements for construction products.

With respect to regulations on climate declarations for buildings, there is already a collaboration among the authorities in the Nordic countries. In 2019, the Nordic Council of Ministers adopted a declaration on Low Carbon Construction and Circular Principles in the Construction Sector.⁴² Since then, a network for cooperation among the Nordic countries has been created by the authorities which includes recurring meetings for officials and workgroups for scientists and businesses. According to proposals for regulation in the Nordic countries, there are differences at a regulatory level. This may be explained by different legal frameworks on construction and different legal traditions. There is an understanding at a Nordic level regarding the need for mutual methods to calculate climate impact for construction products. For example, Finland and Sweden have cooperated on a database for climate data. Sweden is the only country to adopt a regulation on climate declarations at this point. There might be more room for future cooperation with regard to the national choices for the Eurocodes. The system is being revised at present and there is some Nordic cooperation concerning exchange of information.⁴³

The National Board of Trade has also been in contact with the Nordic Council of Ministers who will present a report covering trade barriers among the Nordic countries in the construction sector in November 2021.⁴⁴

39 Eurocodes: Building the future – The European Commission website on the Eurocodes 0 ([europa.eu](https://www.europa.eu)) and <https://www.en-standard.eu/eurocodes/>

40 Boverket – the Swedish National Board of Housing, Building and Planning – is a central government authority that reviews developments in these areas. They are responsible for the national choices in Sweden in this regard.

41 Boverket <https://www.boverket.se/>

42 [Nordic Declaration on Low Carbon Construction and Circular Principles in the Construction Sector | Nordic cooperation \(norden.org\)](https://www.norden.org/en/declaration-on-low-carbon-construction-and-circular-principles-in-the-construction-sector)

43 Notes from dialogue with the Swedish National Board of Housing, Building and Planning (Boverket) 2021/00099-142.

44 The Council report was not published before the final version of this Nordic report.

3.3 Conclusions

The National Board of Trade raised the question of an accelerated Nordic mutual recognition project in meetings with the officials from the Nordic countries. The general response has been positive, provided that there will be a suitable product upon which to agree. The inquiry to the business organisations has not resulted in information regarding any specific product in the construction sector for which mutual recognition could facilitate trade. There is already ongoing cooperation among the Nordic countries with regard to climate declarations for buildings, mainly concerning new regulations. We would recommend that this work continue with the aim of creating the most harmonised rules as possible among the Nordic countries. We would also like to stress the importance of more harmonisation on the EU level in this field.

One area which could be further analysed in cooperation with the responsible national agency is the national choices made in the Eurocodes through national regulations and the possibility to use mutual recognition as a tool to remove trade barriers arising from the Nationally Determined Parameters. However, there is currently extensive work being carried out within the EU regarding the review of the Construction Product Regulation⁴⁵ which was initiated by the EU Commission in 2020, and such an analysis should probably await the results of the ongoing review at the EU level. We would like to stress that cooperation among the Nordic countries in this area should be a priority with the aim to assure that future regulations at all levels are as harmonised as possible.

There might, however, be other product sectors in which economic integration could be beneficial in the Nordic region and mutual recognition could be a useful tool to remove trade barriers. In order to find such product sectors, a wider and more in-depth investigation of trade barriers between the Nordic countries needs to be conducted. Such a study would clarify what product sector(s) could benefit most from future cooperation and which tools would be most suitable to the removal of trade barriers.

The National Board of Trade is of the view that the networks created and the insights from this project will be useful for future efforts in the Nordic region. The inspiration from comparing the implementation of the Regulation in the Nordic countries could be used to increase the knowledge of the principle of mutual recognition within the national administrations. The aim would be to ensure better application of these important instruments in order to facilitate trade and create economic growth in the Nordic region.

Recommendations

The Board makes the following recommendations:

- Intensify information exchange and coordinate efforts related to the free movement of goods and mutual recognition within the network of national experts in the Nordic countries established through this project.
- Encourage further Nordic cooperation in the context of the ongoing overview of the new regulations on construction products to achieve more harmonised rules among the Nordic countries and at the EU level.
- The Swedish government should appoint members to a working group which has as its assignment the further analysis of trade barriers on the Nordic market to find potential product sectors in which enhanced future cooperation would be most beneficial. Mutual recognition could be one of the tools used to remove trade barriers.

45 Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/

4 Standardisation

Standards are documents that provides rules, guidelines or characteristics for products, processes, services or production with which compliance is not mandatory. Standards are usually described as common solutions to recurring issues, and they have a vast variety of purposes and cover many areas. There exist standards that are formal and are developed by recognised bodies and which adhere to criteria such as transparency, consensus and relevance in accordance with the WTO Agreement on Technical Barriers on Trade. There are also informal standards, which are not developed by any officially recognised standardisation body but instead have gained popularity and acknowledgement from widespread use.

Standards are also key in trade policy since they play an important part in the removal of technical barriers to trade, and the use of standards may increase market access, especially if the standard is an internationally recognised standard.⁴⁶

Through the system for harmonised European standards, standards also form an important part in the application and implementation of harmonised EU law. Such harmonised European standards are developed following standardisation requests made by the EU Commission to any of the European Standardisation Organisations.⁴⁷ Once a harmonised European standard is referred to in the Official Journal of the European Union (OJEU), the use of the referred standard provides a presumption of conformity with the general product requirements in the harmonised legislation. The process of requesting the development of a harmonised standard is conducted in the Committee on Standards (CoS) in which the Member States participate.⁴⁸

Within the frame of this project, we have investigated the interest in and possibilities for further cooperation and coordination in the Nordic region in matters relating to the EU Commission's requests to develop harmonised European standards.⁴⁹ Through bilateral meetings with Nordic counterparts,⁵⁰ we have exchanged information on how the national preparations and consultations with stakeholders, such as the national standardisation organisations, are conducted. These discussions have been held at a strictly technical level.

The main focus of discussion has been activities within the system for harmonised European standards and the CoS. The exchange of information and coordination prior to matters in the committee could contribute to matters of mutual interest being represented in the votes on standardisation requests. The exchange of best practices and experiences can also contribute to an increased knowledge and to lessons learned from each other. To gain a broader view of the possibility of Nordic cooperation within the area of standardisation, some information from the Swedish national standardisation organisations of SEK Svensk Elstandard (SEK) and Svenska Institutet för Standarder (SIS) has also been shared relative to the possibilities to develop common standards for the Nordic region.

46 There are formal standardisation organisations at national, regional and international levels.

47 Cen, Cenelec and Etsi.

48 This procedure is regulated in Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council. In Sweden, the Ministry of Foreign Affairs participates with support from the National Board of Trade.

49 Regulation (EU) 1025/2012.

50 Representatives for Denmark, Finland and Iceland have been active participants within this project. The National Board of Trade has also made multiple attempts to involve and reach out to Norwegian counterparts and obtain for their interest in any future cooperation.

4.1 Requests to develop harmonised European standards – differences and similarities among the Nordic countries

Some understanding of how the processual work prior to a vote in the Committee on Standards (CoS) is carried out among the national governments would be valuable in order to assess how and when cooperation or coordination among the Nordic member states would be most beneficial. There are some similarities but also great difference among the Nordic countries when it comes to consulting national stakeholders prior to votes in the CoS. Initially, it is important to note that Iceland and Norway have observer status in the CoS and do not have any voting rights. Harmonised European standards do, however, apply to Norway and Iceland in the same way as they apply to EU Member States.

The system in Denmark is somewhat like the system in Sweden, but one differing aspect is that the Danish Business Authority⁵¹ has agreed with its respective ministry on a mandate to vote in favour of all ‘non-controversial’ standardisation requests and to only consult the ministry in ‘controversial’ cases. ‘Non-controversial’ standardisation requests are cases in which the relevant national authority supports the standardisation request, and any arguments against it are based on principled opposition to the format of the request (related to the James Elliott case⁵²) rather than on the substance of the request. This means that the authority has the mandate to accept a standardisation request despite the opposition of some stakeholders.⁵³ In cases in which there are substantial arguments against a standardisation request, the Danish authority will weigh the different arguments from the consultation and recommend a Danish position, but it is the ministry that will make the final decision.

In Finland, the ministry does the preparatory stakeholder consultation, decides the position in CoS and participates in CoS. Within the ministry, an informal group of representatives from each ministry has been established, consisting of representatives working with regulations on goods from the different ministries. The National Standardisation Organisation is also represented in this group and the group will always meet prior to a meeting in CoS. The contact for CoS with regard to standardisation requests will send the request to the ministry in charge of the EU legislation associated with the request. It is then the task of the responsible ministry to consult stakeholders and government agencies that may be affected by the request. The ministry in Finland also has an e-mail distribution list which all interested stakeholders are welcome to join. When there is a vote in CoS, the draft standardisation request will be sent to this group of subscribers for input regarding the request. When a vote regarding a standardisation request is initiated, it is the person in the ministry responsible for the matter on hand and the legislation associated with the standardisation request who decides on the final vote in the Committee. Hence, there are different persons and ministries that handle and finally decide on each standardisation request, but it is the participant in CoS who keeps the connection to CoS and delivers the vote on the standardisation request.⁵⁴

Even though Iceland and Norway only participate in CoS as observers without voting rights, they can still, of course, support ideas or bring attention to different aspects of a standardisation request.

51 Who is the agency responsible in Denmark for participating, coordinating and preparing votes in the CoS. In Sweden, the preparatory role, the decision-making and the mandate of participation in the committee on standards is split between the Board and the Ministry of Foreign Affairs.

52 James Elliot refers to the case law in case C-613/14 - James Elliott Construction v Irish Asphalt Limited in which the ECJ stated that ‘a harmonised standard such as that at issue in the main proceedings, adopted on the basis of Directive 89/106 and the references to which have been published in the Official Journal of the European Union, forms part of EU law’ (p. 40).

53 National Board of Trade, dnr. 2021/00099-66, Minnesanteckningar från möte med Danmark.

54 National Board of Trade, dnr. 2021/00099-56, Minnesanteckningar: Möte med Finland.

4.2 Cooperation and coordination on standards

4.2.1 The Nordic standardisation perspective

The Nordic countries have longstanding relationships on trade issues and a history of Nordic cooperation within many areas of trade, such as the development of standards. However, it needs to be recognised that formal standards follow a strict model established between national, regional and international standardisation organisations. The regional level in Europe are the standards developed by the European standardisation organisations via Cen, Cenelec and Etsi.⁵⁵

Even if there are some local initiatives within the Nordic countries and some cooperation among the national standardisation organisations, it is usually preferable to aim at developing standards at the highest possible level, that is, internationally rather than regionally or nationally, in order to provide a greater impact from technical harmonisation. Another aspect that needs to be considered is that any potential national or Nordic initiative cannot be in conflict with or replicate any initiative taken at the European or international level.⁵⁶

Nordic cooperation therefore needs to be seen in the context of the work conducted within the greater EU cooperation system and within the system of European and international standardisation.

The Board is mainly involved in the preparatory work prior to a vote on a standardisation request in CoS and with the requests to develop harmonised European standards. In our assessment, it could be possible to set up extended Nordic cooperation to exchange best practices and information at an early stage to further influence harmonised European standardisation. At the same time, it is important to remember that the interests of the Nordic member states also might be the interests of other member states, and that the sharing of information among the Nordic member states is done in consideration of acting in a wider EU context.

4.2.2 Cooperating in the Committee on Standards

As previously described, Sweden, Finland and Denmark have voting rights in CoS. The EES countries, Iceland and Norway have observer status in the Committee but no voting rights. Sweden, Finland and Denmark already cooperate within a broader group of like-minded countries in association to CoS.⁵⁷ Within this group, the Nordic countries that have voting rights, along with other like-minded countries, have previously cooperated to influence discussions within CoS.

One aspect that has been recognised by the Board as an area for improvement is that of relevant comments from national stakeholders which are often made on standardisation requests when it is already too late in the process to introduce a change in the standardisation request. Once a standardisation request is up for vote, changes in the request are not expected. Late unexpected reactions to an issue has also been recognised by Denmark and Finland to some extent.⁵⁸ We think it is important to highlight the need to improve the influence of standardisation requests at the right time. We would like to continue the

55 Medzmariashvili (2019), *Regulating European Standardisation through Law*, p. 56.

56 The primacy of international standards is recognised in the Vienna and Frankfurt agreements as well as in Annex 3 of the TBT agreement.

57 This group of like-minded countries was initiated by Denmark. From Sweden, it is the representative from the Ministry of Foreign Affairs who is the person of contact in the like-minded group.

