



## DECISION

At its 179th sitting, held on 23 June 2016, the German Bundestag, acting on the basis of Bundestag printed paper 18/8867

on

### **Deepening the European Single Market – upholding trusted standards**

adopted the following decision:

I. The German Bundestag notes:

On 28 October 2015, the European Commission issued a communication entitled “Upgrading the Single Market: more opportunities for people and business”(COM(2015)550). The communication contains a road map for implementing the Single Market Strategy. The Single Market Strategy – like the Digital Single Market Strategy (COM(2015)192) and the Energy Union Package (COM(2015 49, 51-53) forms part of the overarching single market strategy. In concert with other initiatives, in particular the Investment Plan and the completion of the Capital Markets Union, the European Commission thus intends to make its contribution to turning around the low levels of growth in the European Union.

In the past, the single market has made an essential contribution to growth and prosperity in the EU. To preserve and further increase this, the single market must undergo constant further development. Our goal is a single market which enables citizens and companies alike to harness the opportunities it provides to the full. This holds true with regard to

- new business models in the digital economy, so that creative ideas and innovation are made possible;
- industry, so that the European value creation chain can be safeguarded and expanded;
- small and medium-sized enterprises (SMEs), so that they can fully harness the potential offered by the single market and grow beyond national borders;
- cross-border and non-discriminatory access for consumers and businesses to a large selection of products and services and access for citizens to the requisite information to be able to harness the opportunities presented by the single market.

In connection with this what has come to be known as the collaborative economy is of special importance. The term “collaborative economy” denotes new business models which generally use internet-based platforms to provide on-demand access to services (e.g. financial services) or enable the temporary use of goods (e.g. car-sharing). On the one hand this translates into an opportunity to enable new business and service models which benefit consumers, to foster competition and to use resources more efficiently. On the other hand, steps must be taken to ensure that



tried-and-tested provisions governing consumer protection, social security and basic employee rights, but also social insurance and taxation obligations are not rolled back.

For start-ups there needs to be a second-chance culture, as is more pronounced in the US, for instance. Even if a business idea has failed, entrepreneurs must still be given the opportunity to try again, harnessing the experience they have gained.

Second, the creation of a European legal form for the legal form of an incorporated company would be beneficial for SMEs aiming to operate transnationally in particular in order to reduce the considerable amounts of time and money that have to be spent on information and consultancy resulting from the differing legal systems companies are subject to in the different Member States. In its resolution of 7 May 2015 (Bundestag printed paper 18/4843), the German Bundestag described the main features of such a European legal form. These set out the need to create a reputable, standardised company form for SMEs which applies Europe-wide and which provides no possibility for national regulations on co-determination, the commercial register and taxation to be circumvented. On the other hand the resolution rejects the European Commission's proposal on a single-person company (SUP) because this could open up far-reaching opportunities for abuse.

In addition to this, other measures under company and transformation law can contribute to reducing the difficulties experienced by companies and shareholders when it comes to cross-border operations and promoting a closer-knit single market. These include coherent rules for cross-border company mergers and splits and relocations of companies' registered offices. Furthermore, a standardised European cut-off date for proof of entitlement should be established for determining which shareholders can take part in the annual general meeting of a stock corporation and exercise their voting rights at such (cf Resolution of the German Bundestag of 12 November 2015, Bundestag printed paper 18/6681, p. 6 f.).

To foster innovation and start-ups, skilled non-EU citizens with promising ideas must be encouraged to establish a footing in the EU as entrepreneurs.

Obstacles to the cross-border trade in goods and services also need to be re-examined. Here, appropriate professional regulations and official fees scales for freelance professions and craftsmen and women must continue to be possible. They enable work which is geared towards the common good and as such serve to ensure quality and consumer protection. Self-governance of the professions, the rules governing access to and exercise of particular professions and the regulations governing the freelance professions and the crafts sector ensure competition based on quality and training standards, and in turn professionalism, making a lasting contribution to sustainable growth and employment growth in Germany.

In the regulated professions it also has to be borne in mind that mobility inside the single market for the self-employed and employed is already ensured through the provisions governing the recognition of professional qualifications. Proposals by the European Commission must not call into question the competencies of the Member States in this area.

The single market must be further developed with a view to ensuring consumers and businesses have simpler, cross-border and non-discriminatory access to goods and services. This must not be allowed to lead to the provider ultimately being obliged to conclude economically unviable contracts, however (obligation to contract). Furthermore, the subsidiarity principle and the regulatory competence of the Member States must be respected.



The Labour Mobility Package and indeed the revision of the Posting of Workers Directive should be pushed ahead as additional important building blocks of the strategy for fair competition inside the European Single Market.

