

The background of the page is a stylized map of Europe. The map is dark blue with a pattern of small, light blue dots. Overlaid on the map are numerous red and green lines of varying thickness and orientation, creating a dense, web-like pattern that suggests trade flows or obstacles across the continent. The lines are more concentrated in certain areas, such as the North Sea and the Mediterranean.

# Single Market Obstacles

## Compendium

Latest update: 18 December 2025

*This compendium contains an overview of 100+ obstacles in the Single Market. It was compiled by the Secretariat of the European Round Table for Industry (ERT) and consists of barriers and burdens described by companies as well as associations. The Compendium was published in February 2024 and updated throughout the rest of the year. The latest update was done in October 2025.*

*The obstacles collected by February 2024 were registered in the spring and summer of 2024 into the Single Market Obstacles Tool (SMOT) of the European Commission, currently called the “Single Market Barriers Tracker” for analysis and follow-up by the public administration. The obstacles collected in subsequent iterations will be registered as well.*

*The obstacles in this Compendium showcase the extent of the fragmentation in the Single Market and yet 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 barriers, 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 them.*

*Most of the examples in this compendium (100+) have been described in a standard template that was pre-agreed with DG GROW of the European Commission. Most of these case studies mention the names of the companies or associations which described them, as well as EU Member States in which obstacles occur. Engaging in such an exercise is very often a hurdle for companies which are generally not keen to disclose sensitive information on their economic operations and mention countries or authorities upon which they depend for addressing the barriers. Several case studies have thus been submitted in an anonymous manner. Furthermore, case studies have been grouped together when treating a similar issue. When experienced by various companies, it gives an indication of the gravity of a certain problem and that it may occur in several EU Member States.*

*Many more obstacles (30+) are mentioned in various formats by different companies and associations which map barriers and burdens for their members. These are included in this compendium by means of links to papers or the inclusion of tables with detailed descriptions.*

*The exercise of developing this compendium has revealed that:*

- 1) the fragmentation is widespread and touches upon all sectors of the economy.*
- 2) the existing tools of public authorities – at EU and Member States level – are not sufficient to capture, collect, analyse, process and effectively remove barriers.*

*Identifying and removing obstacles is a tedious process, which requires both political commitment and sufficient administrative capacity – at all levels. To facilitate the removal of barriers, burdens or obstacles, contact details are mentioned per organisation for further information exchange so as to enable public authorities to request more technical details from the organisations (when required) and allocate sufficient resources to addressing the issue.*

*In addition to this compendium, ERT elaborated – separately – a [Technical Study](#) containing a more overarching analysis on: 1) the need to remove obstacles, 2) the type of obstacles in this compendium and the shortcomings in the current EU governance structure to tackle these, and 3) recommendations to improve EU procedures and policies towards more integration.*

*[Disclaimer: the companies and associations which submitted these obstacles are solely responsible for their own input and not for all cases in this compendium.](#)*

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## 1 **Obstacles in the DG GROW format**

This chapter contains an overview of 90+ case studies received in the format of the DG GROW template. For examples of obstacles in other formats – please see the next chapter.

The benefit of the template is to gather sufficient technical details and facilitate uptake and follow-up by the relevant public authorities. The aim is to encourage the responsible services in the European Commission and EU Member States to collect, analyse and remove barriers, amongst others through registering and addressing these barriers in the Single Market Obstacles Tool (SMOT), the Single Market Enforcement Task Force (SMET) and national SOLVIT centres.

Regarding the obstacles that were submitted by organisations which requested to stay “anonymous” to protect their identity in this public version of the compendium, their names and contact details can be obtained from the ERT Secretariat (contact: [philippe.adriaenssens@ert.eu](mailto:philippe.adriaenssens@ert.eu)). ERT continues to welcome input on obstacles, and will add new case studies on a rolling basis to a digital version of this compendium.