58 National Board of Trade, dnr. 2021/00099-66, Minnesanteckningar från möte med Danmark.

dialogue in order to improve the procedure and to find ways to encourage earlier influence over standardisation requests.⁵⁹

Discussions with our Nordic counterparts indicate that there could be further beneficial cooperation or coordination among the Nordic countries within the framework of information sharing and exchange of best practices. The main benefits for all are the exchange of information, discussions to gain better understanding of different perspectives, the sharing of best practices and the coordination of responses to the Commission when there is a mutual interest. For Iceland, which does not have voting rights in CoS, it could also constitute a good forum to gain more information on ongoing discussions and to discuss potential concerns regarding standardisation requests.

4.2.3 Other means of cooperation

Cooperation among the Nordic standardisation organisations

There is also a possibility within the national standardisation organisations to develop formal standards common to the Nordic region, that is, if specific interests arise. Anyone who has an interest in developing a standard may turn to the Swedish standardisation organisations to initiate a discussion regarding the development of a standard. The national standardisation organisations in the Nordic countries have long before the establishment of EU and European standardisation cooperated in the development of standards within the Nordic region, and they still cooperate today in many different ways in relation to the development of standards at European and international levels.⁶⁰ As mentioned earlier, it is preferable from the perspective of the standardisation organisations to also develop a European or international standard – but if this is not possible for some reason or if the standard relates to a subject or problem unique to the Nordic countries, there are some possibilities to develop standards common to the Nordic countries.

Before initiatives are taken to develop Nordic standards within the electrocommunication area of standardisation,⁶¹ it first needs to be ensured that there is not enough interest for the development of a European standard.⁶² In practice, this would mean that if all five Nordic members are interested in the development of a standard, there is enough interest to initiate work within Cenelec to develop a European standard. However, if such an interest doesn't exist, there are still possibilities to cooperate and develop standards common to the Nordic countries. Such a standard would be developed within the area of electrocommunication through cooperation and would then be accepted as a national standard by each of the national standardisation organisations, but it will have the same technical content and will therefore be harmonised between the participating countries.

There is a possibility to develop so-called INSTA standards (Internordic Standards) within the area of standards developed by SIS. INSTA standards are developed among the standardisation organisations in the Nordic countries⁶³ and are adopted with the prefix 'INSTA' in the Nordic countries that participate in the development of the standard and are also translated into each country's language. Any of the Nordic standardisation organisations with an interest of developing an INSTA standard may reach out to the INSTA

⁵⁹ National Board of Trade, dnr. 2021/00099-100, Svar från Island.

⁶⁰ Within Cen/Cenelec and within ISO/IEC.

⁶¹ The areas that fall within Cenelec competencies.

⁶² This is in accordance with the Vilamouira procedure. Please also note that it is a difference between European standards and Harmonised European Standards in which the latter refers to standards developed in order to support harmonised EU legislation and which are preceded by a standardisation request from the EU Commission.

⁶³ The counter organisations to SIS.

forum, and if at least three of the organisations are interested, work can be initiated to develop an INSTA standard. Such work has been carried out, for example, in the areas of fire protection, welfare and social security in which the Nordic countries face similar issues and challenges. Prior to a standard becoming an INSTA standard, the possibility to develop a European standard via Cen or an international standard via ISO is normally investigated. An INSTA standard can also at a later stage be adopted as a European or international standard if there is sufficient interest within the European or international standardisation organisations.⁶⁴ In the same way, it is also possible to initiate national standardisation initiatives and at a later stage, turn the national standard into an INSTA standard, a European or an international standard.

Informal standards

Another area which has not been the focal point of this report but is still of interest is Nordic initiatives within informal standardisation. A good example is the initiative to develop a common Nordic system for recycling and waste sorting symbols. This 'standard' was developed by waste management associations⁶⁵ in the Nordic region and the project was co-funded by the Nordic Council of Ministers.⁶⁶ Although the pictogram was not developed through any formal standardisation organisation, it contributes to a certain extent to harmonising the labels for recycling and waste sorting within the Nordic region. This is also an example of an area in which the JRC⁶⁷ with the active participation of the Nordic countries is investigating the possibility of using the Nordic pictogram system in a wider EU context.

4.3 Concluding reflections

From a trade perspective, the most important aspect of standardisation is the removal of barriers to trade; common standards remove national product requirements and replace them with mutual norms. If cooperation within the Nordic region for the development of standards in certain areas is seen as a priority, cooperation with the national standardisation organisations is an important first step to initiate discussions on the possibility to develop common formal standards for the Nordic region. If such an initiative could also result in standardisation work at a higher level, such as within European or international standardisation in areas of interest for the Nordic region, it is even more beneficial from a trade perspective. Such an initiative could be raised by industry representatives or any Swedish public authority with expert competence in areas in which standardisation should take place and in which there is a recognised Nordic interest. This would ensure that the standards of interest developed for the Nordic region were developed in accordance with the principals of standardisation as established in the TBT agreement.

There is also an alternative way to find potential areas within the Nordic region where informal standards can be developed. It is important to note that such standards do not need to adhere to the same criteria as formal standards and may even in some cases create

64 One such example is provided by the SIS with regard to a standard for the integrity of ceiling beams in conditions of snow, especially wet and heavy snow. This standard was first developed as an INSTA standard since it managed climate conditions which are in common for the Nordic region, but at a later stage, it was adopted as a Cen standard since the challenges with wet and heavy snow were also experienced in other European countries.

65 In Sweden, the responsible organisation was 'Avfall Sverige'.

66 <https://pub.norden.org/nord2021-059/#58910>, downloaded on 14 November 2021.

67 The European Commissions 'Joint Research Centre'.

barriers to trade.⁶⁸ Hence, the National Board of Trade does not encourage the development of informal standards within the Nordic region.

Nordic cooperation could also contribute to strengthening the existing platforms of cooperation in which the Board and the ministry of foreign affairs participate – within the CoS and the preparations regarding votes on draft standardisation requests.

The dialogues held with Nordic counterparts within this project show that there are great benefits from the exchange of information on practices and from different experiences with national stakeholder coordination. We are of the view that this exchange can also provide great inspiration for improvements within the Swedish system for stakeholder consultations and the inclusion of public authorities in the development of harmonised European standards.

Therefore, we look forward to the possibility of further cooperation with Nordic colleagues and to share information and best practices with each other and our internal market colleagues.

Recommendations

The Board makes the following recommendations:

- The Nordic countries should set up extended Nordic cooperation to further exchange best practices and information regarding processes related to harmonised European standardisation. This could, for example, contribute to coordinated responses when mutual interests exist.
- Stakeholders with an interest in standardisation could further encourage and initiate the possible development of common standards among the Nordic countries in areas in which there is a common Nordic interest but it is not possible or beneficial to develop European or international standards.

⁶⁸ This is because they can diverge from other European or international standards and lead to many different “standards” being in place for the same product.

5 The Services Directive in the Nordic countries

5.1 Introduction

The Services Directive's⁶⁹ main objective is to ensure the free movement of services and the freedom of establishment in the internal market. Transparency is one of the most useful tools to detect barriers to the development of service activities between Member States. The Services Directive obliges Member States to notify the European Commission of new or amended national requirements on service providers. This notification obligation serves a two-fold purpose. First, it obliges the notifying Member State to assess whether its envisaged measure is compatible with the rules on the free movement of services and on establishment. Second, notifications provide both the Commission and other Member States with the information required to assess the legality of the national measures from an EU law perspective. Thus, notification enhances transparency in the internal market for services.

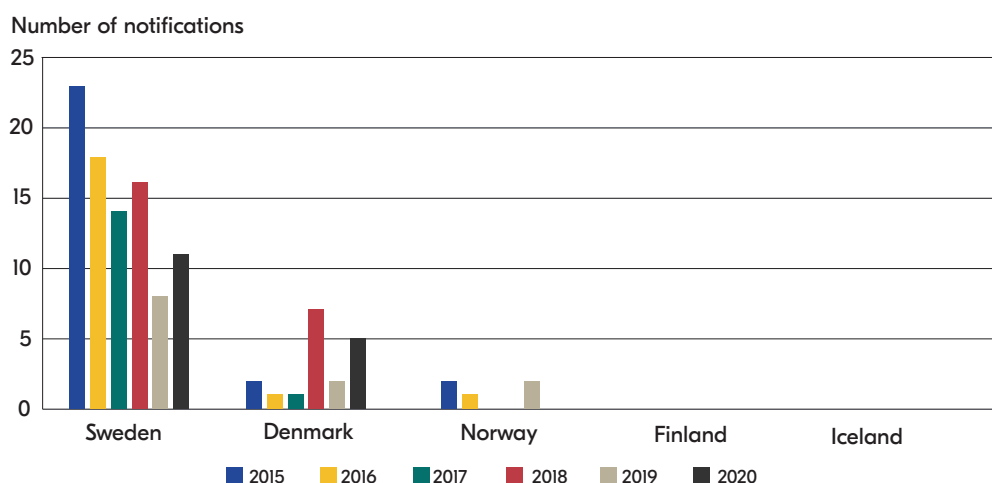
This section explores implementation of the Services Directive in the Nordic countries. More specifically, it describes how the provisions on the notification procedure in the Directive have been implemented and how this procedure functions within the respective national administrations. The purpose is to identify differences and similarities in the transposition of the Services Directive and the notification obligation to see if any conclusions can be drawn about the relationship between the transposition of the Directive and the number of notifications made by the Nordic countries.

This section also briefly describes the Nordic network for national experts on the Services Directive and presents an idea for cooperation that has been discussed by the Nordic national experts who are part of this project.

5.2 Statistics on the notifications made by the Nordic countries

As shown in Figure 3, the number of notifications made per year varies among the Nordic countries, with the exceptions of Finland and Iceland. During the period 2015–2020, neither of those two countries made any notifications under the Services Directive.

Figure 3. Number of notifications under the Services Directive for the Nordic countries per year, 2015–2020



Source: National Board of Trade's annual reports on the notifications under the Services Directive, 2015–2020.⁷⁰

⁶⁹ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

⁷⁰ Available at [National Board of Trade](#).

Finland made its first ever notification in November 2021. Between January 2021 and November 2021, Sweden made 17 notifications under the Services Directive. During that same period, Denmark, Norway and Iceland made no notifications.

5.3 Differences and similarities in transposing the Services Directive into national law

The Nordic countries have chosen slightly different approaches to the implementation of the Services Directive and its notification obligation. This is interesting since a Nordic–Baltic working group on the implementation of the Directive was established following the adoption of the Services Directive. The harmonisation of the national legislation of the participating countries was not the objective of the working group, but its participants were able to exchange early drafts of new legislation and ideas for technical solutions and to draw inspiration from each other.⁷¹

5.3.1 Implementation of the Services Directive

Two broad approaches to the implementation of the Services Directive can be identified among the five Nordic countries.

The first approach is an ‘all in one’ approach. This approach is characterised by transposition of the legal act so that it is very similar to the Directive in structure and wording. The transposing acts typically include the material provisions of the Directive on the rights and obligations of service providers as well as rules on procedure and structural provisions.

The other approach is a ‘piece-meal’ approach. Here, a legal act is adopted to transpose certain provisions of the Directive that are not already covered by existing legislation. This means that the legal act which is specifically adopted to implement the Directive does not include all of the articles of the Directive.

It should also be noted that the implementation the Services Directive not only generated legal acts that were specifically adopted to transpose the Directive but also that Sweden, Finland and Denmark made amendments to a substantial number of national laws affected by the Services Directive.⁷² For example, Sweden performed an inventory of all national acts potentially affected by the Services Directive which resulted in some legislative provisions being repealed and others being amended.⁷³

The ‘all in one’ approach – Denmark, Norway and Iceland

Denmark, Norway and Iceland have all chosen to transpose the Directive through horizontal legal acts⁷⁴ that include both the material provisions of the Directive on the rights of service providers as well as the more procedural provisions of the Directive (such as rules on the obligation of Member States to recognise documents obtained in other Member States,⁷⁵ provisions regarding authorisation schemes⁷⁶ and provisions on administrative cooperation⁷⁷).

71 Nordiska lagstiftningskonferensen, 16–17 november 2010, Köpenhamn, ANP 2011:707, p. 14–15.

72 EUR-Lex - 32006L0123 - EN - EUR-Lex (europa.eu)

73 Prop. 2008/09:187.

74 For Denmark, see *Lov om tjenesteydelser i det indre marked*, for Norway, see *Lov om tjenestevirksomhet (tjenesteloven)* and for Iceland, see *76/2011: Lög um þjónustuviðskipti á innri markaði Evrópska efnahagssvæðisins*.

75 Cf. Article 5.3 of the Services Directive.

76 Cf. Articles 9–13 of the Services Directive.

77 Cf. Articles 28–35 of the Services Directive.

The Danish, Norwegian and Icelandic transpositions of legal acts all have provisions that list ‘forbidden’ requirements, that is, requirements that must not be imposed on those wishing to establish themselves in the country.⁷⁸ The legal acts also clearly state that any requirements applicable to service providers must be justifiable on the grounds of public security, public order, public health or the protection of the environment.⁷⁹

The ‘piece-meal’ approach – Sweden and Finland

The Swedish⁸⁰ and Finnish⁸¹ legal acts which transpose the Services Directive are not as comprehensive as the Danish, Norwegian and Icelandic transposition acts. They both include certain horizontal procedural provisions, such as rules on administrative cooperation between Member States. Neither the Swedish nor the Finnish law contain any lists of ‘forbidden’ requirements.

