Single Market Obstacles

Factsheet

Goods · People · Services · Capital

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1. Diagnosis

1.1 The case for reinvigorating the Single Market

1.1.1 Sliding competitiveness

Europe has the relevant assets to be a good place for doing business. The EU is the world's biggest exporter of manufactured goods and services - and the biggest import market for over 100 countries. Europe's Single Market – which today consists of almost 450 million consumers and represents 18% of world gross domestic product (GDP) – acts not only as a driver of exports, but more generally as a source of growth and job creation.[1]

But having been at the vanguard of technological development and innovation in the last two centuries, Europe is dramatically losing ground. While the EU's competitiveness is fading, the US and China are growing faster, putting them in a pole position to create more prosperity on the path to a greener and digital future.

Over the last few years, policy-makers in the European Commission and EU Member States have increasingly focused on mapping dependencies, anticipating vulnerabilities, strategic autonomy, and de-risking. These are all understandable focus points in the shifting geopolitical context. However, for the business community there must be a balance between these considerations and the promotion of frictionless trade within the EU. As various surveys continue to show, companies in the EU continue to be concerned, mainly about the increasingly complex and fragmented business environment which makes it less attractive to invest and scale up rapidly in the EU.[2]

Unsurprisingly, over the last decade or so, the persistence of cross-border barriers contributed to slower growth and thus also less revenue and fiscal space for governments, exacerbating the cost-of-living crisis now felt by many European citizens. The situation further deteriorated over the last few years – we are now unable to compete with third countries on stable energy prices, access to competitive financing on liquid capital markets, swift recruitment of skilled labour, ability to analyse large, cross-country data sets, and more.

As Europe is still adjusting to the negative economic consequences of Brexit, the Covid-19 pandemic and the Russian war in Ukraine, there remains a risk that the situation may become even worse. The deployment of large-scale tax credits or subsidies by the EU's principal competitors in the US and China means that European companies do not compete on a level playing field internationally. The current loosening of state aid rules is, in terms of global competition, only a partial answer because companies in Member States which are smaller or have more public debt risk losing out. Moreover, it could be damaging to the Single Market in the longer term because of the unfair competition it risks creating. Importantly, EU policy-makers tend to overlook that China has an active policy to harmonise its own internal market, removing local protectionism, market segmentation, or impediments restricting economic circulation.

"If we deepen our Single Market and renew the dynamic of European integration, the EU will be better equipped for the future"

ERT Chair,
Jean-François van Boxmeer
Chairman, Vodafone Group

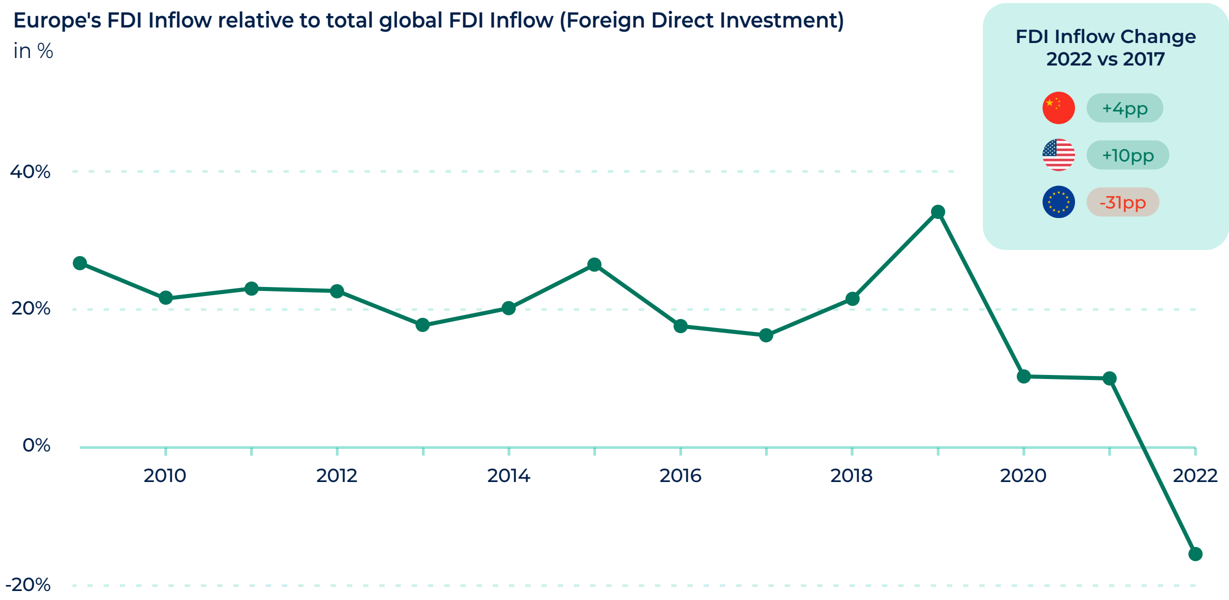
1 European Commission, "Annual Single Market Report 2023: Single Market at 30", 31 January 2023.

2 ERT & The Conference Board: CEO confidence withers in Europe as regulation weighs down competitiveness, 15 November 2023. Eurochambres, "2024 Eurochambres Single Market Survey: Overcoming Obstacles, Developing Solutions", 2024.