### 1.1 **Overview of case studies**

#### **Environment & sustainability**

##### *Labelling (circularity)*

#	Organisation	Barrier description
1.	AkzoNobel	Divergent national requirements for and increasingly complex labelling on packaging
2.	Anonymous 1	Labelling requirements (TRIMAN and sorting information)
3.		Spanish household packaging and labelling regulation
4.		French environmental labelling scheme (écoscore) for textile products
5.		AGEC LOI: French Traceability (Information on the qualities and environmental characteristics of waste generating products) and Eco-score Decrees implementing the Law
6.	Anonymous 4	Divergent labelling / TRIMAN
7.	Anonymous 5	Limits of physical labelling
8.	Anonymous 7	German printing ink ordinance
9.		French Loi AGECE exceeding EU law requirements
10.	dsm-firmenich	Divergent environmental labels for food products
11.	Euratex	Spanish decree mandating labelling and fees on plastic packaging
12.	Kosmetyczni	Divergent labelling / TRIMAN
13.	L'Oreal	Divergent packaging labelling requirements

##### *Waste*

14.	AkzoNobel	Fragmented environmental regulation and other obligations, notably in the field of Extended Producer Responsibility (national recycling schemes, restricted reuse of post-use waste)
15.	Amazon	EPR registration procedures
16.		EPR check obligations



17.	Anonymous 1	Fragmentation of the Textile Extended Producer Responsibility (EPR) obligations and waste management policies
18.	BASF	Lack of harmonised classification and shipment rules for waste lithium-ion batteries, battery production waste and black mass.
19.	Eurometaux	Lack of harmonised waste classification across the EU Member States as a barrier to waste shipment
20.	France Chimie	Divergent national waste classifications under the WFD
21.	Hydrovolt	Divergent waste classification
22.	IGMNIR	Differences member state approach to waste shipments and classification
23.	Michelin	Lack of EU-wide End-of-Waste criteria for End-of-Life Tyres derived material
24.	Orange	Inability (under current EU law) to transfer used electronic and electrical equipment (EEE) from one country to another
25.	Solvay	Patchwork of national waste transport rules
26.	Syensqo	Divergent rules governing the classification and shipment of the materials in the battery recycling loop
27.	Umicore	Intra-EU shipment of waste

#### *Chemicals*

28.	Fipec	Analysis of alternatives in the context of REACH revision
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#### **Digital**

##### *Spectrum allocation*

29.	Deutsche Telekom	Divergent rules related to spectrum allocation
30.	Nokia	Divergent 5G spectrum assignment
31.	Orange	Lack of harmonisation of spectrum allocation rules for electronic communications networks
32.	Telefonica	Divergent spectrum policy
33.	Vodafone	Divergent spectrum allocation rules for electronic communications networks

##### *Data availability and interoperability / fragmented regulation of digital services*

34.	Anonymous 5	Copyright levies for cloud
35.		Software as a product
36.		Restrictions on the free flow of data
37.	Philips	Data fragmentation and lack of interoperability
38.	SAP	Fragmented cloud market
39.	Siemens	Building Information Modelling (BIM)
40.	Telefonica	Digital services categorisation (lack of harmonisation)
41.	Vodafone	Technical Regulation of NB-ICS
42.		Different interpretations of the EU's open internet regulation (2015/2120)
43.		Customer protection rules in the electronic communications sector

##### *Data privacy*

44.	Telefonica	Divergent interpretations of the GDPR
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## **Trade**

### *Customs & trade*

45.	AIM	Highly divergent transposition and enforcement of the UTP Directive
46.		Fragmented enforcement of intellectual property
47.	AmCham EU	FDI screening
48.	Anonymous 1	Differences at European Customs
49.	Anonymous 2	Divergent interpretation of EU rules by customs authorities (Sweden)
50.	Anonymous 5	Customs processes
51.	Colep	Unfair burdens on cosmetics producers in Poland
52.	Invest Europe	Fragmented system of FDI mechanisms for investors