The Swedish transposition act is the least similar to the Directive of the Nordic transposition acts. The act does not contain any express provisions on justifiable reasons for the imposition of requirements on service providers. It merely lays down a general obligation for Swedish authorities to ensure that the Directive’s principles on freedom of establishment and the provision of services, non-discrimination and proportionality are respected. The Swedish transposition act has no rules on authorisation schemes or on the recognition of foreign documents. The act merely refers to ‘other legislation’⁸² regulating these issues.

The Finnish transposition legislation is more detailed than the Swedish act. It states that a court or an authority may only restrict the temporary provision of services if it is necessary for reasons related to public order or security, public health or the protection of the environment, and the restriction is non-discriminatory and proportionate. The Finnish act also has express provisions on authorisation schemes and the recognition of documents, similar to the Danish, Norwegian and Icelandic transposition acts.

5.3.2 Implementation of the obligation to notify in the Services Directive

All Nordic countries except Finland have implemented the obligation to notify requirements under the Services Directive by adopting new legislation or by amending existing legislation.

In Denmark and Iceland, the obligation of competent authorities to notify the requirements related to service providers as well as their establishment is transposed through an Executive Order⁸³ and a Regulation,⁸⁴ respectively. Both are wholly dedicated to the obligation to notify under the Services Directive.

Norway transposed the obligation to notify under the Services Directive through a more general law on notifications under EU/EEA law. The act⁸⁵ contains not only the obligation to notify requirements under the Services Directive but also obligations under other EU acts, such as the Single Market Transparency Directive.⁸⁶

78 Cf. Article 14 of the Services Directive.

79 Cf. Article 16 of the Services Directive.

80 *Lag (2009:1079) om tjänster på den inre marknaden*

81 *Laki palvelujen tarjoamisesta /Lag om tillhandahållande av tjänster* (Swedish text).

82 See §§7 and 9 in *lag om tjänster på den inre marknaden*.

83 *Bekendtgørelse om pligt til indrapportering af krav til Europa-Kommissionen*. Full text available at <https://www.retsinformation.dk/eli/lta/2009/1361>.

84 *Regulation no. 666/2011*, *Reglugerð um tilkynningar til Eftirlitsstofnunar EFTA í tengslum við þjónustuviðskipti á innri markaði Evrópska efnahagssvæðisins*.

85 *Lov om europeisk meldeplikt for tekniske regler m.m. (EØS-høringsloven)*

86 Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services..

Since Norway and Iceland are not members of the EU, notifications under the Services Directive are made to the EFTA Surveillance Authority and not to the European Commission.⁸⁷

The Swedish legislature has adopted a somewhat fragmented approach. Three different acts govern the obligation to notify. The acts are applicable to the government, the national agencies and the municipalities, respectively.⁸⁸

Finland has not transposed the obligation to notify in any legislative act. Instead, information about the requirements of the obligation to notify is included in the Finnish Guide for the drafting of laws which is available to all authorities with regulatory power⁸⁹. The Ministry of Economic Affairs and Employment is responsible for the Services Directive and also provides information about the obligation to notify on their website.

5.4 Differences and similarities in the functioning of the notification procedures

5.4.1 Identification of notifiable requirements

In Sweden, Norway and Denmark, draft proposals for new legislation or regulations are often subject to a review process prior to adoption. In these countries, an authority or ministry during the review process takes on the responsibility to remind the body drafting the legislation or regulation of the obligation to notify. In Sweden and Denmark, the National Board of Trade and the Danish Business Authority take on this role, and in Norway, it is the Ministry of Trade, Industry and Fisheries. The National Board of Trade and the Danish Business Authority have both issued guidance documents to help competent authorities identify notifiable requirements.⁹⁰

In Iceland, there is an obligation on the authorities that are drafting legislation on a national level to consider if the provisions of the legislation contain provisions that should be notified. There is no such obligation on authorities at the municipal or regional levels.

In Finland, the Ministry of Economic Affairs and Employment does not actively monitor legislative initiatives to identify requirements that should be notified under the Services Directive. However, if the Ministry is made aware of a legislative initiative that could contain notifiable requirements, it enters into a dialogue with the ministry responsible for the act.

87 When the Services Directive was made part of the EEA Agreement, Articles 15.7 and 39.5 of the Directive were amended to oblige the Commission and the EFTA Surveillance authority to exchange information about the requirements notified by the EU Member States and the EEA Contracting Parties. This information shall be transmitted to the EU Member States and the EEA Contracting Parties, respectively.

88 See §15a of the Act on Services in the Internal Market (lagen om tjänster på den inre marknaden). See Prop. 2012/13:157, §2 Ordinance (2009:1078) on Services in the Internal Market (Förordning [2009:1078] om tjänster på den inre marknaden). Full text available at [Förordning \(2009:1078\) om tjänster på den inre marknaden Svensk författningssamling 2009:2009:1078 t.o.m. SFS 2019:231 - Riksdagen](#) §20, p. 6; Ordinance (1996:1515) with Instructions for the Government Offices (Förordning [1996:1515] med instruktion för Regeringskansliet). Full text available at [Förordning \(1996:1515\) med instruktion för Regeringskansliet Svensk författningssamling 1996:1996:1515 t.o.m. SFS 2020:999 - Riksdagen](#).

89 The Guide is a handbook for all authorities that draft laws.

90 See, for example, National Board of Trade Sweden, Tjänstedirektivet – Så påverkas myndigheter och kommuner, 2014, available at [Tjänstedirektivet – så påverkas myndigheter | Kommerskollegium and Vejledning om notifikationer under Servicedirektivet.pdf \(erhvervsstyrelsen.dk\)](#)

5.4.2 Responsibility to notify

In all Nordic countries, the entity that drafts the legislation or regulation which includes a requirement on service providers is responsible for determining whether the requirement should be notified under the Services Directive. It is also that entity's responsibility to ensure that the requirement is notified.

In Denmark, Iceland, Sweden and Norway, notifications should be made through either an appointed agency or an appointed ministry. In Denmark and Sweden, notifications are made to the Danish Business Authority and the Board, respectively. In Norway and Iceland, the notifications are made to the Norwegian Ministry of Trade, Industry and Fisheries and to the Icelandic Ministry for Industries and Innovation. It is the responsibility of the entity drafting the legislation or regulation which contains the notification requirement to draft the notification and to decide on its content.⁹¹

5.5 Perceived strengths and weaknesses of the notification procedures

The national experts that took part in this study have been asked about the perceived strengths and weaknesses of their respective systems. All national experts see different benefits from each of the national systems. The benefit of a less formal system, such as that in Finland, is that it is very flexible. A more formalised system, such as that in Denmark, is perceived to be very clear for the authorities concerned.

The model in which the drafting entity is responsible for identifying and notifying requirements is a good model. The drafting authority has the most knowledge about the area to be regulated and is best placed to assess whether the requirement in question must be notified.

There is a need to increase knowledge about the Services Directive in general as well as specific knowledge about the notification obligation throughout the national administrations in all of the Nordic countries.

5.6 Conclusion

In our view, this small comparative study does not reveal any causal link between the way that the Services Directive or the obligation to notify have been transposed into national law and the number of notifications made under the Services Directive. Finland and Iceland have both made very few notifications and have adopted two different approaches to transposition of the Directive. Indeed, Finland has adopted an approach similar to that of Sweden, the country that has made the largest number of notifications under the Directive.

We have not identified any major differences in how the responsible authorities or ministries work to ensure compliance with the obligation in practice that would explain the differences in the number of notifications made by the Nordic countries.

⁹¹ In Sweden, the national agencies ('förvaltningsmyndigheter') enter the notification in the IMI database themselves, but the Board 'approves' the notification in IMI before it is sent to the Commission. Approval is merely a formal action in the IMI database. While the Board can share its opinion on the contents of the notification with the notifying agency, it is the agency that has the final say on what is notified and the wording of the notification. If the notifying entity is a ministry, it is the Board that enters the notification into the IMI database. However, it is for the ministry to decide what to include in the notification. The Board simply enters the information into the IMI database.

This would indicate that the explanation for the differing number of notifications in the Nordic countries lies elsewhere. It is not possible within the scope of this project to further examine this complex issue. In addition to the aspects that we have looked at in this report, namely the transposition of the Services Directive and procedures for identifying notifiable requirements, any comprehensive study of the differences in notifications made by the EU Member States and EEA countries would have to include several supplementary elements. For example, if the countries adopt or have adopted any requirements on service providers that fall within the scope of the obligation to notify would have to be examined. If that is the case, a more in-depth investigation into the reasons why the national governments and authorities do not notify notifiable requirements would have to be undertaken. There could be many different reasons why an authority or government chooses not to notify a notifiable requirement, such as lack of knowledge of the existence of the obligation, lack of resources or even political considerations. The fact that the Services Directive does not foresee any sanctions for Member States who fail to notify notifiable requirements may also have an impact on the willingness to notify.

5.7 The Nordic Network for national experts

There is an established network of national experts on the Services Directive in the Nordic countries. The network is comprised of national experts from the relevant ministries in Finland, Sweden, Iceland and Norway and from the Danish Business Authority in Denmark. Sweden is represented by the Ministry of Foreign Affairs. Usually, the same representatives attend these meetings and the meetings of the Commission's Expert Group for the Implementation of the Services Directive. The members discuss all issues related to the internal market for services and not only the Services Directive. Discussions are very informal and the topics vary. Focus is often on new policy initiatives but can also be more detailed. The network has been less active during the Covid-19 pandemic, but participants have previously met twice a year in one of the Nordic capitals.



The Board has previously put forward the idea of setting up a network for national experts on the Services Directive and the notification procedure⁹² to complement the existing Expert Group for the Implementation of the Services Directive chaired by the Commission. The Expert Group does not necessarily include all national experts who work with the notification procedure on the national level on an everyday basis and the group meetings are not well adapted for more detailed discussions on the interpretation and application of the Services Directive. The already established Nordic Network is a regional example of what we have proposed: a platform for national experts to more freely discuss the internal market for services without being dependent on the Commission to set the agenda or organise the meetings.

There is an opportunity now to re-establish contacts within the network after it was paused during the pandemic. It is equally an opportunity to strengthen and deepen the network.

It has been agreed among the Nordic national experts that there is a need to increase knowledge about the Services Directive and its obligation to notify within all the national administrations. In our view, this should be a topic of discussion for the network. There should be an exchange of best practices and any information materials. Increased knowledge of the obligation to notify within the national administration could potentially lead to an increase in the number of notifications made by each of the Nordic countries.

The national experts with whom we have been in contact during this project are positive toward continuing the work of the Nordic network. This network can help to build stronger inter-Nordic relationships.

Recommendations

The Board makes the following recommendations:

- The Nordic Network for National Experts on the Services Directive should resume its work during 2022.
- The Board should be invited to participate in the work of the Nordic Network for National Experts on the Services Directive.
- The Nordic Network for National Experts on the Services Directive should make recommendations regarding how notification under the Services Directive can be improved in national administrations and at the local level.

92 See, for example, the National Board of Trade's comment to the Ministry of Foreign Affairs, dnr 2021/00898-4 (dated 06-11-2021) and dnr 2021/00898-9 (dated 10-07-2021).

6 Challenges for free movement of persons in the Nordic region

Prior to a description in Section 7 of the work of the functions for solving cross-border obstacles, this section will introduce the importance of the freedom of movement of persons in the Nordic region and how this has been affected by COVID-19 measures.