Europe's FDI inflow has decreased significantly from 2017 to 2022

Declining Foreign Direct Investment (FDI) inflows to Europe, compared to the total global FDI inflow, does suggest that the EU market is less and less attractive for private investment.[3] The year 2022 even witnessed negative FDI inflow to Europe, which means that foreign investors divested more FDI from Europe than they invested in Europe during this period. When comparing FDI inflows in 2022 against 2017, it becomes apparent that Europe is the only region with major decreases in FDI inflow (-31pp), while China (+4pp) and the US (+10pp) were able to increase FDI inflow. In international comparison, the negative evolution of FDI in the EU highlights that its economy is becoming increasingly unattractive for private investment, which could lead to further deindustrialisation.

This view matches with testimonies from European business leaders. In the past 5 years, the CEOs of Europe's largest companies have systematically flagged they have a more positive outlook on sales, employment and capital investment opportunities outside of Europe rather than in Europe. BASF's and others' recent investment announcements around projects outside of Europe point to what could happen if this negative outlook on European competitiveness persists. The complex and fragmented regulatory environment in Europe is one of the main reasons why, according to these CEOs, Europe's competitiveness has been lagging.[4]



Source: OECD, BCG analysis

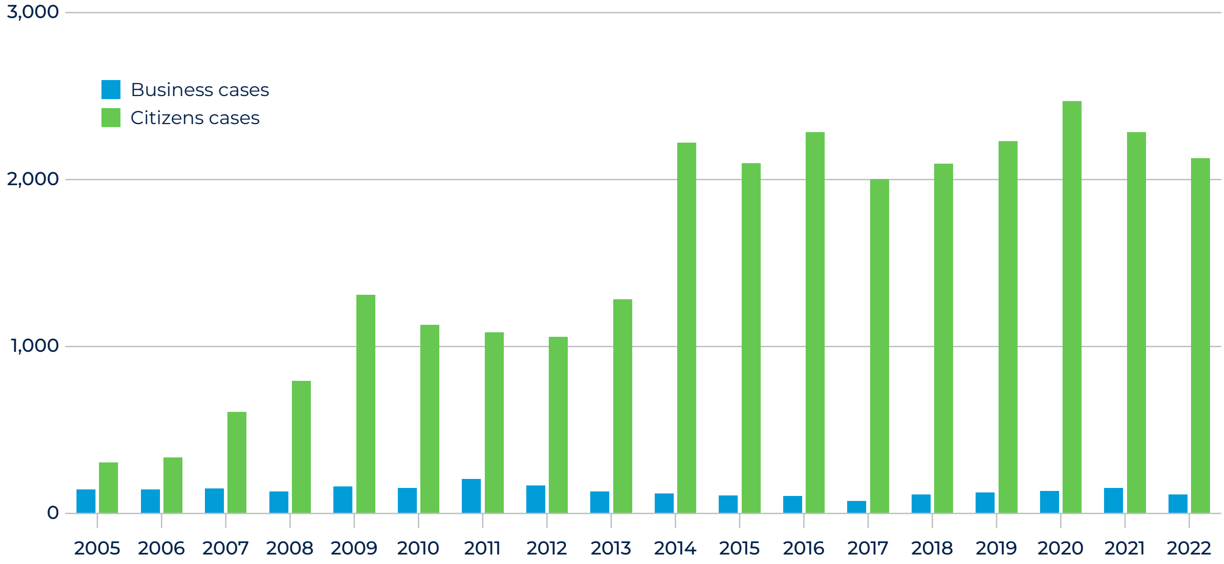
The proportion of cases from businesses treated by SOLVIT is much lower than from citizens[5]

SOLVIT centres in France, Italy, and Germany are at the risk of becoming understaffed. In this context, an important question seems to be whether SOLVIT is able to help with such a wide variety of issues.. SOLVIT is effective in simpler cases, such as those involving VAT refunds or traffic fines. But for more complicated, business-related issues, especially those concerning socially or politically sensitive areas (e.g., posting of workers), feedback from the European Commission concerning if and how structural unresolved and recurring cases are dealt with internally is lacking.

3 FDI inflows represent transactions that increase the investment that foreign investors have in enterprises resident in the reporting economy less transactions that decrease the investment of foreign investors in resident enterprises. Source: OECD 2023 & UNCTAD 2023.

4 ERT / The Conference Board, "Complex and Incoherent Regulation Puts Pressure on Europe's Competitiveness And Green Transition Efforts", 2023 H2 results.

5 Single Market Scoreboard, SOLVIT, 01/2022-12/2022.



1.1.2 Why the Single Market?

A well-functioning Single Market is indispensable to incentivising more investment in Europe, achieving the twin transition goals, and overall putting Europe's global competitiveness back on track. By raising its ambitions to improve, above all, the framework conditions for doing business within the Union, the EU would empower European companies to compete better globally.

There is a tangible opportunity cost to not having a fully-fledged EU Single Market. For example, the rollout and take-up of green tech in the EU and the acceleration of the energy transition more broadly is obstructed by permitting bottlenecks, divergent standards, and complex customs procedures.

