

## COMMUNICATION

**from the Permanent Sub-Committee for EU Affairs  
of the Main Committee of the National Council  
of 15 March 2011**

**under Article 23f(4) B-VG [Federal Constitutional Act]**

The Permanent Sub-Committee concerned with EU Affairs discussed the Communication from the Commission concerning

**COM(2010) 608 final Towards a Single Market Act for a highly competitive social market economy (39433/EC XXIV.GP)**

on 15 February and 13 March 2011 in open session and reached the following conclusion:

Economic and social conditions in the European Union have changed during the 18 years since the single market was officially created. The single market, like the European Union as a whole, is facing new challenges, which must be met in the political sphere if there is to be a sustained improvement in living conditions for the people of Europe. The steps that must now be taken need to have a sound democratic basis.

The Austrian National Council is fully supports the intention to make full use of the potential offered by the single market while at the same time reinforcing the social aspects of the union and helping to create permanent jobs and promote sustained growth on the part of companies. This also meets the needs arising from the newly-worded objectives of the European Union arising from the Lisbon Treaty. The aim of EU policy is therefore not merely to foster prosperity, full employment and social progress, but also to promote equality for all citizens and combat social exclusion.

Efforts to breathe new life into the single market face significant challenges in these areas including, in particular, the proposal to make it obligatory to also assess the social effects of any proposal concerning the single market, the full involvement of the social partners and the promotion of dialogue between them at a European level, especially in questions affecting labour market policy.

The aim must be to ensure that the single market is understood as a general concept that offers concrete benefits to everyone involved and concerned:

- all participants by exploiting the potential for growth and prosperity
- consumers through access to the single market, lower prices and greater choice and easier assertion of their rights across borders
- producers and business people through improved sales opportunities and lower transaction costs
- workers through greater opportunities on labour and export markets
- schoolchildren, students, apprentices and trainees through cross-border educational exchanges
- teaching and research staff through access to academic and teaching institutions all over Europe while taking account of the rightful interests of the Member States.

It is also very important to effectively preserve the high Austrian workers', consumers' and social protection standards, product and production standards and quality of service and restrict wages and social dumping.

The following areas are considered to be basic priorities:

- single market for services taking account of the special requirements applicable to services of general interest.
- observance of the fundamental rights set out in the ECHR and Charter of Fundamental Rights
- proposals that take account of the special position of SMEs
- measures to increase energy efficiency and promote electromobility
- private investment and venture capital
- uniform basis of assessment for corporation tax
- international trade
- access to basic financial services
- national implementation of EU legislation

There are reservations in the following areas in particular:

- additional European legislation concerning the investment activities of national venture capital funds
- the high risks associated with project bonds
- consumer protection with regard to mortgage loans and the need for consistency with legislation relating to consumer credit agreements
- legislation that infringes the fiscal sovereignty of Member States
- proposals that fail to take sufficient account of the special position of SMEs
- proposals that interfere with the basic structures (e.g. freedom of contract) of national civil law

The single market also creates a need for taxation systems to be co-ordinated. Progress needs to be made in implementing a turnover tax system that is more resistant to fraud. The planned harmonisation of the basis of assessment for corporation tax is also to be welcomed, since it will create an important basis for the future prevention of tax competition in the European Union.

Specific comments on individual proposals are appended in the **Annex** to this Communication.

## ANNEX

to the Communication under Article 23f(4) B-VG of 15 March 2011

### **concerning COM(2010) 608 final Towards a Single Market Act for a highly competitive social market economy (39433/EC XXIV.GP):**

#### **Proposal No 1 (EU patent)**

The EU patent can make a significant contribution to strengthening innovation and research in Europe. The Sub-Committee therefore supports the efforts of the Austrian Government and a number of other Member States to create an EU patent in order to increase co-operation. The existing principles and criteria of the European Patent Convention should not be called into question during implementation and account should be taken of the interests of SMEs, especially with regard to access to patent information.

#### **Proposal No 2 (copyright)**

The Sub-Committee welcomes the Commission's efforts to make knowledge and cultural goods available online.