Since the introduction of the Nordic Passport Union in 1957, which was before the establishment of the Schengen Area, Nordic citizens could travel without passports and freely reside in any Nordic country. Virtually borderless societies established strong connections with neighbouring countries. This allowed people to easily access goods, services and larger labour markets across Nordic countries. In the wake of the COVID-19 pandemic, countries took unilateral actions to protect themselves, moving away from the Nordic vision. Since then, border closures have inflicted significant social, economic and political effects on the border regions.⁹³

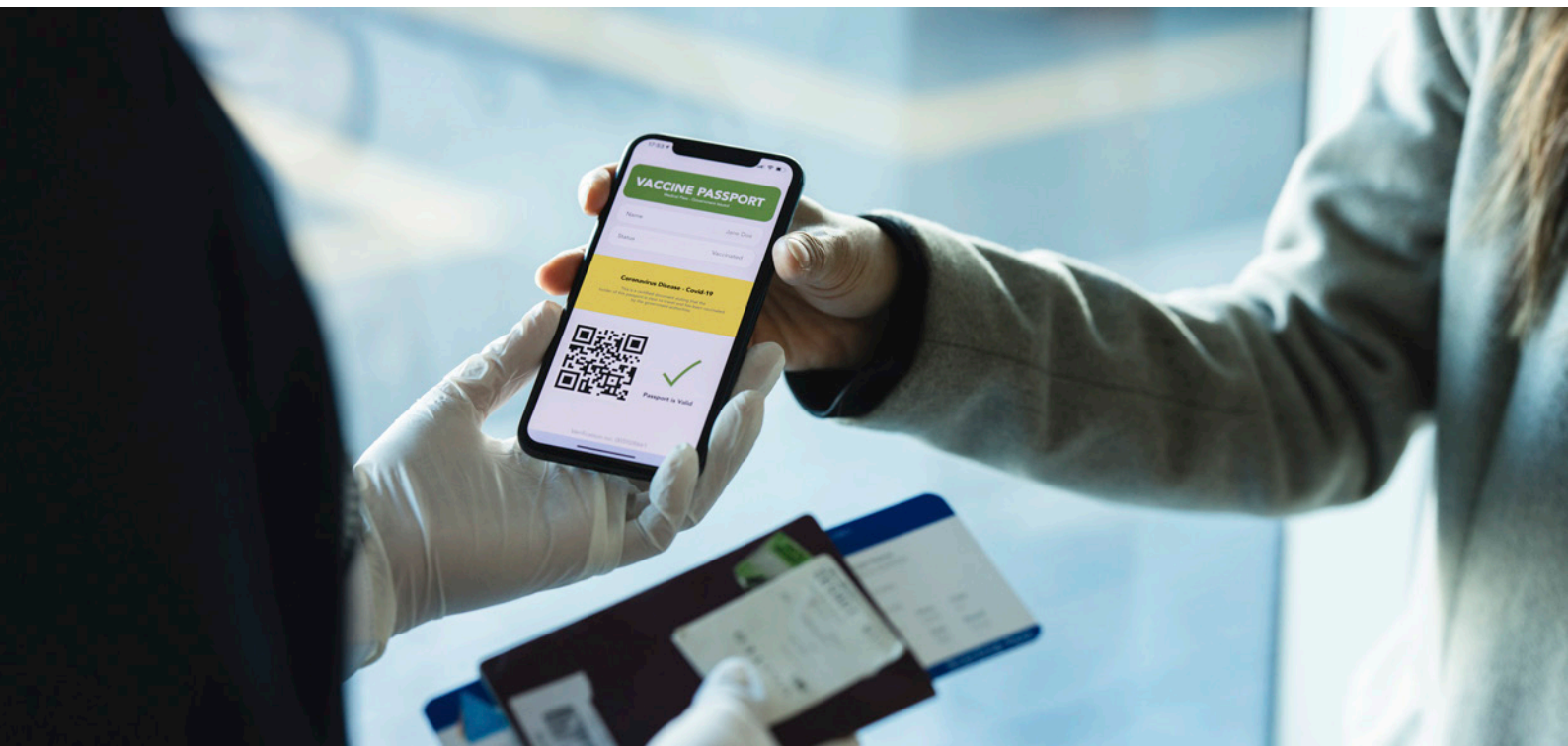
The difficulties have been most apparent for people who live in border areas, with the most obvious problem that of cross-border commuters who could not carry out their work on the other side of the geographic border. Nearly four out of five who live and work in a Nordic border region feel that their ability to move across borders has been severely curtailed during the pandemic. According to a recent survey from the Nordic Freedom of Movement Council, this is an increase of 17 percent in six months.⁹⁴

6.1.1 Recent initiatives and ideas from within the Nordic cooperation

Negative experiences resulting from the COVID-19 crisis and the will to prevent similar situations of uncoordinated cooperation in the Nordic region in the future have led to initiatives and practical proposals to facilitate free movement within the framework of

93 [Nordregio Report 2021:6](#) analyses cross-border cooperation and its role within Nordic cooperation. The study was carried out by [the Nordic Thematic Group for Innovative and Resilient Regions 2017-2020](#) and was commissioned by the cross-border organisations Bothnian Arc and the Svinesund Committee.

94 [Motstridiga covidrestriktioner ger ökad oro i gränsregioner | Nordiskt samarbete \(norden.org\)](#)



expanded Nordic cooperation. One proposal regarding free movement of persons was recently presented to the Nordic Council of Ministers and the Nordic Council⁹⁵ which recommends measures similar to the EU Digital COVID Certificate⁹⁶. It suggests the introduction of a Nordic joint travel certificate that would give Nordic residents who meet certain criteria the right to travel within the Nordic region when freedom of movement must be temporarily restricted in times of a potential crisis.⁹⁷

As from 2022, the Freedom of Movement Council will be given a special role to play in times of crisis. The Freedom of Movement Council will be tasked with informing, inter alia, the national governments and relevant Councils of Ministers on problems relating to mobility that arise in the Nordic region during crises.⁹⁸

Another effect of the COVID-19 crisis with special regard to the movement of labour is the accelerated adaption to teleworking within the EU. It is likely that this solution will become more prominent and permanent in the future, leading to legal issues that need to be solved on a European level. One of the issues that still needs to be resolved and agreed upon is the applicable legal framework for social security of teleworking cross-border workers. Although how to address this question is ongoing and is currently being discussed on an EU level,⁹⁹ a proposal has been put forward in the existing Nordic cooperation that legislation and bilateral agreements in the Nordic region could facilitate the legal process.¹⁰⁰ A potential effect would be a facilitated framework for cross-border workers in the Nordic region to transition to teleworking.¹⁰¹

We acknowledge that some of the suggestions presented could mean immediate advantages and a facilitated process if implemented for Nordic citizens. However, since the pandemic has affected the entire internal market in similar ways, it is important to highlight proposed measures on a Nordic level and make sure they fit into the ongoing discussion already taking part in the EU which is meant to re-establish trust in the internal market.

95 Recommendations regarding Nordic cooperation in times of crisis, presented by the former Finnish Minister of Defense, Jan-Erik Enestam, to the Nordic cooperation ministers on the 2nd of November 2021.

96 The EU Digital COVID Certificate Regulation entered into effect on 1 July 2021 to ensure coordination of safe travel in the EU. The certificate is digital proof that a person has either been vaccinated against COVID-19, received a negative test result or has recovered from COVID-19.

97 Strategisk genomlysning: Nordisk civil krisberedskap, Jan-Erik Enestam, hösten 2021 [Enestam SE.pdf \(norden.org\)](#). See point 4.

98 [Mandat för Gränshinderrådet, 2022–2024](#), Nordic Council of Ministers.

99 For example, ongoing discussions within the Administrative Commission for coordination of social security systems and the European Labour Authority. See [report](#).

100 Strategisk genomlysning: Nordisk civil krisberedskap, Jan-Erik Enestam, hösten 2021 [Enestam SE.pdf \(norden.org\)](#). See point 9.

101 See section 2.4 At the end of 2015, a total of 51,234 Nordic citizens commuted to a job in any of the Nordic countries other than the one in which they resided.

7 Connecting Nordic problem-solving functions

This section will describe the already existing functions for solving cross-border barriers in the internal market and in the Nordic region and how they can be used for further Nordic integration. Within this project, we have looked at ongoing initiatives to re-establish trust in the Nordic region after the pandemic and have introduced a strengthened Nordic connection between the problem-solving functions.

7.1 The SOLVIT function

The SOLVIT network was launched by the European Commission in 2002. It aims to help people and business to resolve cross-border problems with the public administrations when moving or doing business across the EU. The SOLVIT service is provided by the national administration in each EU country and in Iceland, Liechtenstein and Norway.

There are many examples of where a problem has been solved within the SOLVIT network.¹⁰² In a Nordic context, it is worthwhile to mention an example from the border between Finland and Sweden in the north.

Example

Selling fish across the border

In 2017, a Swedish company selling fish from food trucks in the north of Sweden wanted to expand its business and to drive across the border to sell their fish on squares and markets on Finnish soil. According to the Finnish authorities, however, the company was required to have a permanent establishment in Finland for food safety reasons in order to be permitted to sell their fish. The company turned to the Nordic Council of Ministers and then to SOLVIT.

SOLVIT considered the Finnish requirement to be unreasonable, particularly in light of the fact that the company was already controlled on the basis of the same EU rules for food establishments in Sweden. After the involvement of SOLVIT, the Finnish authority changed the regulations and no longer require a permanent location in Finland.

¹⁰² Out of 2 633 cases handled by the SOLVIT network in 2020, 80 percent could be closed as solved. In total the SOLVIT network received 5 649 cases, but not all where in the remit of SOLVIT. Source: the IMI system via the Commission SOLVIT Team.



The majority of complaints to SOLVIT are in regard to the free movement of persons. Certain problems are recurrent due to misapplication of EU law within the national administrations. A cross-border problem will remain unresolved if the problem is related to a lack of transposition of EU law or where there is a written national rule in breach of EU law because of the informal function of SOLVIT, which means that a solution to a problem is sought by way of informal dialogue with the national authority concerned.

If the SOLVIT function has not succeeded in solving a problem which is due to national regulation or administrative procedures that could be argued to be contrary to EU law, the issue is raised nationally and before the Commission. When cross-border problems appear in a Nordic context, it is important to make the issue visible to the problem-solving function of the Nordic cooperation to put further pressure on the issue at a political level.

7.1.1 Nordic SOLVIT cooperation

The SOLVIT network is already operational to cooperate to solve cross-border issues reported to the SOLVIT function and the Nordic part of the network is no exception to that rule. The Nordic relationship in SOLVIT is strong by tradition and has been successful in communication and in simultaneously solving individual cases for a long period of time.

In general, the amount of SOLVIT cases among all of the Nordic countries does not correspond to the high rate of mobility of persons. During 2020, the amount of SOLVIT cases among the Nordic countries was limited to 110 cases out of a total of 583 cases, as illustrated in Table 3.

Table 3. Number of cases handled by the SOLVIT Centres in the Nordic countries, respectively, 2020.

SOLVIT Center	Total cases	Nordic cases	Nordic cases/Total
Sweden	252	45	18%
Denmark	152	36	24%
Norway	109	21	19%
Finland	70	8	11%

Source: IMI

The closed borders in 2021 in the Nordic region due to the COVID-19 crisis, have generated a higher number of complaints to SOLVIT in which SOLVIT Sweden was involved.

SOLVIT Sweden is of the opinion that the data collected by the Nordic part of the SOLVIT network should be shared with the specific Nordic cross-border functions, namely the Nordic Council of Freedom of Movement. The sharing of SOLVIT experiences that have cross-border issues could be useful to raise regional awareness and put pressure on Nordic cooperation to strive for long-term solutions to cross-border obstacles that cannot be solved within the remit of SOLVIT.

7.1.2 Nordic SOLVIT ambition

Within the framework of this project, the Nordic SOLVIT Centres have expressed a will to participate in deepened cooperation.

Since the main function of SOLVIT is to solve the individual cases reported by citizens and businesses, the primary focus of the newly established Nordic SOLVIT network has been to discuss how to improve the daily part of our work and to find more effective ways to streamline the case-handling procedure. Continued discussions on how we can further

improve the Nordic part of the SOLVIT case-handling procedure will lead to more efficiency and quality in the problem-solving work.

According to the Internal Market Scoreboard, the SOLVIT centres of the Nordic countries stand out as well-functioning and adequately equipped centres.¹⁰³ However, an evaluation of the staffing situation is linked to the possibility of handling the individual cases reported to the national SOLVIT function. The strengthening of relationships which already exist between SOLVIT and different bodies and networks at national and EU levels has become a more pertinent mission for the SOLVIT centres in recent years. This could mean that more in-depth and long-term strategic issues for SOLVIT cooperation that have been raised in a Nordic context need to be set aside when not enough resources or time exist for matters that go beyond the daily SOLVIT work.

The informal character of SOLVIT to prevail and for each Nordic SOLVIT Centre to be able to opt in when this can be prioritised has not been formalised for continued Nordic cooperation at this stage. However, it has been agreed among the Nordic SOLVIT Centres to hold Nordic SOLVIT meetings to dedicate time to discuss possible mutual priorities and strategic Nordic networking issues prior to the biannual workshops of the SOLVIT Network. The outcome of discussions could form a coordinated response to serve the entire SOLVIT network.

7.2 The Nordic Freedom of Movement Council

As mentioned in Section 1.1.2 above on Nordic cooperation, the goal of the Nordic Freedom of Movement Council is elimination of border obstacles to facilitate freedom of movement in the Nordic Region for individuals and businesses. The work is closely linked to the chair of the Nordic Council of Ministers and revolves around breaking down existing border obstacles, preventing the occurrence of new border obstacles and enhancing and improving information efforts.