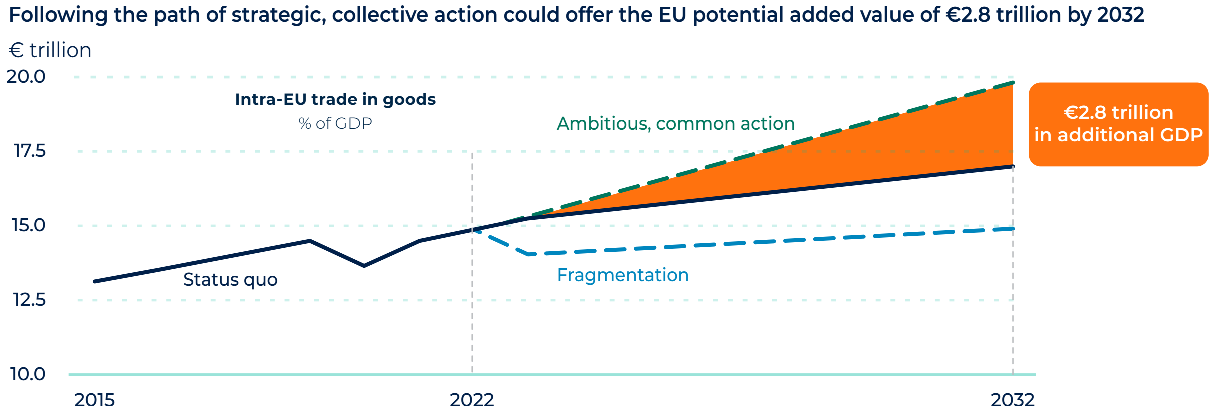
The benefits of deeper market integration in the EU should be obvious: it would unlock over €2.8 trillion in additional GDP between now and 2030.[6] More specifically, in a model of innovation and multinational offshore production, at least lowering internal barriers within the EU would generate large welfare effects – in the order of 7 percent of GDP, according IMF estimates – and accrue to both innovating and manufacturing countries in the EU.[7] And removing barriers is budget-neutral. It does not require new funds or subsidies.

Moreover, when talking about the global aspect, a stronger and more integrated EU market will also provide incentives for diversification away from geopolitically riskier jurisdictions. Only a true Single Market in the digital, energy, environment, and finance and capital spheres – as opposed to differentiated national approaches or applications of EU rules – would truly improve the Single Market from a security standpoint and strengthen European power.

6 European Parliament Research Service (EPRS), "Increasing European added value in an age of global challenges: Mapping the cost of non-Europe (2022-2023)", February 2023.

7 IMF, Europe in a Fragmented World: First Deputy Managing Director Remarks for the Bernhard Harms Prize, November 30, 2023.

The impact in terms of potential added value (in euros), by showing where different levels of ambition and the related GDP could go[8]

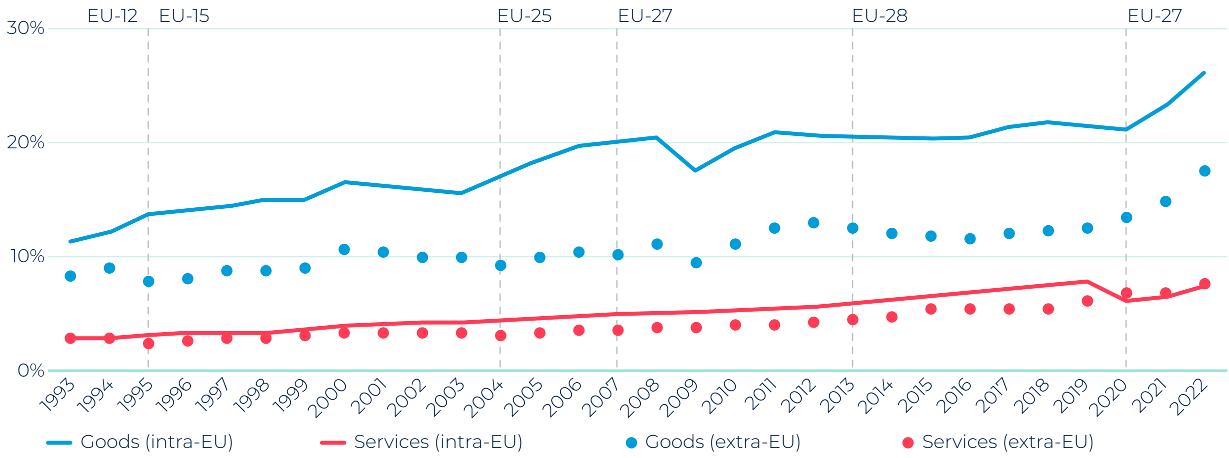


1.2 What's been going wrong?

Years after the establishment of Europe's Single Market, regulatory convergence has come to a halt or has even reversed in most policy areas. There is still no Single Market for Environment, Digital, Energy or Capital Markets. Admittedly, it is not easy politically to push for more convergence in all these sectors – these are objectives that require a certain persistence and patience.

If the EU is to equip itself adequately for the long term, especially in the current geopolitical context, more effort needs to be made to build a new consensus and refocus EU institutions on delivering a better functioning Single Market. The natural starting point is to address some of the low-hanging fruit that could improve the regulatory and business environment.[9]

The integration of the EU Single Market for goods has been stagnant since the global financial and eurozone crises, over a decade ago, while intra-EU trade in services remained very low[10]



8 EPRS, February 2023, p.12

9 Mario Monti, "A New Strategy for the Single Market: At the service of Europe's economy and society", 9 May 2010.

10 "Commission Staff Working Document accompanying the Annual Single Market and Competitiveness Report", page 3, February 2024.