#### **Proposal No 3 (counterfeiting and piracy)**

The scale of efforts in this area should match the extent to which goods protected by society are placed at risk. The future strategy in this area with regard to third countries seems particularly important in this regard. Priority should also be given to the fight against counterfeit medicines and to bringing the negotiations for the directive on counterfeit medicines (2008/0261/COD) to a rapid conclusion. There should be no reduction in the level of data and consumer protection in comparison with existing national standards.

#### **Proposal Nos 4 and 44 (services)**

The creation of a single market for services, with the exception of services of general interest, with full observance of the rights of Member States in this area, is considered to be a priority by the Sub-Committee. This also applies to workers' and consumers' rights.

#### **Proposal No 5 (electronic commerce)**

To make full use of the potential of the single market for electronic commerce, in view of the latest figures displayed in the Consumer Markets Scoreboard, it would be desirable on the one hand to encourage consumers to make cross-border purchases and on the other hand to convince SMEs of the benefits of cross-border selling. In order to increase participation by SMEs in electronic commerce, the possibility of harmonising electronic commerce legislation including the associated consumers' rights should be considered. As far as online services supplied directly to patients are concerned (e.g. purchasing medicines supplied through distance selling), there should be no weakening of the national restrictions that are currently permissible, for health protection reasons. The Sub-Committee welcomes the plan to reinforce electronic commerce in the business-to-business segment.

#### **Proposal No 7 (White Paper on Transport Policy)**

The White Paper on Transport Policy should make a significant contribution to efforts to move heavy goods from the roads to more environmentally friendly forms of transport. The principle of true-cost pricing in the transport system is especially important for achieving this, as is the implementation of the single market in the rail transport sector, including full interoperability and appropriate multimodal transport hubs.

**Proposal No 8 (Energy Tax Directive)**

The Commission's efforts to pay more attention to energy efficiency and combat climate change also in the area of energy taxation are along the right lines, but concrete proposals have yet to be made. Special importance is to be given to the equal treatment of Member States. Account must certainly be taken of the effects of increases in costs and prices on growth, society and social insurance systems.

**Proposal No 10 (Ecological Footprint)**

The special conditions in which small and medium-sized producers operate should be taken into consideration, in particular when they distribute their goods only within a single region. The potential of comprehensive, reliable and easily comprehensible labelling should be exhausted, especially with regard to consumer goods such as foodstuffs.

**Proposal No 11 (energy efficiency plan)**

The Sub-Committee welcomes the plans of the Council and Commission to discuss additional measures to achieve energy efficiency objectives and evaluate them by 2013 in the light of the 20% objective.

**Proposal No 12 (SME access to capital markets)**

Investment in small and medium-sized enterprises could make a significant contribution to achieving the objectives of the single market. Efforts should be made, however, to ensure that this investment is long-term in nature, not geared merely to maximising short-term profits. Traditional stock market mechanisms should not necessarily be used to draw on private equity for this purpose, because SMEs find them very difficult to access.

**Proposal No 13 (Small Business Act)**

Small and medium-sized enterprises are the backbone of the European economy. In many cases, the conditions in which they operate differ fundamentally from those in which big companies operate. The Sub-Committee welcomes the assessment of the Small Business Act and looks forward to the resulting proposals to strengthen SMEs. It considers their consistent integration in the EU-2020 Strategy to be a matter of general importance. Account should be given to effective worker participation arrangements in the further negotiations for the Regulation providing for a statute for a European Private Company (SPE). The following individual measures for SMEs should be taken in particular:

- performance of a "SME test" for new legislation
- 25% reduction in administrative costs to SMEs by 2012
- one-stop shops
- expansion of financing instruments of relevance to SMEs
- easier market access for SMEs (public procurement, services)
- improved access to R&D for SMEs
- securing liquidity through measures against late payment, in particular by the public sector

**Proposal No 14 (accounting standards)**

The financial crisis in particular has shown the direct and indirect importance of accounting rules for ensuring the stability of the financial sector. Compliance with such standards forms the basis for mutual trust between market participants. The discussion of accounting standards should therefore be considered to be part of the crisis management strategy. The Sub-Committee welcomes relief for very small and small enterprises of the types to be found in Austria. Special accounting rules could lead to needless complication, however.