The Freedom of Movement Council has as its goal the removal of 8–12 border barriers per year in the labour market, social, educational and business areas.¹⁰⁴ In order to succeed, the Freedom of Movement Council cooperates with actors who can contribute to the resolution of border obstacles, including information services, ministers, national administrations and authorities, members of Parliament and more.

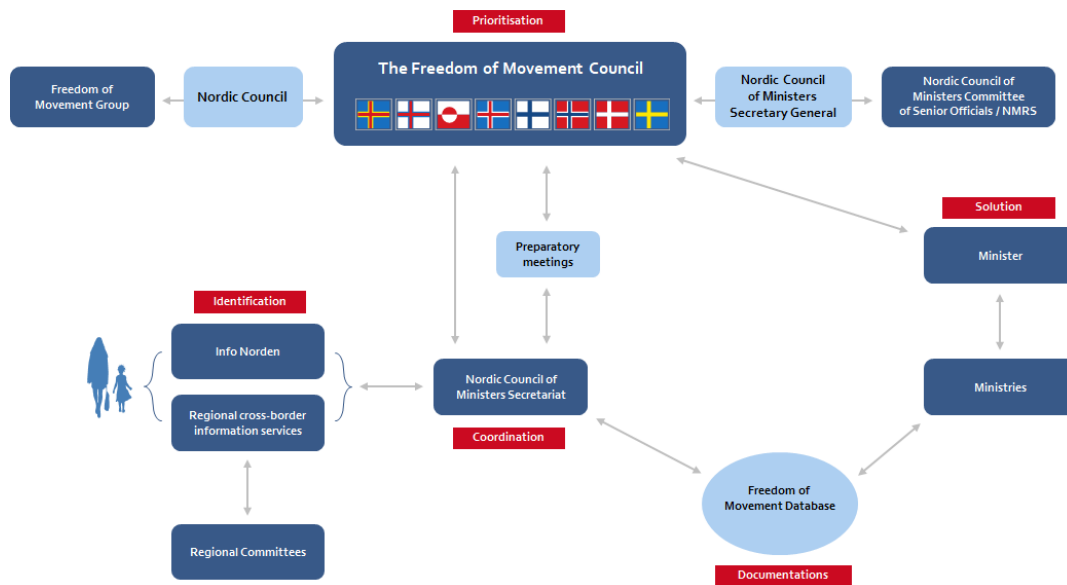
Part of the work of removing border obstacles is available through the Freedom of Movement Database,¹⁰⁵ which collects information about known barriers to cross-border freedom of movement between the Nordic countries. Most of the information in the database has been sent to the Nordic Council of Ministers' Secretariat by the information services and the cross-border regional committees.

103 The Single Market Scoreboard on an annual basis aims to give a performance overview of the result of each national SOLVIT Center. [SOLVIT - Performance per Governance Tool - The Single Market Scoreboard - European Commission \(europa.eu\)](#)

104 [Om Nordiska ministerrådets gränshinderarbete | Nordiskt samarbete \(norden.org\)](#) According to the Freedom of Movement Council's new mandate, the new goal for 2022–2024 will be to remove 5-8 barriers per year. See [Mandat för Gränshinderrådet 2022–2024](#)

105 [Border database | Nordic cooperation \(norden.org\)](#)

Figure 4. How the work of the Freedom of Movement Council is organised.



Source: Freedom of Movement Council Secretariat, National Board of Trade dnr 2021-00099-202.

The Freedom of Movement Council together with the regional information services and Info Norden have been actively working to eliminate the negative consequences of free movement due to the various COVID-19 restrictions in the Nordic countries. They have continuously collected information about existing problems and tried to influence relevant decision makers and agencies in order to solve some of the problems addressed during the crisis. As noted above, the Freedom of Movement Council is now specifically tasked with collecting information and informing the Nordic governments and others of problems relating to mobility in future crises.

7.3 The Nordic information services

The joint labour market in the Nordic region and other co-Nordic agreements in areas such as social security and education facilitate mobility in the region. Citizens in the Nordic region who want to relocate to work, start a business or study in another Nordic country can benefit from several information services that make it easier to benefit from the freedom of movement. The Info Norden service¹⁰⁶ provide information about applicable Nordic regulations regarding relocation, cross-border commuting, studies and more.

Conflicting COVID-19 restrictions in the Nordic region have led to increased concerns from citizens in border regions and have led to a lack of neighbouring trust which is disconcerting for the Nordic identity.

One recurring issue that confronts cross-border workers is that they need to consult different sources of information to obtain information on their rights and possibilities across the borders. In the Nordic region, this is facilitated on a regional level through the three regional information services of Øresunddirekt,¹⁰⁷ Grensetjänsten Norge-Sverige¹⁰⁸ and the North Calotte Cross-border Advice Service¹⁰⁹ which work in close partnership with each other and with the important problem-solving role of the Nordic Freedom of Movement Council.

¹⁰⁶ Info Norden was previously called Hello Norden: About the Info Norden information service | Nordic cooperation

¹⁰⁷ Øresunddirekt: Information about working in Denmark while living in Sweden (oresunddirekt.se)

¹⁰⁸ Grensetjänsten Norge-Sverige, informationstjänst (grensetjansten.com)

¹⁰⁹ Nordkalottens Gränstjänst / Gränstjänst Finland-Sverige / Finland-Norge. Further information about their service is found here: In English - Nordkalottens granstjanst

The Nordic regional information services convey public information from each of the national authorities to the citizens and business community in the Nordic regions. Their services provide relevant guidance to individuals and enterprises who commute, work, live, study or do business across the borders.

All three regional information services also document the border obstacles that arise and thereby participate in the work of removing border barriers between the Nordic countries. When faced with problems that cannot be solved regionally or nationally, the issue is raised before the Nordic Freedom of Movement Council.

7.4 Conclusions on Nordic problem-solving cooperation

As previously reported, the Nordic Freedom of Movement Council was founded to specifically work to remove existing border obstacles, prevent the occurrence of new border obstacles and enhance and improve information efforts in the Nordic region. Many existing border barriers in the Nordic region are removed each year due to national border barrier working groups that involve ministries, authorities and administrations in the Nordic countries and make them part of the problem-solving work. The advantage of this is a close link to the Nordic Council of Ministers which have a mutual interest in resolving the existing border barriers in the region. As compared to nationally and unilaterally solving an unjustified obstacle to free movement between two countries, the work of the Freedom of Movement Council is very well suited to continue to address the challenges face by people and businesses and to put them on the Nordic political agenda.

The Nordic SOLVIT centres within the SOLVIT network are already operational to resolve cross-border issues between Nordic Member States and have been successful in communicating and cooperating for this purpose in individual cases for many years.

Through the networking initiatives within this project, the Board has found that the SOLVIT functions of the Nordic countries are positive towards continuing the work of the Nordic network, supported by SOLVIT Sweden. But there is room for improvement as regards the cooperation between the SOLVIT function and the existing Nordic functions.

Nordic integration can be improved by a mutual exchange of experiences between the similar functions which are active in solving cross-border obstacles to free movement in the Nordic region. It has therefore been agreed between SOLVIT Sweden and the Nordic Freedom of Movement Council Secretariat that annual networking meetings will be held to fulfil this purpose with all the Nordic SOLVIT Centres invited to participate. The main mutual interest is to continue to have an established network of national experts and civil servants with whom experiences can be shared and ideas discussed to prevent Nordic fragmentation.

Recommendations

The Board makes the following recommendations:

- Nordic SOLVIT centres should hold biannual meetings prior to the regular workshops of the SOLVIT network to contribute to a coordinated response when mutual interests exist.
- In cases from the Nordic SOLVIT centres, data collected on existing cross-border problems should be shared and regularly reported (at least once a year) to the Nordic Freedom of Movement Council Secretariat.
- An annual networking meeting should be held between the Swedish SOLVIT centre and the Nordic Freedom of Movement Council Secretariat.

8 Nordic cooperation on the implementation of EU legal acts

8.1 Introduction

Cooperation between the Nordic countries in the legal field has a long history. The first meeting for Nordic jurists was held in 1872 and meetings between Nordic judges, lawyers, scholars etc. are still regularly held.¹¹⁰ There are even a few examples of joint Nordic legislation, mainly in the area of private law.¹¹¹

Since the 1960's, cooperation between the Nordic governments and parliaments is regulated by the Helsinki Agreement. The Agreement lays down the framework for Nordic cooperation in the legal field, including cooperation on legislation. The purpose of this section is to look closer at the cooperation on legislation between Sweden, Norway, Finland, Denmark and Iceland. The main focus will be on cooperation on the implementation of EU law.

The Faroe Islands, Greenland and the Åland Islands all enjoy different special statuses in EU law. For example, EU law is not applicable at all in the Faroe Islands¹¹² and only partially applicable to Greenland.¹¹³ The Faroe Islands, Greenland and the Åland Islands have legislative competence in certain areas. In other areas, the law adopted by the Danish and Finnish Parliaments will be applicable in these territories. While EU law may not be directly applicable in Greenland and the Faroe Islands, it can become applicable in these territories if national law transposing EU law is applicable there.¹¹⁴ Indeed, one of the aims of Nordic cooperation has been to create a common legal framework in the Nordic countries, including an extension of the scope of EU law to Greenland and the Faroe Islands.¹¹⁵ The level of involvement of these territories in Nordic cooperation in the legal field is decided by their competence to adopt legislation in a certain area.¹¹⁶ Since these territories do not themselves transpose EU law into their legal order, this report does not cover the involvement of Greenland, the Faroe Islands and the Åland Islands in the cooperation on the implementation of EU law.

¹¹⁰ Om NJM – Nordiskt juristmöte (nordisktjuristmote.org)

¹¹¹ The historically high level of ambition in the area of private law is reflected in the fact that during the 20th century, common Nordic laws on, inter alia, contracts, marriage, intellectual property rights, citizenship and companies in the Nordic contract laws were adopted. In the last decades, however, common Nordic legislation plays a smaller role in the area of private law than it previously did (Styrket nordisk lovsamarbeid, Muligheter og utfordringer, pp. 17 and 43).

¹¹² Article 355.5 a) TFEU.

¹¹³ See Article 204 TFEU and Annex II to the Treaty as well as Articles 198 and 202–203 TFEU.

¹¹⁴ I. Lorange Backer, Styrket nordisk lovsamarbeid Muligheter og utfordringer, Nordisk ministerråd 2018, p. 41.

¹¹⁵ See Päivi Leino-Sandberg m.fl., Rapport över ändringar i de nordiska avtalen efter 1 januari 1995, i synnerhet ur ett EU-rättsligt perspektiv, TemaNord 2016:520, p. 13. In 2018, the Nordic countries revised a previous agreement from 1993 on creating a common labour market for certain healthcare professionals and veterinarians as it had been materially replaced by the Recognition of Professional Qualifications Directive. The revised agreement (commonly referred to as the Arjeplog Agreement) expressly provides that the provisions of the Directive on recognition of professional qualifications applies to the professional qualifications of nurses, assistant nurses and personnel in psychiatric wards in Greenland and the Faroe Islands. (See 18 april 2018 Avtal mellan Danmark, Finland, Island, Norge och Sverige om ändring av överenskommelsen av den 14 juni 1993, med senare ändringar av den 11 november 1998, om gemensam nordisk arbetsmarknad för viss hälso-och sjukvårdspersonal och veterinärer, 18 April 2021).

¹¹⁶ I. Lorange Backer, Styrket nordisk lovsamarbeid, Muligheter og utfordringer, Nordisk ministerråd 2018, p. 41.

8.2 A brief overview on the obligation to implement EU law in the Nordic countries

The obligation of EU Member States to implement EU law stems primarily from the EU treaties. The content of the obligation has been fleshed out through the case law of the Court of Justice of the European Union (CJEU). In broad terms, the EU Member States are under an obligation to ensure that the EU treaty provisions, the rulings of the CJEU, the general principles of EU law and secondary legislation are ‘implemented’, that is, given full effect in their respective legal orders. However, within the context of this report, the terms ‘implementation’ or ‘transposition’ of EU law means the act of making an EU secondary *legislative* act part of the national legal order.

One of the key differences between the EEA and the EU legal orders is the way in which secondary legislation becomes part of the national legal order. When an EU Directive is adopted and published, there is an immediate obligation on the Member States to implement it before the deadline. This is not the case for the EEA Contracting Parties. As parties to the EEA Agreement, Norway and Iceland are only bound by or obliged to transpose EU legal acts that are referred to or contained in the Annexes to the EEA agreement. New legal acts can be introduced into the Annexes through a decision by the Joint Committee.

This means that the Nordic countries operate under different conditions when it comes to the implementation of EU law. The EU Member States may be pressed for time as they have to implement a certain Directive before the deadline expires, whereas Norway and Iceland might not even be under an obligation to implement that same Directive during that time period. This obligation may arise at a later stage in which Finland, Denmark and Sweden have already taken steps to implement, or may even have already implemented, the Directive.