### *Taxes, VAT, tariffs & fees*

53.	Accountancy Europe	Lack of harmonised VAT returns
54.		Diverse tax reporting landscape – VAT in particular
55.		Lack of a coherent and common EU definition of “permanent establishment”
56.	Anonymous 1	VAT for Donations
57.		Polish Act on Retail Sales Tax – entered into force on 1 January 2021
58.		Retail sales tax and its amendments
59.	Anonymous 3	Complexity at national level of obtaining exceptions for the excise duty for cosmetic ingredients
60.	Anonymous 5	VAT simplification
61.	European Banking Federation	Legal uncertainty around application of VAT on financial services
62.	EFPIA	National pricing and reimbursement rules and policies
63.	Iberdrola	Divergent national implementation of the Energy Taxation Directive
64.	Telefonica	Net operating losses
65.	Transport Foretagen	Non-harmonised VAT rules for coach service providers

## **Energy & mobility**

66.	Air Liquide	Energy Markets & International Competition
67.	Amazon	Charging infrastructure
68.	Anonymous 1	Obstacles to road transportation
69.		Lack of interoperability of transport systems and technologies
70.	Anonymous 5	Mobility package
71.		Alpine passes & EU infrastructures quality improvement
72.		Brenner transit limitations
73.	Engie	National barriers to PPAs
74.		Over-complication of electricity market functioning rules
75.	Iberdrola	Divergent RES permitting
76.	Mol	Divergent level of distribution power capacity tariffs (kW) to be paid by businesses
77.		Barriers to the installation of EV charging stations due to differences in national regulations (permitting)

78.	TLN	Driving bans for heavy goods vehicles
79.	TotalEnergies	Barriers to trans-border CO2 transport for CCS
80.		Constraints to CO2 pipeline deployment for CCUS
81.	Umicore	EU-wide green electricity claims

### **Labour & posting of workers**

82.	Anonymous 5	Language requirements for locomotive drivers
83.	ASML	Divergent implementation of the Posted Workers Directive 96/71/EG and Enforcement Directive 2014/66/EU
84.	UIMM (France Industrie / AFEP	Difficulty of finding information on posting of workers and national applicable conditions of employment
85.		Difficulty of declaring posting of workers to the authorities of the host country
86.	VDMA	Different interpretations of the Posting of Workers Directive and the corresponding Enforcement Directive

### **Finance & capital**

87.	Anonymous 5	Provisions around Strong Customer Authentication (SCA)
88.	Deutsche Bank AG	Differing legal status of collateral across member states for collateralized bank loans
89.	European Banking Federation	Lack of harmonised definition of "Shareholder" in the EU
90.		Enforceability of Collateral Security under SFD
91.	Invest Europe	Restrictions in pension funds and insurance firms' investments
92.	Investor AB	Lack of a well-functioning European capital market

### **Standards**

93.	Holcim	Lack of harmonised building standards
94.	Modint	Lack of harmonised and standardised requirements
95.	Philips	Lack of harmonised standards
96.	Siemens	Highly fragmented EPD landscape across Europe

### **Security**

97.	Leonardo	Fragmented security market
98.	Vodafone	Inconsistent, fragmented network security landscape
99.		Mandatory national legal intercept (LI) regulations
100.	Telefonica	Divergent cybersecurity requirements and incident reporting obligations

### **Health**

101.	EFPIA	National Health Technology Assessment (HTA) procedures
102.		Differences among Member States in regulatory requirements, standards, and procedures
103.	F. Hoffman – La Roche	Divergent national Health Technology Assessment (HTA) practices