There seem to be two key reasons for the lack of follow-through on addressing barriers:

- There has been an overall shift in political priorities: under the current Commission, a series of crises and shocks saw the focus move from tackling fragmentation and fundamental barriers within the Single Market to dealing with strategic dependencies from non-EU countries. Notwithstanding their importance, adjacent issues should not exclude improving the Single Market, which drives the EU's competitiveness. As a result:

  a) There has been a significant drop in the number of new infringement procedures because more decisions appear to be taken at a more political level. The Internal Market Commissioner and his cabinet are more directly involved in infringement cases and related decisions than previous Commissioners or cabinets. These decisions include blocking new cases, blocking decisions to advance cases and closing cases on "opportunity grounds".

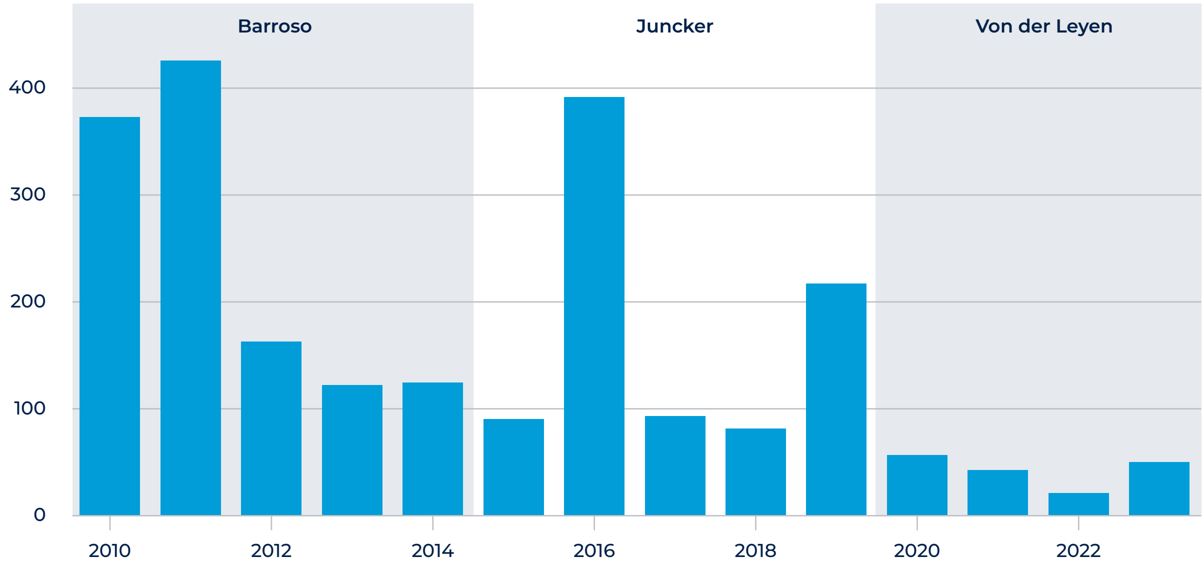
  b) The shortage of staff in EU and national administrations who deal with removing barriers has been more acute.

  c) The European Commission's Annual Single Market and Competitiveness Reports and the Single Market Scoreboard need to be revised in order to be fit for purpose, as they currently do not analyse progress on removing "persistent" barriers, i.e. those that are reported today but were also reported 20 years ago.

- The lack of a proper mechanism to translate evidence into action: although the European Commission has over the years assembled a rich body of evidence on the types of persistent barriers, alongside many useful proposals to address barriers, this has not resulted in any effective follow-up mechanism. To date, the evidence and proposals have yet to feed into the Commission's broader enforcement strategy or policy agenda.

Businesses are thus left with the impression that only a fraction of the barriers that are reported by them or business associations are systematically addressed by the relevant institutions in the public sector.

Total infringement actions taken by the Commission in relation to the internal market excluding case closures[11]



11 Financial Times, 2023; Single Market Scoreboard, Scoreboard Archive. It is possible that there are various reasons why the number of infringement cases have gone down but one would then expect that the Commission's Annual Single Market and Competitiveness Report (ASMCR) addresses these statistics. Why does the ASMCR (February 2024) not contain an overview of complaints from companies and an explanation of which cases have resulted into an infringement procedure and which ones haven't (and for which reasons...)?

1.3 The way forward

The new political mandate is the prime opportunity to fundamentally re-orient the European Commission on its role as a guardian of the Treaties, of the implementation and enforcement of the EU Acquis and as the enabler of the four freedoms, by removing barriers between EU Member States.

A new Single Market strategy will need the backing of strong political leadership to push the case for deepening the Single Market at all levels – EU, national or local – and foresee sufficient administrative capacity to "walk the talk". Implementation of this kind of strategy is demanding. But as we saw at the dawn of the Single Market, it can be done.

Whilst a strategy can help focus political attention and encourage various administrative services to cooperate, it will be even more important that a lot of technical work is undertaken by the public sector to remove obstacles and harmonise the regulatory framework across the EU.

The next chapter provides several concrete examples of the fragmentation that needs to be urgently addressed.

2. Key case studies

Over the course of the last six months, ERT has – together with many other business associations – collected 100+ examples of obstacles in the Single Market.[12] In February 2024, a coalition of 25 associations published a Joint Statement calling for "Deepening the Single Market and renewing the dynamic of European integration" referring to the Compendium to illustrate the fragmentation across all sectors.

These obstacles represent only the "tip of the iceberg". They have been described by organisations which have the capacity to put time and resources into the analysis of (legal) bottlenecks. Many SMEs do not have this capacity although they are hampered by the same type of obstacles, as well as many other types of barriers which often remain under the radar, unless public authorities pro-actively reach out to collect and evaluate these.

The following is a selection of some of the frequently reported issues.