8.3 Nordic cooperation in the legal field

The Helsinki Agreement expressly lists the legal field as one of the fields in which Nordic cooperation shall take place.¹¹⁷ The Agreement contains specific provisions relating to cooperation in private law and criminal law.¹¹⁸ For most areas of law, however, the Agreement simply states that the Nordic countries should seek to achieve a coordination of legislation as appropriate.¹¹⁹

The Helsinki Agreement does not mention cooperation in the implementation of EU legal acts. However, it does affirm that Nordic cooperation should take place in the light of the greater participation by the Nordic countries in the process of European cooperation.¹²⁰ It also states that the countries should hold joint consultations on matters of common interest which are dealt with by European and other international organisations and conferences.¹²¹

Even though there is no express obligation in the Helsinki Agreement on the Nordic countries to cooperate on matters related to the implementation of EU acts, there is mutual political interest to strive towards such cooperation.

117 Article 1 of the Helsinki Agreement.

118 Articles 4–5 of the Helsinki Agreement.

119 Article 6 of the Helsinki Agreement.

120 Preamble to the Helsinki Agreement of 29 September 1995.

121 Article 1 of the Helsinki Agreement.

In 1995, when both Sweden and Finland had become members of the European Union, the Nordic Heads of State released a joint statement that Nordic cooperation would constitute a platform for working together to influence the European agenda and would contribute to the achievement of a uniform follow up of directives and other EU and EEA legal acts.¹²²

The Nordic Action Plan for 2021–2024 states that the Nordic countries shall further encourage mobility and the free movement of workers in the Nordic region and that cooperation on the implementation of EU law is an important part of this work.¹²³

Many of the Councils of Ministers expressly referred to cooperation on the implementation of EU legal acts in their respective cooperation agreements for the coming years.¹²⁴

Finland expressly mentioned in its Presidency programme for 2021 that cooperation in the implementation of EU directives would be strengthened during its Presidency.¹²⁵

Despite this ambition and apparent willingness to cooperate on the implementation of EU legal acts in the Nordic countries, cooperation in this area has not been formalised either on Nordic or national levels. There are no set frameworks or institutional structures that aim to enable or ensure cooperation on the implementation of EU legal acts.

8.3.1 Cooperation outside the Nordic Council of Ministers and the Nordic Council

Cooperation in the legal field outside the Nordic Council of Ministers and the Nordic Council mainly takes place between the government officials responsible for drafting new legislation. This form of cooperation is most often informal in nature and depends largely on the personal commitment and personal relationships of the individual desk officer. This informal cooperation on the implementation of EU legal acts might as well take place with other EU countries as with the Nordic countries.

More structured, but still informal, cooperation on the implementation of EU Directives takes place in areas in which there is already a strong tradition of Nordic cooperation, such as in the area of private law. Such cooperation may involve meetings between desk officers from the Nordic government offices to discuss the interpretation of different articles in the Directive as well as to discuss how and if national legislation must be amended.¹²⁶

Informal cooperation at the government official level has both benefits and drawbacks. It is generally considered to work well. It is easy to set up since no formal decisions are required; those involved in the cooperation can be in direct contact with each other. However, the informal character of the cooperation can also be perceived as a weakness since cooperation can easily be set aside and not prioritised when there is insufficient time and

122 M. Buskjær Christensen et. al., *Nordisk samarbejde om gennemførelse af EU- og EØS-lovgivning, Realiteter og perspektiver*, TemaNord 2009:575, p. 13.

123 *Handlingsplan 2021–2024, Norden som världens mest hållbara och integrerade region*. See specifically under the headline ‘Mål 7’. The Action Plan mentions that one focal area will be ensuring that professional qualifications obtained in the Nordic countries will to the extent possible be immediately recognized.

124 See, for example, *Samarbejdsprogram for justitssektoren 2019–2022*, PolitikNord 2019:717 (Nordic Council of Ministers for Justice Affairs), *Nordiska ministerrådets samarbetsprogram för arbetsliv 2018–2021*, ANP 2018:709 (Nordic Council of Ministers for Labour (MR-A) and *Nordiskt samarbetsprogram för miljö och klimat 2019–2024*, ANP 2018:806 (Nordic Council of Ministers for the Environment and Climate, MR-MK).

125 Finland’s Presidency programme 2021, see heading ‘A competitive Nordic region’. While there is no mention in the program of which EU Directives would be subject to cooperation, the Finnish Presidency does mention that it will promote the Nordic Council’s on-going project for joint Nordic electronic identification. This project aims to enable secure and reliable cross-border identification in accordance with the eIDAS regulation. This could be seen as a form of cooperation on the implementation of that regulation.

126 *Nordisk samarbejde om gennemførelse af EU- og EØS-lovgivning, Realiteter og perspektiver*, p. 31–32 and 34–35.

resources to dedicate to cooperation.¹²⁷ Indeed, lack of time and resources are two factors that are often brought up as obstacles to enhanced Nordic cooperation.¹²⁸

8.3.2 Cooperation under the auspices of the Nordic Council and the Council of Ministers

Cooperation in the legal field within the Nordic Council and the Council of Ministers often takes the form of the establishment of networks, holding seminars and conferences¹²⁹ and the commissioning reports on singular topics.¹³⁰ There is no single Council of Ministers that is responsible for ensuring cooperation in the legal field or for the implementation of EU legal acts. Every Council of Ministers should strive to ensure that implementation of EU law within their respective areas is as uniform as possible.¹³¹

The Freedom of Movement Council is involved in cooperation on implementation if there is a specific border barrier that could be abolished through such cooperation.¹³² If such a border barrier would be identified, the Freedom of Movement Council may enter into dialogue with the countries concerned.¹³³

In 2016, the Finnish Presidency and the Nordic Council of Ministers launched a common project of screening not-yet-transposed EU legal acts that could be suitable for cooperation. The Presidency suggested closer cooperation on the implementation of two provisions in the General Data Protection Regulation (GDPR)¹³⁴ and one provision in the Directive (EU) 2015/1794¹³⁵. At the time, it was expressed that this working method of having the Presidency screen EU legal acts could be a 'prototype' for Nordic cooperation on implementation of EU law and that the upcoming Presidency could pick up the baton.¹³⁶ However, this did not happen, and the method was not followed up on by the Presidencies that followed.

8.4 Initiatives to strengthen Nordic cooperation on the implementation of EU law

Over the years, many ideas and suggestions on how to strengthen Nordic cooperation in the legal field have been presented. The general view seems to be that increased or enhanced cooperation on legislative issues would bring many benefits to the Nordic countries. It has been suggested that Nordic cooperation on the implementation of EU legal acts could reduce the risk of creating new border barriers in the Nordic region and could

127 Styrket nordisk lovsamarbeid, Muligheter og utfordringer, p. 45.

128 Styrket nordisk lovsamarbeid, Muligheter og utfordringer, 25 and Nordisk samarbejde om gennemførelse af EU- og EØS-lovgivning, Realiteter og perspektiver, p. 34.

129 See, for example, Nordiska lagstiftningskonferensen, 16–17 November 2010, Köpenhamn, ANP 2011:707.

130 Styrket nordisk lovsamarbeid Muligheter og utfordringer, p. 44.

131 The Nordic Prime Ministers' Declaration in response to the new strategy and action plan for removal of cross-border obstacles in the Nordic region, Freedom of Movement Council's Annual Report 2019/2020, Copenhagen, 23 October 2020.

132 See Tjänsteanteckning telefonsamtal, dnr 2021/00099-85 which summarises the Board's call with a Senior Adviser/Principal Legal Adviser at the Council of Ministers of Justice Affairs.

133 The Nordic Prime Ministers' Declaration in response to the new strategy and action plan for removal of cross-border obstacles in the Nordic region.

134 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC.

135 Directive of the European Parliament and of the Council of 6 October 2015 amending Directives 2008/94/EC, 2009/38/EC and 2002/14/EC of the European Parliament and of the Council and Council Directives 98/59/EC and 2001/23/EC as regards seafarers.

136 Utskottet för tillväxt och utveckling i Nordens betänkande över implementering av EU-direktiv, Rek. 3/2015/tillväxt D 2016.

lead to more uniform Nordic legislation – which, in turn, simplifies life for citizens and businesses who wish to engage in cross-border activity. It has also been suggested that it would help improve the quality of the transposing legislation.¹³⁷

In 2017, the Nordic Council of Ministers commissioned a report on the functioning of Nordic legislative cooperation.¹³⁸ The report, which was published in 2018, contains several recommendations on how to strengthen Nordic cooperation in the legal field. In particular, the report gives one recommendation which is closely related to and inspired by the Finnish Presidency's screening project in 2016. It suggests that the Nordic Council of Ministers should draft and continuously update an overview of legislative initiatives in the EU that can affect legislation in the Nordics. The overview would then act as a basis for assessing the added value of Nordic cooperation in the transposition of those EU legal acts.¹³⁹

The 2018 report emphasises the importance of political ambition and determination to prioritise Nordic cooperation. It also stresses the importance of allocating sufficient resources to national ministries to ensure that cooperation actually takes place.¹⁴⁰ Similar views have been expressed in other reports published under the auspices of the Nordic Council of Ministers.¹⁴¹

Other suggestions to improve cooperation include setting up a network between desk officers and government officials in the Nordic countries in order to allow an exchange of experiences and best practices.¹⁴²

8.5 Ways forward

In 2021, the Nordic Council of Cooperation Ministers gave its report to the Nordic Council on its EU-related cooperation in the year 2020. The report shows that the Council of Ministers and the Nordic countries actively work to influence and impact decision-making processes on the EU level at both political and civil servant levels. It further states that the Councils of Ministers often deal with EU law as a 'natural part' of their work regarding both implementation and development of the rules. The degree of cooperation with regard to EU-related matters varies between the Councils of Ministers. However, the report does not contain any concrete examples of cooperation on the issue of implementation of EU law,¹⁴³ with the possible exception of cooperation on digital matters.¹⁴⁴

The development and the furtherance of Nordic cooperation on the implementation and transposition of EU law is mainly a task for the Nordic governments. While the parliaments have the legislative power, the governments are usually responsible for drafting legislation. The governments are also responsible for the negotiation of new EU legislation in the EU Council. Consequently, they should be best placed to cooperate on the implementation of EU law.

¹³⁷ Nordisk samarbejde om gennemførelse af EU- og EØS-lovgivning, Realiteter og perspektiver, p. 23–27 and p.51.

¹³⁸ Professor Inge Lorange Backer ska utreda det nordiska lagsamarbetet | Nordiskt samarbete (norden.org)

¹³⁹ Styrket nordisk lovsamarbeid Muligheter og utfordringer, p. 53.

¹⁴⁰ Styrket nordisk lovsamarbeid Muligheter og utfordringer, p. 46.

¹⁴¹ Nordisk samarbejde om gennemførelse af EU- og EØS-lovgivning, Realiteter og perspektiver, p 44.

¹⁴² Nordiska lagstiftningskonferensen, 16–17 November 2010, Köpenhamn, ANP 2011:707.

¹⁴³ Redogörelse till Nordiska rådet, Samarbetsministrarnas redogörelse om EU-samarbetet år 2020.

¹⁴⁴ The Report states: "I den färdplan som ska genomföra Digital North 2.0 ingår arbetet med Cross-Border Digital Services-programmet 2021–2024 som ska göra det lättare att studera, arbeta och göra affärer över gränserna i den nordisk-baltiska regionen. Som ett led i detta arbete har en arbetsgrupp under MR-DIGITAL sedan 2017 arbetat med att göra det möjligt att nordiska och baltiska länders e-ID kan användas i respektive länder inom ramen för EU:s förordning om elektronisk identifiering och betrodda tjänster för elektronisk identifiering (eIDAS)." (p. 6).

Concrete measures are required to attain the political ambition often declared by the Nordic governments and their representatives. Merely declaring the ambition to cooperate on these matters is not enough. Each government must also dedicate sufficient resources to enable Nordic cooperation and underline the importance of such cooperation within their national administrations. The Board is of the view that concrete action is the key to actually achieving the objective of becoming a more integrated region. In our view, the Finnish Presidency's screening initiative in 2016 was an example of such concrete action within the Nordic Council of Ministers. Yet it seems it has not been followed up by any similar initiatives.

It is our view that when the Nordic countries cooperate on the implementation of EU law, they must take into account the fact that the Nordic region is a part of the internal market. Nordic cooperation can bring many benefits to businesses and citizens who cross the Nordic borders. However, the Nordic countries must beware of creating obstacles for non-Nordic citizens and businesses from other EU Member States and EEA Contracting Parties. Any form of Nordic 'gold plating' runs the risk of creating such obstacles. There should also be no discrimination on the basis of nationality in the internal market.