Uniform standards also play an important role for the single market. The Deutsches Institut für Normung (DIN) has developed a German “Standardisation Roadmap for Services” in tandem with interested groups and highlighted in which areas - apart from health care services – uniform standards could be beneficial and how standardisation could be structured in concrete terms. The “Standardisation Roadmap for Services” can potentially provide the basis for European services standardisation and support the further development of European standards in this area.

The public procurement system, which enables cross-border competition for public tenders, is also a key part of a working single market. The European directives on the award of public contracts recently underwent extensive revision. It is therefore doubtful whether further measures are currently required in the field of public procurement. The priority should first of all be implementation in the Member States and the evaluation of this implementation by the European Commission.

In a single market, the high-level protection of intellectual property is of great importance. The European legal framework in place already provides this protection. To ensure this is upheld, the rules must be evaluated continuously and developed further as needed. It is not ever more new rules that are needed to continue to develop the single market, but rather first and foremost effective implementation and application of the measures already adopted.

## II. The German Bundestag welcomes

in the area of businesses

- the aim of an in-depth examination of the impacts of existing EU regulations on the business models of the collaborative economy and the monitoring of the development of the collaborative economy;
- the aim of pooling the different online services of the European Union providing information and support to SMEs on cross-border operations in a “Single Digital Gateway”. At the same time it must be ensured that existing structures that have stood the test of time are properly incorporated and that this does not lead to duplicate platforms being built;
- the endeavours to continue to enable immigration to the European Union for talented entrepreneurs, but always on the condition that the innovative potential of European Union citizens is first taken into account;
- the aspiration of doing away with unnecessary regulatory costs;

in the service sector

- the aim of removing unjustified obstacles to the cross-border provision of services, if at the same time rules which serve the legitimate purposes of protection and the common good, in particular consumer protection and quality assurance remain in place;

in the retail sector

- the setting forth of tried-and-tested procedures for the establishment of retail businesses;



to prevent discrimination against consumers and businesses

- the aim of eliminating unjustified discrimination against the users of services. This also supports efforts to combat unjustified geo-blocking;

in the area of standardisation

- the joint standardisation initiative's aim of increasing the competitiveness of the European economy through European standards;

in the area of public procurement

- the efforts to evaluate the appeals system for the award of public contracts and to improve its effectiveness, efficiency, and transparency, should this prove necessary;

in the area of intellectual property rights

- the adoption of the "follow the money" approach in the planned revision of the framework for the enforcement of intellectual property rights (IPR), which strips those who infringe IPR for commercial gain of their sources of revenue;

in the area of the free movement of goods

- the aim of improving the free movement of goods pursued by the envisaged action plan to strengthen the principle of mutual recognition;
- the measures to improve market monitoring, in particular the associated goal of not allowing non-compliant products to enter the market in the first place;

on the practical implementation of EU law

- the decision to focus on legal enforcement and to restrict plans for new legal acts to a limited number of areas;
- the measures announced to improve monitoring of the implementation and application of EU law, provided these are advisory services and voluntary measures;
- the endeavours to bolster the SOLVIT network to pragmatically resolve problems encountered by citizens and businesses as a result of the faulty implementation of single market regulations by public authorities.

### III. The German Bundestag calls on the European Commission

in the area of businesses

1. building on the European Commission communication of 2 June 2016 (COM(2016)356), to extensively involve the Member States in the development of an agenda for the collaborative economy. During this process it must be ensured that new business models do not roll back trusted provisions governing consumer protection, social protection and basic workers rights, but also social insurance and taxation obligations;
2. whilst maintaining existing standards of protection to set targets to do away with unnecessary regulatory costs in areas under particular strain, in particular SMEs, and when doing



so not to allow the proposals to reduce red tape for SMEs and start-ups relating to value added tax to lead to distortion of competition at the expense of the remaining businesses or to a loss of revenue for the national budgets;

3. for the envisaged harmonisation of corporate insolvency law first of all to analyse thoroughly which regulatory provisions can potentially be harmonised. The preventive restructuring procedure outlined by the European Commission in its recommendation on 12 March 2014 on a new approach to business failure and insolvency (C(2014)1500) and the procedure to fully discharge natural persons engaged in entrepreneurial activities of their remaining debts in particular are of such a high degree of complexity that here there should be no overly hurried attempts to find legislative solutions at EU level;
4. to present a new proposal for the creation of a reputable, uniform legal form for incorporated companies applicable Europe-wide, in particular for small and medium enterprises. The German Bundestag thus reaffirms its position of 7 May 2015 (Bundestag printed paper 18/4843);
5. to present a legislative proposal which sets forth a uniform proof of entitlement cut-off date for the determination of shareholder status to apply across the whole of Europe;
6. to continue to enable the immigration of non-EU citizens with a high level of innovation potential. The existing provisions for the self-employed have stood the test of time and should continue to be used and promoted systematically to strengthen Germany as a centre of innovation;
7. to initiate an extensive SME programme to raise the profile of European SME policy further;