Firm(s): Nokia, Deutsche Telekom, Orange, Telefónica, Vodafone

Barrier description:

Over the past few years, there has been limited to no progress on resolving conflicting regulatory environments across the Single Market relating to spectrum allocation. While the European Electronic Communication Code (the "Code") includes several new provisions aiming at developing a more common approach on spectrum allocation, this has not materialised when implemented at national level.

Substantial differences between Member States persist on:

- Reserve prices – diverting capital budget from network investment;
- Spectrum annual fees – increasing operating costs;
- Spectrum licence duration – creating uncertainty over long-term service continuity and risk of stranded assets (e.g. Spain has extended 5G licences for up to 40 years; in France, licenses were extended for only 15).

If current divergent national approaches to spectrum policy go unaddressed, also towards the upcoming 6G technology, the EU's economy will not be able to exploit new innovations promised by the newest wireless connectivity technologies that will be vital for the digital and green transitions.

Reflection on the root causes:

The problems linked to spectrum are mainly due to insufficient administrative capacity to deal with cross-border obstacles and red tape, the inadequate implementation and exemptions and optional character, or lack of binding effect of some measures. For example, while Directive 2018/1972 includes several new provisions aiming at developing a more common approach to spectrum allocation, in practice, too much leeway is still given to national authorities, with no sufficient binding peer review or harmonisation at EU level.

Recommendation:

To make a real difference, an effective synchronised schedule is needed for radio frequency spectrum auctions across the EU, and a common set of criteria for awarding licenses set at EU level.

12 See the full Compendium, which is containing more technical details on each of the obstacles.

Firm(s): MOL Group

Barrier description:

The deployment of renewables and green tech is experiencing growing planning and permitting bottlenecks. Permitting is increasingly complex, divergent, and involves too many contact points. It takes an average of 5-6 years in Europe to get a permit.

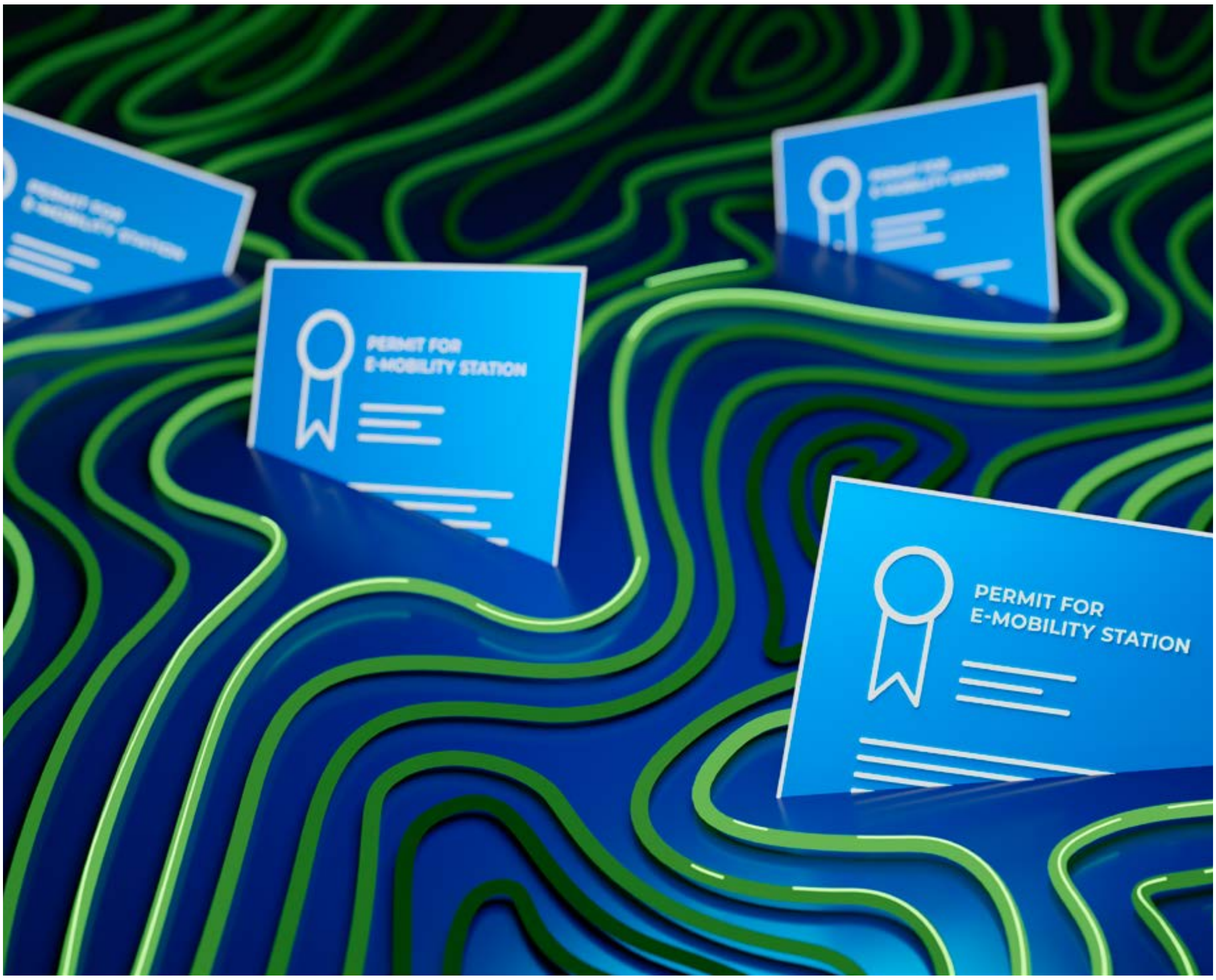
In Romania, for example, the installation of EV charging stations can take up to one-and-a-half years because it has to be licensed by individual municipalities. In Slovakia, there is an effective barrier to the deployment of EV chargers on motorways as the Slovak motorway monitoring company reserves the right to launch applications for e-mobility services (charging installations) for already leased areas (filling stations).