## 1.2 Environment & sustainability

### 1.2.1 Labelling (circularity)

#### 1.2.1.1 AkzoNobel

BARRIER: Paints - labelling	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<ul style="list-style-type: none"> <li>Fragmented environmental regulation and other obligations, notably in the field of sustainability performance.</li> <li>Leading to national requirements for products as well as increasingly complex <u>labelling</u> on packaging. National requirements vary, cumulative picture on the pack leads to potential confusion (even contradictions as e.g. infrastructure to process waste varies) and overall space constraints on multilingual smaller packs.</li> <li>Example: new icons launched with guidance on what to do with pack and paint post use in France, Spain (and U.K.) in 2023, that further complicate the labelling.</li> </ul>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<ul style="list-style-type: none"> <li>The current situation has an increasingly negative impact in terms of complexity for producers and consumers.</li> <li>Consumers experience complex and potentially confusing information on labels, hampering their ability to make informed choices.</li> <li>Untapped potential of digital solutions for informing consumers in a more complete and compelling way (such as QR codes).</li> <li>Without such contemporary solutions, manufacturers are obliged to replace the converging multi-lingual packs with diverging national packs.</li> <li>Regularly changes of pack communication can force the disposal of existing technically good pack stock due to outdated information on the pack.</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<ul style="list-style-type: none"> <li>At request</li> <li>We can show examples of current labels: demonstrating how currently there are already 3 mandatory recycling logos (imagine if this is 27!) and how it is increasingly difficult to present health &amp; safety information, as well as sustainability information to the consumer.</li> </ul>
2. Barrier categorisation	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<ul style="list-style-type: none"> <li>All Member States.</li> <li>Currently separate logo requirements from France, Spain, (and UK) (mentioned in 1a), in principle all Member States will work on EPR schemes.</li> <li>For specific paint products, some Member States (e.g. France, Belgium) require air quality information on the label.</li> </ul>
b. Legislation, legal instrument, standard or technical	a) National legislation, e.g. regarding EPR logos on label (no harmonization).



requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	b) In general, more and more Health & Safety information is required to be on packs (because of EU CLP review), adding to complexity and leaving less space for other consumer relevant information. This is a growing concern because of the speed of the CLP reviews and therefore the constant need to make changes to labelling, even on existing stock.
c. Type of problem*	<ul style="list-style-type: none"> <li>• Overlapping/diverging (EU/national) product requirements [can also be contradicting]</li> <li>• Insufficient cooperation or communication between national administrations</li> <li>• Lack of mutual recognition</li> <li>• Insufficient digitalisation of information or of procedures</li> </ul>
d. Relevant ecosystem*	<ul style="list-style-type: none"> <li>• Construction</li> <li>• Retail</li> </ul>
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<ul style="list-style-type: none"> <li>• We have communicated barriers with European institutions and Member States, directly and as part of industry association efforts such as by VNO-NCW and ERT.</li> </ul>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<ul style="list-style-type: none"> <li>• Digitalization can unlock benefits e.g. by QR codes to add clarity for consumers on labels (while finding the balance with what's feasible for companies, in terms of what information is available and how this is made accessible).</li> <li>• European standards and/or convergence for labeling and sustainability criteria (idem, while finding the balance with what's feasible for companies, in terms of what information is available and how this is made accessible).</li> <li>• Review the implementation of the CLP process, taking into account the current speed of change, where this impacts labelling.</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	AkzoNobel
b. Contact details for follow-up purposes (in company or association)	Name: Jesse Martens Position: Head of Global Public Affairs Email: jesse.martens@akzonobel.com Phone or mobile number: +31614393959
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No.

### 1.2.1.2 Anonymous 1

<b>BARRIER: Labelling requirements (TRIMAN and sorting information)</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Products need to be relabelled specifically for the French market, increasing costs, fragmenting the internal market and without clear benefits to consumers. The label has to be 1cm <sup>2</sup> minimum, visible, legible, indelible, not hidden. Triman symbol and adjoining sorting information must be displayed on products and packaging or other documents supplied with the product.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Imposing compulsory different labelling requirements per Member State for products and packaging creates barriers to trade, increases costs for the free movement of goods in the Single Market, disrupts logistical flows and confuses the consumer. The request of national-specific labelling requirements risks undermining the principle of free movement of goods and create counterproductive environmental effects and unfair differences among the EU economical operators. Furthermore, these new requirements lead to high costs for the companies that need to change labelling, undermining the goals set for a circular and sustainable European Union and causing a serious disruption of the Single Market.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	France
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Decree 2014-1577 of 23 December 2014 relating to the common symbol of recyclable products which are subject to waste-sorting instructions. + TRIMAN unified recycling signage and marking system, User's Handbook (V2. December 2015) + article 17 of the French law on Fighting Against Waste and for the Circular Economy (AGEC) and Decree n° 2021-835 of 29 June 2021
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Retail and Textile (among others)
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Despite the European Commission opened this year an infringement procedure against France on the TRIMAN logo, the TRIMAN jointly with the sorting indications are still compulsory in France
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which	Harmonise the labelling requirements at SM level