**Proposal No 15 (project bonds)**

The Sub-Committee takes a critical view of the proposals for project bonds to finance European projects, especially in view of the risks they entail under certain circumstances. Nor are the advantages of such bonds over other forms of financing very clear. It is to be feared that too intense a focus on public sector bonds would give rise to additional costs that would make projects more expensive, leading to insufficient investment in infrastructure. These questions should certainly be discussed during the negotiations for the 2014 financial framework, and no decisions should be taken prior to the negotiations.

**Proposal No 16 (encouragement of private investment)**

The Sub-Committee welcomes proposals to also encourage private investment in areas of particular importance in the Europe 2020 strategy. It is also essential to emphasise the long-term nature of the investment. Account must be taken of the powers to grant tax relief vested in Member States under the treaties.

**Proposal No 19 (tax harmonisation)**

The Sub-Committee expressly welcomes the Commission's efforts to establish a uniform basis for the assessment of corporation tax, since such an arrangement would create a basis for the prevention of tax competition between the Member States in this area. The Sub-Committee supports such projects in so far as they take sufficient account of special regional features and SMEs, so that there is no reason to fear a reduction in corporation tax revenue.

The introduction of financial transactions tax could also make a further substantial contribution in this area.

**Proposal No 20 (Value-Added Tax)**

The Sub-Committee supports projects to limit opportunities for abuse and to modernise the VAT system.

**Proposal Nos 23 and 24 (international co-operation)**

Many challenges, especially regarding the financial market and environmental problems such as climate change, can be faced only through co-operation at an international level. Stronger global co-operation is therefore certainly useful in these areas and should be developed as far as possible. The EU should be willing to contribute to meeting current global challenges even in the absence of a global consensus in this regard. As far as trading relationships with economically and environmentally disadvantaged countries are concerned, the EU should be aware of its responsibility to promote development in these countries. Intensifying trade in poorer countries can also make a permanent contribution to prosperity and development. This should also include paying greater attention to the effects of trade agreements on development co-operation, taking account of the ILO core conventions and similar international agreements.

The Sub-Committee welcomes proposals to improve access by EU companies to the procurement markets of important trading partners.

**Proposal No 25 (services of general interest)**

Under the treaties and Protocol 26, services of general interest should only to a limited extent be subject to the principles normally applied in other areas. Determining universal service obligations may be a viable approach in certain fields. The aim should be to ensure the cost-effective universal distribution of a sufficient quantity of these services, which should be of an appropriate quality. Account should be taken of these factors in all areas, perhaps as part of the analysis of social impacts referred to in the introduction, and unfair competition between public and private suppliers should be avoided.

**Proposal No 26 (TEN)**

Reference is made to the Communication of 9 November 2010 in this regard.

**Proposal No 27 (Value-Added Tax)**

The Sub-Committee welcomes the energy infrastructure package.

**Proposal No 28 (radio broadcasting frequencies)**

Reference is made to the Communication of 9 November 2010 in this regard.

**Proposal Nos 29 and 30 (fundamental rights)**

The Sub-Committee is in favour of the Commission's plans to first of all conduct an in-depth analysis of the social impact of all proposed legislation. The social partners should be fully involved in such a process. The Sub-Committee also welcomes a Commission initiative clarifying that equal account must be taken of fundamental rights and fundamental freedoms.

Regarding the plans concerning the Posting of Workers Directive, reference is made to the ECJ judgments in the *Viking* and *Laval* cases. This case-law has been widely misunderstood and partly for this reason, the National Council and Federal Council have adopted reasoned opinions declaring similar provisions in the proposal for a directive of the European Parliament and Council on the conditions of entry and residence of third-country nationals for the purpose of seasonal employment to be incompatible with the principle of subsidiarity. It is therefore necessary to clarify that the Posting of Workers Directive concerns minimum standards. Legislation setting out further minimum labour and social standards (which may be exceeded in national legislation) should therefore be prepared and cross-border co-operation between authorities improved. These measures should certainly be preceded by consultation of the social partners as set out in Article 154 TFEU. It should also be made absolutely clear that the fundamental rights laid down in the Charter of Fundamental Rights and, after completion of the accession procedure, in the ECHR cannot be made subordinate to the fundamental freedoms enshrined in the treaty.