Reflection on the root causes:

The root cause of the permit issuance problem is not any EU-specific legislation or technical requirement but rather the slow process of permit evaluation and issuance, which results in significant delays of physical installations.

Recommendation:

EU policy-makers should aim to harmonise, or at least rationalise, at EU level the deadlines for issuing permits for the implementation of renewable energy projects, in particular those using EU funds (e.g. special rules to take into account deadlines of grant agreements).



Firm(s): ASML

Barrier description:

There continues to be a multitude of national requirements related to cross-border business activities. The Posting of Worker Directive 96/71/EG and Enforcement Directive 2014/66/EU set out the overarching parameters of the Posted Worker Notification but allow Member States considerable margin in its practical implementation.

As a result, businesses tend to be overwhelmed by the multitude of national requirements when, for example, posting employees within the EU, while employees cannot travel in a compliant manner without a timely notification to relevant national authorities. This prevents amongst others engineers from smoothly crossing internal EU borders when they need to install or provide maintenance to high-tech machines in another EU Member State.

Reflection on the root causes:

Every Member State implemented the Directives in its local legislation which resulted in a complex variety of rules and regulations. In addition, the information on Member States' official websites is fragmented, and therefore hard to read and navigate for businesses.

Recommendation:

Reporting obligations in EU Member States should be harmonised. This would entail equal exemptions across Member States and excluding short-term travel from notification, in turn easing the administrative burden for businesses to comply with the legislation and enabling them to send employees abroad for at least short stays.

Firm(s): L'Oréal, dsm-firmenich, AkzoNobel

Barrier description:

There are continued business concerns about **diverging standards and labels for products that include information on green criteria**, such as paints, **as well as a patchwork of environmental standards, recycling systems and reporting requirements** between countries in areas where the EU already has existing legislation or is creating new laws.

An often-cited example of a persistent issue is the use of the "Green Dot" logo within the EU as well as the obligatory "Tri-man logo" in France. These conflicting requirements imply unnecessary costs and risks for businesses.

Reflection on the root causes:

Member States introducing additional national labelling requirements.

Recommendation:

The EU should strive for a common approach to packaging waste-sorting labelling. The Packaging and Packaging Waste Directive (PPWR), Ecodesign and other legislative files should ensure common terms and symbols are set for the collection, sorting and recycling of products across the EU Single Market.

Firm(s): BASF, Michelin, Orange, Solvay

Barrier description:

The Waste Framework Directive (WFD) sets out only some minimum generic requirements for the design, implementation and operation of extended producer responsibility (EPR) for any waste stream, providing the Member States the freedom to decide how these requirements are to be achieved and implemented.

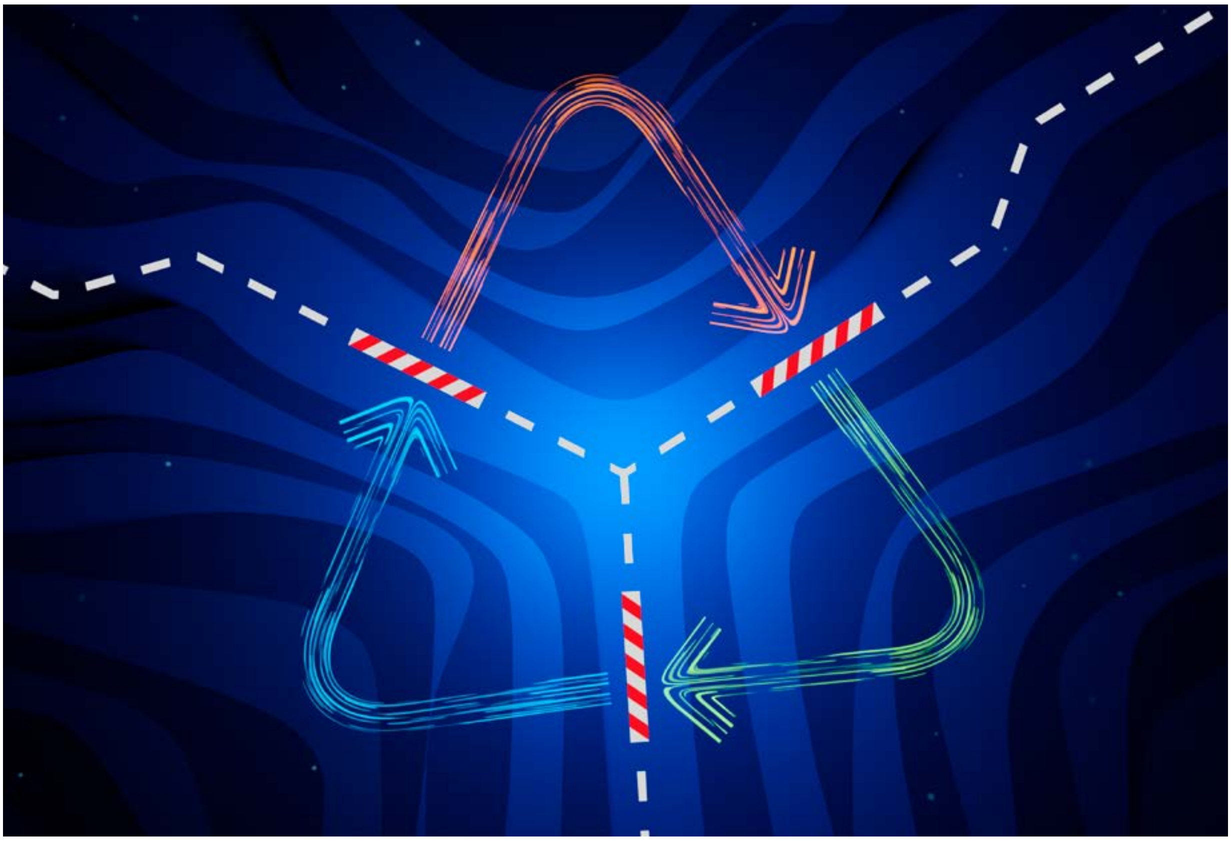
One prominent example is the lack of EU-wide End-of-Waste criteria for certain products. As a result, there are also persistent issues with the transportation of waste. For example, e-scrap is being shipped from Hungary through Austria and Belgium without a problem, as those Member States classify it as "non-hazardous" waste. However, the Danish authorities do deem it "hazardous" and block the shipments. Such fragmentation prevents companies from achieving economies of scale in treating and recycling waste.