improvement is required? Please specify, where relevant.	
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	
b. Contact details for follow-up purposes (in company or association)	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	Yes - sensitive
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: Spanish household packaging and labelling regulation</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<b>Spanish Royal Decree 1055/2022 of 27 December 2022.</b> In accordance with article 13.2, household packaging shall indicate “the fraction or container” in which such packaging waste shall be deposited. Information on the fraction or container should be included on the physical label or on the product packaging itself and, only exceptionally, by means of a visible QR (or other type of digital, standardized and open data carrier). Products need to be re-labelled specifically for the Spanish market, increasing costs, fragmenting the internal market and without clear benefits to consumers which might be potentially mislead for the massive (and contradictory) mandatory information. In addition, the packaging labelling requirements established in Spanish Royal Decree are different and may even be contradictory to the French requirements, which prevents economic operators from using a single labelling valid for both markets.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Spain
b. Legislation, legal instrument, standard or technical	Spanish Royal Decree 1055/2022 of 27 December 2022.

requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Retail and Textile (among others)
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The European Commission has decided to open an infringement procedure by sending a letter of formal notice to Spain for failing to comply with Articles 34-36 of the Treaty on the Functioning of the European Union (TFEU) in relation with Spanish labelling requirements on waste sorting instructions. It states that national labelling requirements can pose a significant barrier to the Single Market, seriously undermining the principle of free movement of goods.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	
b. Contact details for follow-up purposes (in company or association)	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: French environmental labelling scheme (écoscore) for textile products</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The French Ministry of Ecological Transition and its agency ADEME are developing an environmental labelling scheme that would apply to textile apparel products sold on the French market. This labelling scheme, called écoscore, is based on an impact assessment that evaluates the environmental cost of a product based on a set of criteria, that are under development.</p> <p>France is moving ahead with this labelling scheme for textiles at the same time as DG GROW is revising the EU's Textile Labelling Regulation. Experts in the product environmental footprint (PEF) Technical Secretariat - supported by the European Commission's DG Environment - are developing the PEF of textile and apparel products. This PEF for apparel and</p>

	<p>footwear is harmonised approach that would apply (voluntarily) across the EU.</p> <p>The issue is that the écoscore system will apply voluntarily for many months before mandatory application. During this voluntary period, écoscore could be seen by other Member States as an (untested) green claim. As such, apparel products labelled for the French market may be banned from being sold in proximate (French speaking) markets like Belgium, Luxembourg. The écoscore is thus an untested, unnecessary labelling scheme that contributes to the non-harmonisation of product labelling in the Single Market.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Other issues with the écoscore:</p> <ul style="list-style-type: none"> <li>• The écoscore criteria go above and beyond PEF in important ways, most notably when it comes to addressing the extrinsic durability of apparel products.</li> <li>• Extrinsic durability is an undefined concept that lacks data and a scientific basis.</li> <li>• Extrinsic durability is not part of the future list of ecodesign criteria that will apply to apparel products under the ESPR Delegated Act for Textiles.</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p>The écoscore criteria include <i>inter alia</i> the amount of water and chemicals used in production, the physical durability of garments, microplastic shedding, and the export of textile waste outside the EU. A final criterion, the so-called “impact of fast fashion”, includes a series of untested (and ever-changing) metrics that include at present: the size of a product portfolio of a retailer, the incentivisation to repair that product that essentially penalises low-cost goods, and the display of traceability information on the sourcing and production of the garment.</p> <p>The écoscore will be calculated either with a tool developed by the French government called Ecobalyse, or with other company tools that capture primary or secondary data on the criteria to be evaluated. A given garment will then have an écoscore applied to it, ranging from 0 to infinity (in theory). The score will need to be applied in-store and online circa to the price of the garment.</p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	France
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>France's écoscore proposal</p> <p><a href="#">Revision of the EU's Textile Labelling Regulation</a></p>