It is the Board's view that Sweden, during its up-coming presidency, should draw inspiration from the Finnish Presidency's screening exercise in 2016 and from the recommendations in the 2018 report referenced in the previous section of this report. Sweden should encourage the Nordic Council of Ministers to identify EU legal acts whose transposition could be made subject to Nordic cooperation.

Recommendations

The Board makes the following recommendation:

- During its Presidency in the Nordic Council of Ministers in 2024, Sweden should work towards implementing a procedure whereby the Nordic Council of Ministers provides and regularly updates a list of EU legislative initiatives in which Nordic cooperation on the implementation of those initiatives would add value.



Conclusion

The objective of an internal market that operates well is shared by the Nordic countries, and the long tradition of Nordic cooperation with its well-established structures can be a great asset in attaining this common objective.

Cooperation between the Nordic countries on internal market issues can and should be placed in the wider context of the EU and the EEA. Common Nordic action should thus aim to benefit the internal market as a whole.

This project – though limited in scope – has shown us that much can be gained from simply establishing contacts with colleagues in another Nordic country who have a similar professional portfolio and to exchange information and best practices with them. We have recognised that there is a mutual interest among our Nordic colleagues to engage in further cooperation on internal market issues in the future.

For the political ambition to enhance the Nordic countries' common vision of creating the most sustainable and integrated region in the world, cooperation should be followed up by concrete measures and mutual ambitions. Neither the Board nor Sweden can alone achieve greater cooperation between the Nordic countries. Enhanced cooperation must be a shared ambition in all Nordic countries.

The Board could have a facilitating role in, for example, inviting Nordic counterparts to contribute to deeper cooperation in different ways. However, it is important to recognise that both initiating such projects and participating in them require time and resources. All participants must be willing to equally contribute for a network to be feasible.

This report should be considered as a stepping stone towards an even more fruitful cooperation within the Nordic region and between the Nordic countries on issues related to the internal market. It has provided possibilities to further explore how we can together improve and contribute to a more sustainable and integrated Nordic region.

Finally, since one of the Board's missions is to actively work to ensure an internal market that functions well, we hope that this report's conclusions can also serve as inspiration in a wider EU circle. Some ways to share our experience could be through presentations in relevant committees and in expert groups as well as pluri- and bilateral contacts with other Member States as well as the Commission.

Appendix: Sweden's trade with the Nordic countries

This section covers a description of what Sweden's trade in goods and services looks like. It moreover describes Nordic direct investments in Sweden and Swedish direct investments in the Nordic countries.

Since the internal market has long been Sweden's main trading partner in terms of both exports and imports,¹⁴⁵ it is interesting to take a closer look at how much of Sweden's trade goes to – or comes from – the internal market accounted for by the Nordic region.

If we start by studying Sweden's total trade with the internal market, the Nordic countries accounted for 31 percent in 2020. The Nordic region thus stands for close to one-third of Sweden's total trade with the internal market and has done so during at least the last four years – the share has more or less stayed at a constant level since 2017. Of Sweden's total trade with the internal market in 2020, the Nordic countries' share of goods accounted for 31 percent. The corresponding share for services amounted to 29 percent in 2020.

Looking only at exports, we can distinguish that 37 percent of Sweden's total exports of goods and services to the internal market in 2020 ended up in another Nordic country. Of Sweden's total imports from the internal market, 25 percent came from the rest of the Nordic region in 2020.¹⁴⁶

¹⁴⁵ National Board of Trade (2019), 'Sverige i EU'.

¹⁴⁶ National Board of Trade (2020), 'Sveriges utrikeshandel med varor och tjänster samt direktinvesteringar, helåret 2020', National Board of Trade's calculations.



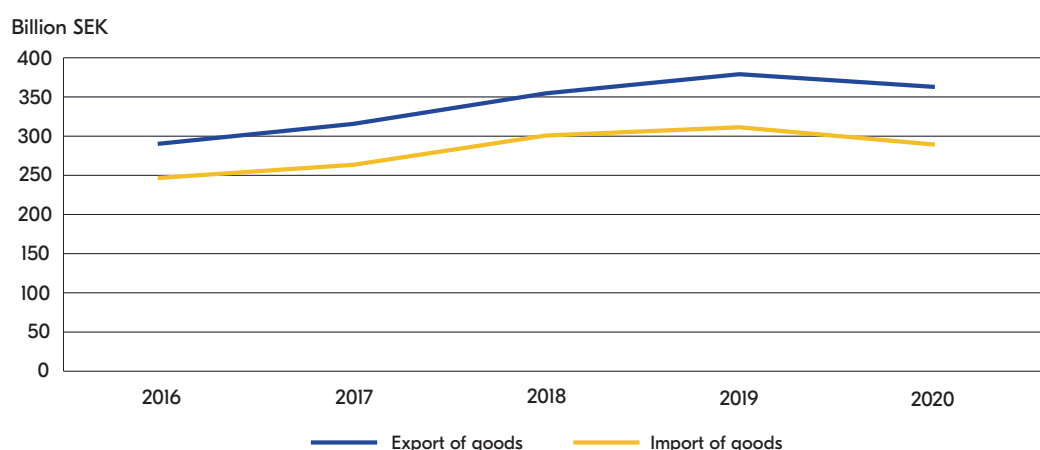
Trade in goods

Now that we know that the Nordic region accounts for almost one-third of Sweden's trade with the EU internal market, it is interesting to distinguish how trade in goods and services has developed over the past few years, as well as which types of goods and services Sweden exports to and imports from the Nordic countries.

Sweden's trade in goods with the Nordic region over time

To gain a better understanding of Sweden's trade in goods with the Nordic region, we start by studying the development over time before examining the sectoral level. Figure 5 shows that over the past five years, Sweden has increased both its export and import of goods to and from the Nordic region by 25 percent and 18 percent, respectively.

Figure 5. Sweden's export and import of goods to and from the Nordic region, billion SEK, 2016–2020



Source: Statistics Sweden, National Board of Trade's calculations.

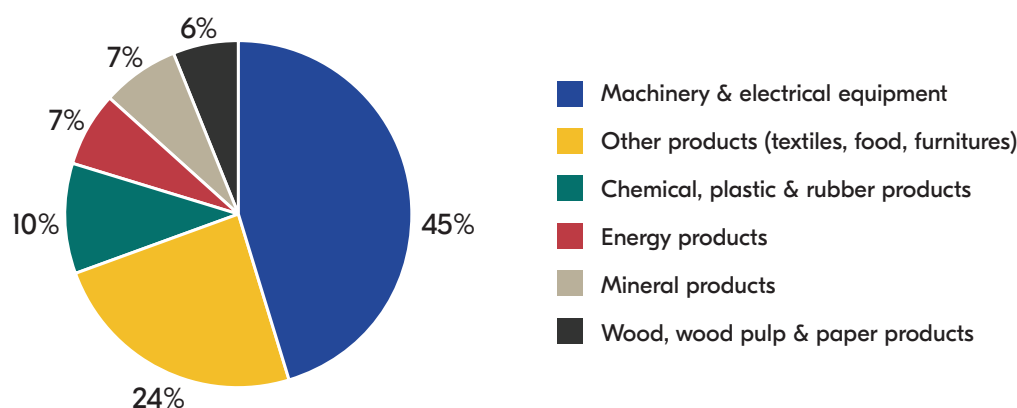
However, a closer look at the export and import values for each individual year shows that there is a value reduction in both in 2020 which can most likely be explained by the COVID-19 pandemic. Between 2019 and 2020, Sweden's export of goods to the Nordic countries declined by four percent.

The corresponding figure for imports amounted to seven percent. Despite the value reductions in 2020, the country's exports and imports of goods are nevertheless still higher than the minimum level of the entire period studied, comparing all years.

Sweden's export of goods to the Nordic region

Turning to the sectoral level, Figure 6 shows that *machinery & electrical equipment* is undoubtedly the category of goods exported the most by Sweden to the Nordic region in 2020, that is, 45 percent, followed by *other products* at 24 percent and *chemical, plastic & rubber products* at 10 percent.

Figure 6. Sweden's export of goods to the Nordic countries by product category, percent, 2020



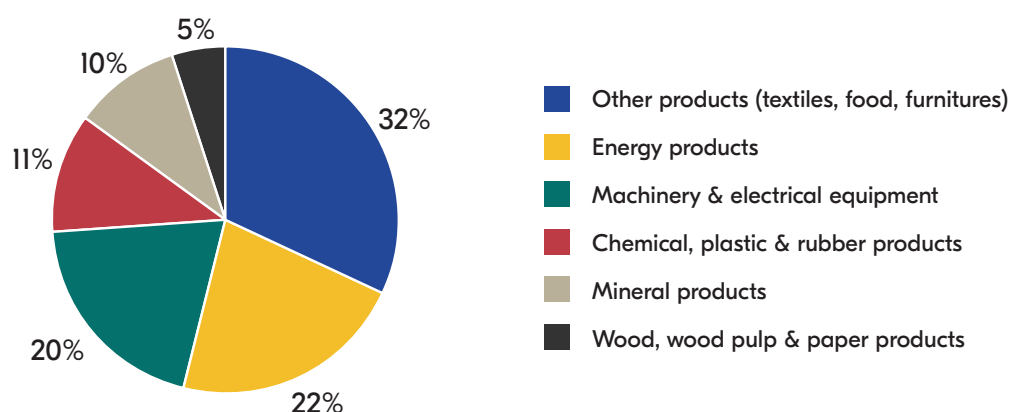
Source: Statistics Sweden, National Board of Trade's calculations.

Between 2016 and 2019, *energy products* was the third largest product category exported by Sweden, but in 2020, a shift took place and the share of *energy products* decreased drastically by 35 percent, while the exports of *chemical, plastic & rubber products* increased by 11 percent. This resulted in *chemical, plastic & rubber products* being the third largest product category exported by the country today to the Nordic region.

Sweden's import of goods from the Nordic region

Sweden's three most common imported products from the Nordic countries in 2020 were *other products* at 32 percent, *energy products* at 22 percent and *machinery & electrical equipment* at 20 percent.

Figure 7. Sweden's import of goods to the Nordic countries by product category, percent, 2020



Source: Statistics Sweden, National Board of Trade's calculations.

Of all the product categories, *energy products* and *mineral products* have foremost increased between 2016 and 2020, by 17 percent and 5 percent, respectively. Although *other products* is the category of goods that Sweden imports most from the Nordic region, its share has decreased by eight percent over the past five years. However, the distribution of which product categories Sweden has imported during 2016 and 2020 has more or less stayed constant.

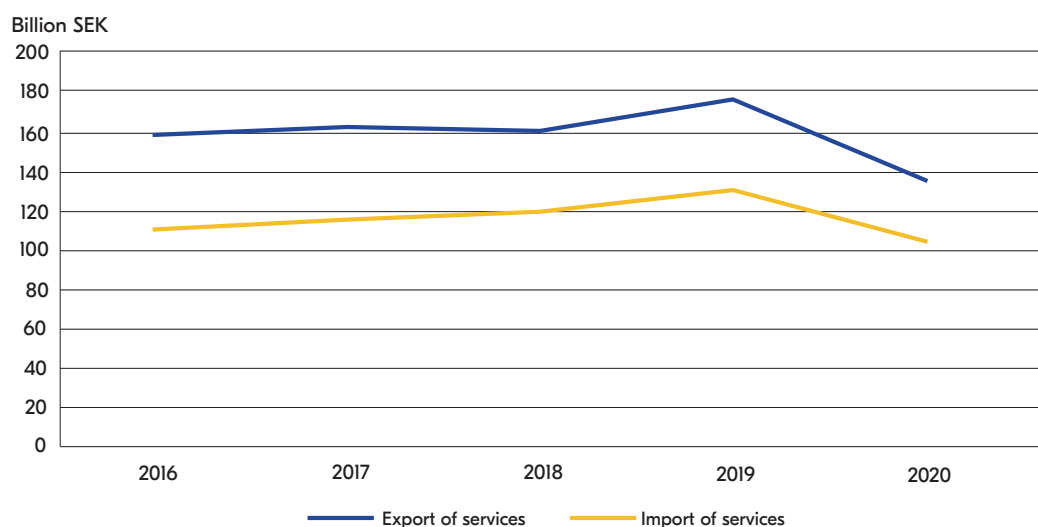
Trade in services

Turning to trade in services¹⁴⁷ and examining its development between 2016 and 2020, the picture slightly differs from the one we saw for trade in goods.

Sweden's trade in services with the Nordic region over time

Over the past five years, Sweden has decreased both its export and import of services to and from the Nordic region by 15 percent and 5 percent, respectively. Figure 8 reveals that it is the declines in 2020 that are contributing to the total reduction in export and import over time, which can most likely be explained by the COVID-19 pandemic.