Reflection on the root causes:

Member States' divergent interpretation of the Waste Framework Directive and Waste Shipment Regulation.

Recommendation:

To increase the level playing field between secondary and virgin materials, the EU should expand the End-of-Waste criteria in the Waste Framework Directive to other products and include them into the broader value chains. This would further stimulate cross-border trade and help the EU achieve a true circular economy.



Firm(s): Investor AB

Barrier description:

Despite decades-long efforts, most recently with the Capital Markets Union (CMU) initiative, **market finance remains fragmented and insufficiently developed in the EU with an overreliance on international markets outside Europe**. There is still a large gap compared to the US market, which impacts the ability of start-ups to scale up, and major international businesses to invest in EU capital markets. As a result, the financing of the twin transitions and other pressing challenges are not comprehensively addressed.

Reflection on the root causes:

The harmonised EU push is not there – not least due to the fragmentation of national capital markets which hinder integration on the EU level. Strong Member State views continue to affect the EU's ability to make significant moves towards harmonisation.

Recommendation:

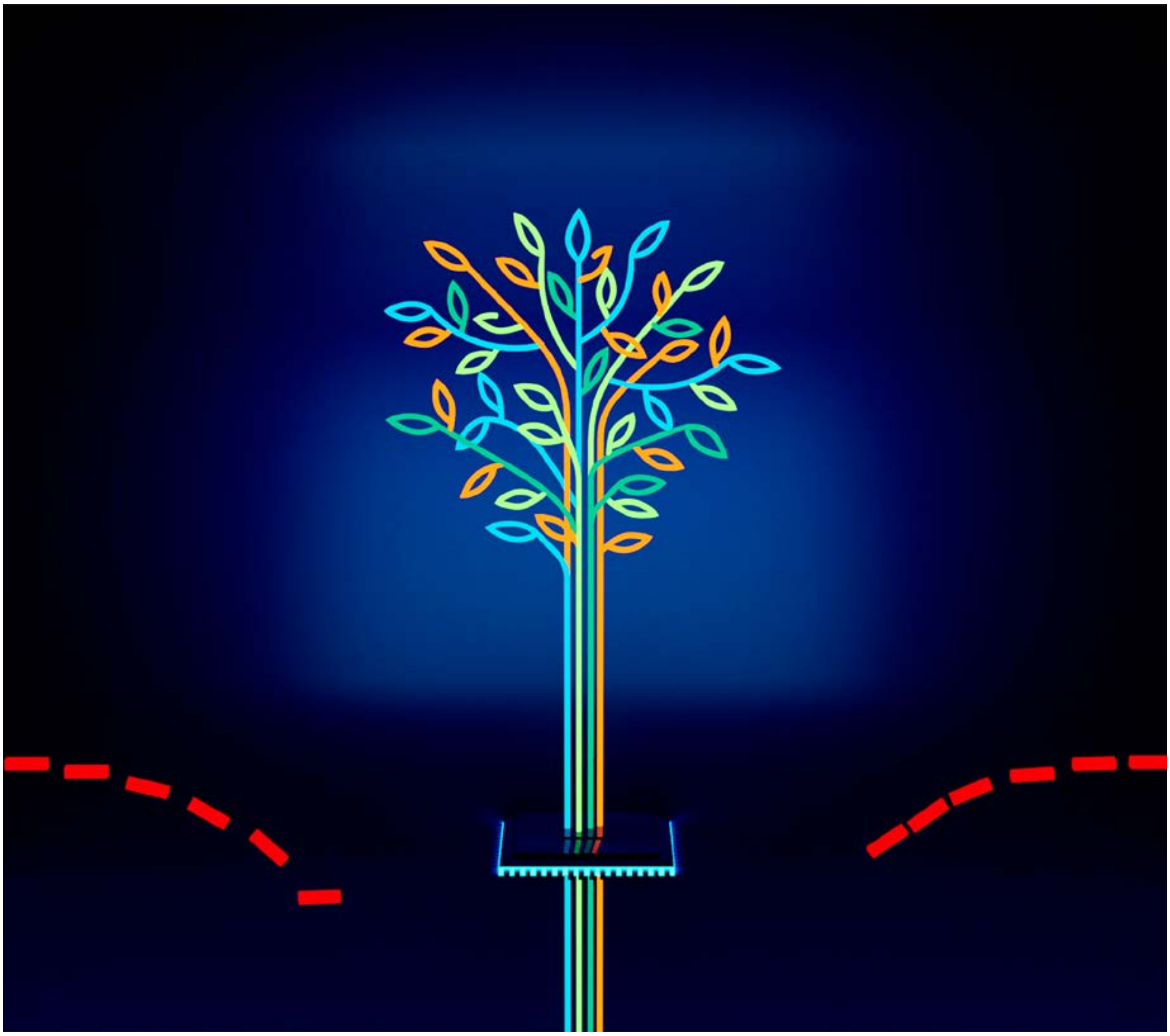
It is of paramount importance to continue efforts at the European level. These would include measures to simplify listings (make IPO rules proportionate and reduce regulations); streamline and increase investor protection; harmonise regulations – including tax rules and national insolvency regimes; support the multiple vote share structures that already exist in the Nordics; and create a better functioning EU supervisory structure.