c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes  Lack of or insufficient information
d. Relevant ecosystem*	Retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	
b. Contact details for follow-up purposes (in company or association)	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: AGECEC LOI: French Traceability (Information on the qualities and environmental characteristics of waste generating products) and Eco-score Decrees implementing the Law</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	The law n° 2020-105 of February 10th, 2020 relating to the fight against waste and the circular economy (AGECEC) has involved that the implementation is being developed in a myriad of regulations (decrees and orders) which create unnecessary different burdens for operators in the internal market such as unnecessary brief periods for implementation.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Some topics regulated in these local Decrees are still being decided at the EU's level (Digital Product Passport) and have the potential capacity to limit the free movement of goods between different EU countries
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	



2. Barrier categorisation	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	France
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>The law n° 2020-105 of February 10th, 2020 relating to the fight against waste and the circular economy (AGEC)</p> <ul style="list-style-type: none"> <li>Traceability Decree n° 2022-748 of April 29, 2022, pursuant to Article L. 541-9-1 of the Environment Code (resulting from Article 13 of the "AGEC" law)</li> <li>The Decree imposes on producers/importers to provide consumers information concerning the incorporation of recycled materials, the use of renewable resources, durability, reparability, traceability, reusability, recyclability, the presence of hazardous substances, modulations and the presence of plastic microfibers.</li> <li>Eco-Score Decree proposal</li> </ul>
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Retail and Textile
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
3. Suggested solution / recommendation	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Harmonise through the Digital Product Passport (DPP) or other harmonized EU regulations in progress.
4. Organisation info & contacts	
a. Organisation name	
b. Contact details for follow-up purposes (in company or association)	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.2.1.3 Anonymous 4

BARRIER: TRIMAN logo in France
1. Barrier description

a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Exporting products to France requires presence of TRIMAN logo on the product packaging. Not every EU country accepts occurrence of this logo on the product.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	It generates the necessity of printing dedicated unit packaging with TRIMAN logo or special labels with TRIMAN logo, which need to be labelled on product before sending goods. It causes additional workload and inability to unify the packaging.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	National legislation in FRANCE, regarding recycling rules.
c. Type of problem*	
d. Relevant ecosystem*	
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Unify the logo for the whole European Union – so it will be recognized in every country.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	
b. Contact details for follow-up purposes (in company or association)	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	Yes
b. Should the example remain confidential (not be published)	

in the public domain)? If yes, why?	
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#### 1.2.1.4 Anonymous 5