Figure 8. Sweden's export and import of services to and from the Nordic region, billion SEK, 2016–2020



Source: Statistics Sweden, National Board of Trade's calculations.

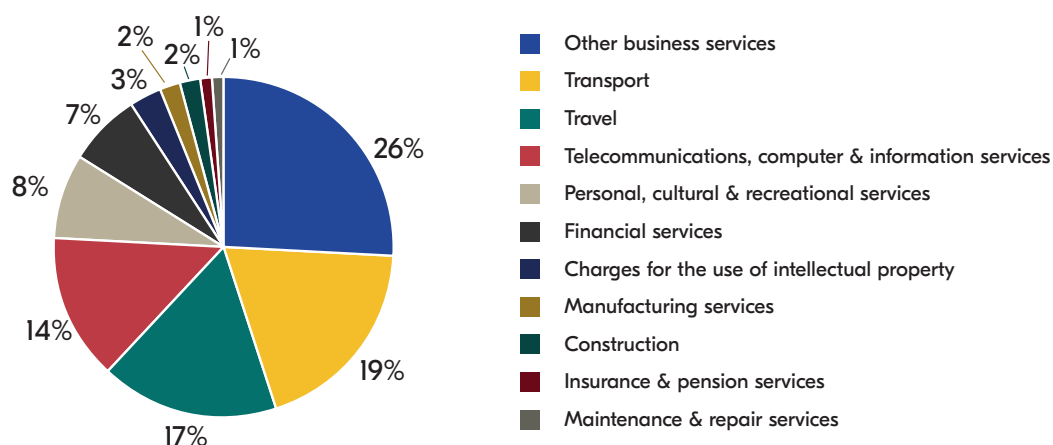
Sweden's exports and imports of services only decreased between 2019 and 2020 by 23 percent and 20 percent, respectively. In 2020, the country's export value for services was lower than in any of the other years studied and reached a new minimum level. The same conclusion can also be ascertained for Sweden's import value for services.

Sweden's export of services to the Nordic region

Figure 9 shows that the most common categories of services exported by Sweden to the Nordic region in 2020 were *other business services* at 26 percent, *transport* at 19 percent and *travel* at 17 percent. *Telecommunications, computer & information services* amounted to 14 percent.

¹⁴⁷ According to Statistics Sweden, the quality of the economic indicators used in the following section cannot be guaranteed for Iceland. Due to this, the country is excluded and the terms *Nordic region* and *Nordic countries* only refer hereafter to Denmark, Finland and Norway.

Figure 9. Sweden's export of services to the Nordic countries by category of service, percent, 2020



Source: Statistics Sweden, National Board of Trade's calculations.

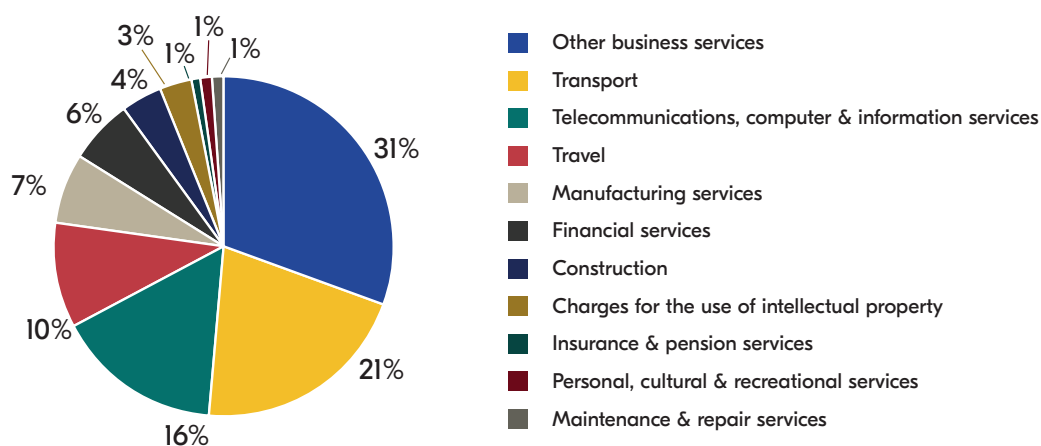
Between 2016 and 2019, *travel* was the most common category of services that Sweden exported to the Nordic region. However, in 2020, this category declined by almost 40 percent compared to 2016. The decline had already commenced in 2019 but is most pronounced in 2020, probably explained by the COVID-19 pandemic. In 2020, *travel* was, therefore, no longer the category of services that Sweden exports the most.

Construction and financial services also decreased during 2016–2020, by 32 percent and 23 percent, respectively. *Personal, cultural & recreational services* and *manufacturing services* increased.

Sweden's import of services from the Nordic region

The most common categories of services that Sweden imports from the Nordic region are also the services that the country was found to primarily export: *other business services* at 31 percent, *transport* at 21 percent, *telecommunications, computer & information services* at 16 percent and *travel* at 10 percent.

Figure 10. Sweden's import of services from the Nordic countries by category of service, percent, 2020



Source: Statistics Sweden, National Board of Trade's calculations.

Similar to the development in *travel* in the previous section, we can also see a sharp decline in services imports. *Travel* has decreased over the past five years, especially after 2019, by 48 percent. *Transport* has also declined by 27 percent. Sweden's import share of *insurance & pension services*, *manufacturing services* and *construction* has foremost increased. *Other business services* has primarily increased between 2019 and 2020.

Foreign direct investments

Foreign direct investments are also argued to be an indicator that can be used to describe how integrated countries compare with another's economy. Foreign direct investments are not only an important channel for exchanging capital across countries but are also an important channel for exchanging goods and services. It also links production across countries. In the next section, we will examine the value of inflows and outflows of direct investments between Sweden and the Nordic region.

Foreign (Nordic) direct investments in Sweden

Table 4 shows the inflow of foreign direct investments from the Nordic countries to Sweden. Inflows refer to the net of the investments made by foreign companies in Sweden. Note that the flow from a specific country can vary greatly over time and that revisions to the statistics can be very large.¹⁴⁸ Investments from the Nordic region in Sweden accounted for an inflow of close to SEK 27 billion in 2020. Most of the direct investments from the Nordic region came in 2020 from Denmark.

Table 4. Foreign (Nordic) direct investment in Sweden by region, net flows, billion SEK, 2019–2020.

	2019	2020	2021
Finland	8.3	9.5	1.2
Nordic region	-10.2	26.8	37

Source: National Board of Trade.¹⁴⁹

Swedish direct investments in the Nordic region

Table 5 shows the Swedish outflows of direct investments in the Nordic region. Here, outflow refers to the net of Swedish companies' investments in the Nordic countries. Swedish investments in the Nordic region amounted to a total of almost SEK 39 billion in 2020. Most of the country's outflow to the Nordic region ended up in Norway in both years.

Table 5: Swedish direct investments abroad by region, net flows, billion SEK, 2019–2020.

	2019	2020	2021
Finland	-1.7	8.7	10.4
Nordic region	32.8	36.8	4

Source: National Board of Trade.¹⁵⁰

¹⁴⁸ National Board of Trade (2020), 'Sveriges utrikeshandel med varor och tjänster samt direktinvesteringar, helåret 2020'.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

Sammanfattning på svenska

Summary in Swedish

Under 2021, har Kommerskollegium fått i uppdrag av den svenska regeringen att särskilt fokusera på den nordiska kontexten och med utgångspunkt i befintliga uppdrag föreslå åtgärder som kan bidra till att förebygga och lösa gränshinder och minimera de negativa konsekvenserna för handeln av mobilitetsbegränsande beslut i gränsregionerna i Norden. Det kan enligt uppdraget till exempel handla om samarbete i tillämpningen och genomförandet av tjänstedirektivet för att förebygga gränshinder, inom ramen för Solvit hantera nordiska gränshinder med EU-rättsliga kopplingar, genom ömsesidigt erkännande undersöka hinder för varuhandeln mellan de nordiska länderna eller att undersöka förutsättningarna för ökad samverkan när det gäller standarder.

För att fullgöra uppdraget har kollegiet fokuserat på fyra områden inom ramen för den inre marknaden och som också utgör kärnkompetenser inom vår verksamhet. På dessa områden såg vi ett behov att titta närmare på förutsättningar för handelsbefrämjande åtgärder för bättre rörlighet och integration: ömsesidigt erkännande, standarder, tjänster och SOLVIT-funktionen. Utöver dessa områden har vi även undersökt hur det nordiska samarbetet kring implementering av EU-rättsakter ser ut i Sverige, Norge, Finland, Danmark och Island.

I rapporten presenteras de initiativ som motsvarar regeringens begäran. Den innebär ett första steg mot framtida nordiskt samarbete, såväl som inspiration för fortsatta diskussioner inom en vidare EU-krets.

Med detta i åtanke, lämnar kollegiet följande rekommendationer för utökat samarbete inom Norden på respektive område, inom ramen för det givna uppdraget.

Ömsesidigt erkännande av varor

- Informationsutbytet ska intensifieras och samordnade insatser ska vidtas på området för fri rörlighet av varor och ömsesidigt erkännande, inom det nätverk av nationella experter som tillskapats genom detta projekt.
- Under arbetet med de nya regelverken inom byggsektorn ska nordiskt samarbete förekomma för att åstadkomma så gemensamma regler som möjligt på nordisk nivå och på EU-nivå.
- Den svenska regeringen ska tillsätta en arbetsgrupp som ges i uppdrag att analysera och identifiera handelshinder och de potentiella produktsektorer som skulle ha störst fördel av ett utökat framtida samarbete. Principen om ömsesidigt erkännande kan vara ett av verktygen för att avlägsna handelshinder.

Standarder

- De nordiska länderna ska inleda ett utökat nordiskt samarbete för att utbyta ytterligare erfarenheter och dela information gällande processen för harmoniserade europeiska standarder. Det kan exempelvis bidra till samstämmiga gensvar där det finns ett ömsesidigt intresse.
- På områden där det finns gemensamt nordiskt intresse, men där det inte är möjligt eller fördelaktigt att utveckla europeiska eller internationella standarder, kan möjligheten att utveckla gemensamma standarder mellan de nordiska länderna uppmuntras och initieras av intressenter inom standardisering.

Tjänster

- Det nordiska nätverket för nationella experter på tjänstedirektivet ska återuppta sitt arbete genom möten under år 2022.
- Kollegiet ska bjudas in att delta i det arbete som sker i det nordiska nätverket för nationella experter på tjänstedirektivet.
- Det nordiska nätverket för nationella experter på tjänstedirektivet ska lämna rekommendationer om hur tillämpningen av anmälningsplikten kan öka i den nationella förvaltningen och på lokal nivå i varje nordiskt land.

Solvit-samarbete

- De nordiska Solvit-centren ska hålla gemensamma möten före de workshops som förekommer två gånger årligen inom Solvit-nätverket, för att ta fram eventuella gemensamma ståndpunkter där det finns ett gemensamt nordiskt intresse.
- Data om gränshindersproblem från de ärenden som hanterats av de nordiska Solvit-centren ska delas och rapporteras, minst en gång årligen, till det nordiska Gränshinderrådets sekretariat.
- Ett årligt nätverksmöte ska hållas mellan det svenska Solvit-centret och Gränshinderrådets sekretariat.

Implementering av EU-rättsakter

- Under sitt ordförandeskap i Nordiska ministerrådet år 2024 bör Sverige verka för att införa ett förfarande enligt vilket ministerrådet tar fram och regelbundet uppdaterar en lista över EU-rättsakter där nordiskt samarbete kring genomförandet av de akterna skulle medföra ett mervärde.

Åtgärder för att främja ekonomisk integration har bäst effekt om det får sällskap av ett gemensamt tillvägagångssätt och implementeras i alla nordiska länder. Kollegiet vill uppmärksamma att en förutsättning för att samarbetsförslag ska leda framåt och till konkreta åtgärder och för att den stärkta ambitionen för Norden ska få genomslag, krävs att arbetet är prioriterat på alla nordiska nivåer inom den nationella administrationen.

I detta sammanhang är den politiska viljan avgörande för att implementera våra rekommendationer. Tillräckliga resurser behöver säkerställas för att de föreslagna åtgärderna på ett effektivt sätt kan bidra till ett mer integrerat och hållbart Norden. Den bästa effekten skulle uppnås om samtliga nordiska länder aktivt skulle sträva mot de ändamål som föreslås. Däremot välkomnar kollegiet samarbete i specifika delar av rapporten eller mellan vissa medlemsländer, i den mån en gemensam överenskommelse inte kan nås om att vara delaktig i samtliga delar av de föreslagna samarbetsområdena. Att uppnå visionen om en väl integrerad och hållbar region i Norden kan betraktas som ett exempel att följa för andra medlemsstater, med potential att samtidigt skapa förutsättningar att uppnå det optimala målet att tillskapa en mer integrerad och hållbar inre marknad.

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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