in the service sector

8. in the area of the regulated professions, to conduct open-outcome reviews in the Member States and to use these to identify any need for reform. The legitimate protective purposes, in particular of consumer protection, quality assurance and the quality of training, which the rules governing access to and exercise of professions serve to ensure, must continue to be safeguarded. This also applies to the official fees scales and capital commitment regulations in force for certain freelance professions in Germany. For this reason, the Member States' regulatory competence over professions must not be called into question. Any matrix to test proportionality or recommendations geared towards a limitation or even questioning of the regulatory competence of the national legislator in the area of regulated professions must be rejected;
9. not to present any legislative proposals which entail the introduction of a country-of-origin principle;
10. to design and structure the planned services passport in such a way that it leads to a reduction in red tape for cross-border activities. The services passport must not, however, lead to more bureaucracy or the recipient country no longer being able to impose legitimate requirements on the service provider. The protection and oversight instruments for employees posted to other Member States in the scope of the provision of services must also be upheld in full;



11. not to fundamentally call into question the ban on external capital for freelance services. The ban on external capital serves to protect consumers and ensure quality as it guarantees that freelance service providers do not work first and foremost in the interest of external providers of capital. It must be ensured in all cases that none of the proposals would enable the abuse of information and data;

in the retail sector

12. to keep to non-binding recommendations when it comes to setting forth tried-and-tested procedures to facilitate the establishment of retail businesses and reducing restrictions applied to their operations. In particular, the competencies of the Member States in the fields of spatial and development planning must be respected;

on the prevention of discrimination against consumers and entrepreneurs

13. to structure and design the planned legislative measure to prevent discrimination against consumers on the grounds of nationality and country of residence in such a way that it does not lead to an obligation of contract for SMEs. SMEs in particular must continue to be able to regionally limit their goods and services and to structure prices flexibly if this appears necessary for economic reasons;

in the area of standardisation

14. to duly cater to the overriding aim of construction safety;
15. to uphold tried-and-tested legal provisions in place in the Member States when standardising services. This holds particularly true for the areas of social security, health and education. European service standards can take effect here to supplement laws, but must not contradict legitimate legal stipulations or the division of competencies between the EU level and Member States. A situation in which EU-wide standardisation of these services leads to provisions geared towards the lowest common denominator and as such a reduction in quality must be avoided in particular;

in the area of public procurement

16. to first of all wait for and analyse the implementation of the new EU public procurement directives before taking new legislative measures in this area;
17. to ensure that the planned introduction of data analysis tools for the award of public contracts does not lead to new or additional reporting and information obligations for the Member States;
18. to ensure the "ex ante evaluation mechanism" for large infrastructure projects (total order volume of at least EUR 700 million) only applies on a voluntary basis;

in the area of the free movement of goods

19. to ensure during the planned revision of Regulation (EC) No. 764/2008 and the introduction of a voluntary self-declaration for companies as proof of lawful commercialisation that national authorities continue to be allowed to demand objective proof of the lawful introduction onto the market of the product. This includes, for instance, notifications from



the competent authorities of the country of origin or sales or taxation documents. For products which entail risks to consumers or involve important, legally protected goods, the Member States must continue to be able to implement established approvals procedures;

20. to ensure the full protection of sensitive company data in the event of the introduction of an e-compliance system;
21. to design and structure the announced legislative initiative on information gathering for certain operators in such a way that it does not cause additional red tape for the companies. The Member State authorities must not be circumvented during information gathering;

on practical implementation of EU law

22. for the announced support from the European Commission in transposing single market regulations into national law to remain voluntary. The development of transposition plans and the associated legal acts must also continue to come under the sole remit of the Member States;
23. when reforming the notification procedure in the scope of the services directive to provide a full account of the reasons for the introduction of a standstill period in the notification procedure and to develop its reach in concert with the Member States. The legislative process must not be delayed disproportionately and the proposal on this must not lead to more bureaucracy. The consequences of failure to issue notification should also be set forth in law.



- IV. The German Bundestag calls on the Federal Government to
1. advocate and work towards the implementation of the demands outlined above in its dealings with the European Commission;
  2. to base its negotiations in the Council of the European Union on the demands of the German Bundestag outlined above as soon as the European Commission has presented the proposals for legal acts announced in the Single Market Strategy.
- V. The German Bundestag asks its President to transmit this decision to the European Commission and in addition to inform the European Parliament and the parliaments of the Member States of this decision.