<b>BARRIER: Digital Labelling</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	The existing labelling requirements constitute barriers for primarily small and medium-sized manufacturers looking to grow their cross-border sales, due to the resources needed to translate and include all the information needed on physical labels. Requiring that certain information always appears in text form on the physical label or product, especially when a product cannot be sold in a country unless labelled in the local language, impedes the free movement of goods even where customers either want to purchase the product (in non-local language) or where they have the ability to easily translate (with the proliferation of free translation services on the Internet). The obligation to include these languages on the physical product labels or product (at the time of production) along with national requirements in certain Member States (such as Spain) that mandate specific accessible formats like Braille, not only impacts customers' choices, it prevents small and medium-sized manufacturers and distributors from selling in new countries. We also note that the on-pack requirements do not help consumers who may not speak the language of the Member State in which they are buying the product and does not allow for a greater selection of products. Finally, it does not help regulators as they still need to check the physical label as they look to ensure compliance and enforce where needed. While the EU has made a significant step forward in addressing this barrier through Omnibus IV (paperless reporting), which provides the possibility for manufacturers to provide most product information in digital format, proposals may not result in tackling fragmented labelling, considering that some information (e.g. safety) will continue to be mandatory and will continue to require translation.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Authority contacts across the EU request the removal of products from sale that are often related to deficiencies of labelling instructions, like missing instruction in local languages. Small and medium-sized businesses' experience in cross-border selling would be simplified by digital labelling, which would facilitate the updating of compliance information and accessibility of different language versions. Otherwise, consumers may have access to a narrower product selection.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	An economic study by Oxera Consulting found that: <ul style="list-style-type: none"> <li>• DPPs in the EU are estimated to reduce compliance costs in consumer electronics by 15%, equivalent to nearly €200m of annual savings.</li> <li>• In fast-moving consumer goods (FMCG), packaging is updated for 30–35% of products annually, leading to a complete overhaul roughly every three years. DPPs can eliminate costly reprinting and repackaging.</li> <li>• Digital literacy is rising, with 91% of EU consumers expected to have a smartphone by 2030.</li> </ul>

	<a href="https://www.oxera.com/insights/reports/the-economic-impacts-of-digital-product-passports-in-the-eu/">https://www.oxera.com/insights/reports/the-economic-impacts-of-digital-product-passports-in-the-eu/</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>EU wide. For example, exporting products to France requires presence of TRIMAN logo on the product packaging. Not every EU country accepts occurrence of this logo on the product. It generates the necessity of printing dedicated unit packaging with TRIMAN logo or special labels with TRIMAN logo, which need to be labelled on product before sending goods. It causes additional workload and inability to unify the packaging.</p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>Please elaborate on any of the following:</p> <ul style="list-style-type: none"> <li>- National legislation or technical requirements (please specify and provide links where possible)</li> <li>- EU rules, where applicable (exact name of Regulation, Directive, Delegated Act, etc.)</li> <li>- National interpretation of EU rules</li> </ul> <p>The General Product Safety Regulation (GPSR) requires certain safety information on product packaging/product/documentation appear in the language recognized by the respective member state where sold.</p> <p>We have called for digital labelling solutions in EU legislation including the GPSR and legislation in progress including the Detergents Regulation, the Classification, Labelling and Packaging of substances and mixtures (CLP) Regulation, and the Toy Safety Regulation.</p> <p>The Spanish Draft Royal Decree regulating accessible labelling of consumer products (Spain) resents significant barriers to the EU Single Market by imposing unique national requirements that go beyond existing EU harmonized rules. Specifically, the mandate for Braille labelling of trade names, commercial names, and product categories for a broad range of products (including cosmetics, hazardous substances, and food products) creates additional manufacturing costs and operational complexities for businesses, particularly SMEs. Companies would need to create Spain-specific packaging with Braille elements that meet precise technical specifications (such as specific line thickness and height requirements for tactile marks), even if they already comply with accessibility requirements in other Member States. This national-level requirement affects not only manufacturers but also importers and distributors, who cannot market products without this specific labelling, thereby creating a technical barrier to trade. The two-year transitional period and the option to use adhesive labels afterward still represent significant operational and cost burdens, especially for smaller companies looking to enter the Spanish market. Since the regulation applies to products marketed in Spain regardless of their origin or sales channel, it effectively creates a market fragmentation within the EU, contradicting the principle of free movement of goods and potentially setting a precedent for other Member States to implement their own distinct accessibility requirements.</p>