**Proposal No 31 (pensions)**

The Member States continue to have full exclusive jurisdiction over pension policy. The action to consolidate public budgets that has become necessary as a result of the financial crisis must not only be financially sustainable, but also proportionate in terms of any measures relating to pensions. Fiscal and administrative barriers to the transfer of pensions (pension claims) to another Member State must be eliminated.

**Proposal Nos 36, 37 and 38 (corporate governance)**

Social entrepreneurship (CSR) is worthy of support. The question as to whether the measures taken are sufficient should be considered after a reasonable period.

**Proposal No 39 (product safety)**

The Sub-Committee is in favour of initiatives to effectively increase product safety and establish links between the competent supervisory authorities in Europe. This should not result in any lowering of existing (national) standards, however.

**Proposal No 40 (banking services)**

The increasing importance of cashless payments means that access to banking services is now frequently essential in order to participate in society. The Sub-Committee is very much in favour of initiatives, also at European level, to increase access to basic banking services.

The Sub-Committee is in favour of greater transparency of bank charges. The question as to whether a self-regulatory initiative is sufficient should be considered after a reasonable period.

**Proposal No 41 (mortgage loans)**

Special measures to protect borrowers are especially appropriate in the case of long-term loans. The question as to whether this can be satisfactorily guaranteed in the area of mortgage loans must be assessed when an actual draft has been submitted. Such a draft would certainly need to comply with the rules applicable to consumer credit.

**Proposal No 42 (tax barriers)**

It certainly seems useful to avoid double taxation and tax barriers, but measures to avoid double taxation should not increase tax competition between Member States, encourage abuse or cause budgetary problems.

**Proposal No 43 (rights of air passengers)**

In the area of passengers' rights, special attention should be given to ensuring that the rules and information for passengers asserting their rights are easily understandable. Extensive rights to claim compensation for delays are meaningful only if passengers are aware of them and can assert them without special hurdles. The Commission should therefore work with the Member States and carriers to ensure that passengers are fully informed of their rights and are able to assert them effectively.

**Proposal No 45 (IMI)**

Cross-border administrative communication using state-of-the-art electronic facilities is certainly an important topic for further development of the single market. The principles of data protection should also be observed in their entirety. The opinion of the European Data Protection Supervisor should be requested in advance.

**Proposal No 46 (alternative dispute resolution)**

One of the main aims of the single market is to make it possible for transactions to be processed without difficulty. Priority should therefore be given to setting out clear rules in order to avoid disputes before they occur. Consumers' faith in the single market is also particularly important for creating a single market in the retail sector. Confidence-building measures, such as campaigns to inform consumers about how to assert their rights, are therefore of particular importance. An effort must be made to ensure simple, just and fair, rapid, cost-effective and yet transparent redress in cross-border, as in other, transactions. The initiative planned by the European Commission to establish ADR mechanisms is therefore viewed with interest, although national civil law should not be interfered with unless absolutely necessary.

**Proposal No 47 (implementation of EU law)**

Initiatives to enforce and implement EU law in the Member States are important and the Sub-Committee is in favour of them. The proposed correlation tables are not considered to be an appropriate instrument, however, since they result in additional administrative costs for the Member States and have no discernible benefit for citizens. The Sub-Committee is therefore not in favour of the correlation tables.

**Proposal No 48 (involvement of civil society)**

The Sub-Committee welcomes the greater involvement of civil society. There is also a need for the EU institutions to ensure that a representative balance between the various interest groups and opinions is maintained, in expert groups in particular. The efforts of the EU institutions to introduce compulsory lobbying registers can also make a positive

contribution in this regard. Furthermore, the special position of the social partners enshrined in the treaties must be fully observed.