3. Recommendations

We acknowledge that deepening the Single Market is not a new idea. In recent years, the Commission's *"Revamp the Single Market strategy"* in 2015, the 2020 *"Comprehensive Report of Barriers"* as well as the recent Annual Single Market and Competitiveness Report have all proposed improving the environment for doing business within the EU. But for various reasons, follow-up has been lacking.

Nevertheless, for the all reasons articulated in the previous pages it remains an idea worth pursuing. Europe is now at an inflection point. The twin transitions are a global race to transform and innovate. To deliver them in an effective and timely way, the Single Market needs to be modernised and equipped to accommodate such all-encompassing change at the right pace. This is one of the key reasons why the private sector has been even more vocal about the Single Market in the past two years.

To reinvigorate the Single Market, the Commission and Member States should spearhead **a new comprehensive programme** to deepen the Single Market in all areas. In this programme, the European Commission should not only spell out a compelling political vision, but also start seriously addressing the business barriers that have been periodically flagged by many businesses and associations over the past 20 years.



This new programme could include the following:

New headline targets and a broadened set of KPIs

- A new target to achieve the completion of the Single Market by 2030 in a selection of areas would help to mobilise resources, focus, political will and administrative capacity to remove barriers, similar to the process initiated by Lord Cockfield in 1985, which eventually helped set the deadline and move the Member States and other stakeholders towards the creation of the Single Market by the end of 1992.
- A broadened set of KPIs – beyond those already set out in the 2023 Communication on Long-term Competitiveness – should also specifically cover progress on removing obstacles, which would improve accountability.

Renewed focus on enforcement and prevention

- The incoming Commission should consider beefing up the mandate of DG GROW or creating a separate DG for "Market Integration" (DG MINT) to streamline Single Market work across DGs and in cooperation with EU Member State authorities. In practice, this could improve the approach to infringement procedures, which should be dealt with diligently and centrally and not become lost in coordination between DGs.
- There should be a reinforced 'competitiveness check' on all EU rules, accompanied by a reduction in reporting requirements, administrative burden, and compliance costs. This means radically enhancing the Better Regulation agenda to reduce and consolidate EU regulation, going far beyond measures like the 'one in, one out' rule, which lacked practical application.

A revision of the way the Institutions interact with businesses

- The European Commission and EU Member States should put a clear system in place to follow up on obstacles and be accountable to those submitting case studies of fragmentation by providing feedback. The European Commission should keep a spreadsheet of all barriers reported by companies (including through various SOLVIT centres) until companies receive an adequate response about the complaint they have brought. The spreadsheet should indicate the status per barrier – to keep track of whether the most persistent barriers have been resolved – and suggest next steps that could lead to potential solutions.
- The Single Market Enforcement Task Force (SMET) should be upgraded and should also explore ways to interact more frequently with the business community, asking for their input on reports or encouraging access to (some of) the meetings. The Commission should not shy away from consulting the business community and inviting companies for fear of not treating all businesses equally. It's time for a more qualitative and intensive dialogue with various sectors in the business community.

Campaigning for the creation of the European Single Market was the original *raison d'être* of the European Round Table for Industry when it was first established in 1983 – a development supported by many others that would ultimately regenerate economic and social progress for EU citizens and help European businesses succeed at a time of rapidly expanding globalisation.

Over the past three decades, the free movement of people, goods, services and capital at the heart of the EU Single Market have made it a transformative force for prosperity and a more cohesive political and economic entity. However, the changing geopolitical context, the emergence of new technologies and societal needs and norms mean it's now time to revisit the governance of the Single Market.

+32 2 534 31 00 www.ert.eu
contact@ert.eu @ert_eu

European Round Table for Industry
Boulevard Brand Whitlocklaan 165
1200 Brussels, Belgium

For more information on ERT's work on the Single Market, contact philippe.adriaenssens@ert.eu

Released at a special Single Market event, jointly organised by European Movement International and ERT on 22 February 2024.

Please scan to read the Joint Statement of 25 business associations calling for a "Deeper Single Market and Renewing the dynamic of European integration" and to access the Compendium containing 100+ obstacles which illustrate the fragmentation in the Single Market.