	The recently adopted proposal for Digitalisation and alignment of common specifications (within 'Omnibus IV') provides the possibility for manufacturers to provide all product information in digital format, except for safety information (which will continue to be required in physical format, thus still requiring translations).
c. Type of problem*	Insufficient digitalisation of information or of procedures
d. Relevant ecosystem*	Product Safety
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, via engagement with European institutions and by participating in public consultations on GPSR, to the Detergents Regulation, Toy Safety Regulation, and CLP Regulation.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<ol style="list-style-type: none"> <li>1. We strongly support and aim to provide complete and accurate product information to customers in the easiest and most straightforward way possible. There is significant potential in making use of digital tools, such as QR or data matrix codes, to communicate hazard, sustainability and safety information as well as use instructions to users in all EU languages and in a prominent manner.</li> <li>2. Continued reliance on paper-based solutions is outdated, and leads to far greater risk of limited communication to customers, as well as unnecessary costs. Digital options allow for quicker free movement of goods in the EU, removing undue barriers between Member States with different language requirements. Digital labelling further allows for the possibility to provide additional product information to increase readability and understandability, such as audio and video content, which supports inclusivity principles.</li> <li>3. The Digital Product Passport (DPP) is an opportunity to use a single digital solution that is not an additional marking requirement but rather the basis for an integrated system. As such, the DPP can be an enabler of the transition towards a digital, more reliable and greener approach to information sharing and streamlining of product compliance information, while improving the transparency of the product value chain and promoting circularity.</li> <li>4. The DPP should be product-specific and uniform as much as possible across products and EU legislation. Some design features are crucial, such as differentiated access to information on "need-to-know" and safeguarding data privacy, security, reliability and confidentiality during the data sharing process.</li> <li>5. Administrative burden and costs for manufacturers should be carefully considered and the DPP should be introduced as mandatory only at model level and not at batch/item level.</li> <li>6. The DPP should be based on internationally harmonised standards and be fully interoperable with other existing reporting databases, such as EPREL and SCIP. The European Commission registry should be publicly accessible and searchable.</li> <li>7. In transitioning towards fully digitized product information, the EU Commission should chart a pathway towards the use of symbols (rather than words) to express essential information</li> </ol>

	which needs to remain on-pack, such as safety warnings. This will avoid businesses, particularly SMEs, still needing to translate information in up to 24 languages despite widespread use of digital labelling solutions.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	
b. Contact details for follow-up purposes (in company or association)	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.2.1.5 Anonymous 7

<b>BARRIER: German printing ink ordinance</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	German printing ink ordinance regulates printed food contact materials. This regulation includes a positive list for substances used in printing inks imposing unique requirements for printed food contact materials (incl. food packaging) within EU territory.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	This regulation presents a potential compliance risk for cross-border trade within EU and leads to additional burdensome compliance work.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<a href="#">Merkblatt</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Germany
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	German printing ink ordinance: Druckfarbenverordnung, BGBl. I 2021 S. 5068 (Nr. 82)



c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Agri-food
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	An EU-wide harmonized regulatory approach
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	
b. Contact details for follow-up purposes (in company or association)	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: French Loi AGECE exceeding EU requirements</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	The French Loi AGECE established a list of substances with endocrine disrupting properties for which a public reporting is required.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	This regulation exceeds the requirements of EU law (REACH) and leads to potential compliance risk in cross-border trade.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	France

b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	- <a href="#">Décret n° 2021-1110 du 23 août 2021 relatif à la mise à disposition des informations permettant d'identifier les perturbateurs endocriniens dans un produit - Légifrance</a>
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Agri-food
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	An EU-wide harmonized regulatory approach
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	
b. Contact details for follow-up purposes (in company or association)	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.2.1.6 dsm-firmenich

<b>BARRIER: Different kinds of environmental labels for food products</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	A growing number of Europeans is paying attention to the environmental footprint of the food they consume. This trend has led many business operators as well as some governments to introduce <b>different kinds of environmental labels for food products</b> . Generally, these initiatives are voluntary, based on a life-cycle analysis (LCA), which in some cases is the EU Product Environmental Footprint (PEF) methodology. However, often these private initiatives are not based on the PEF, and their methodologies are not fully transparent.

	<p>The main issue is that significant differences exist in the categories of impact taken into consideration, the type of data used for the analysis (for example secondary data, based on averages calculated on a wide sample of producers, or primary data, sourced from each producer to reflect his/her individual performance), the formulas used to convert LCA results into a piece of information which can be displayed on a label, and how this information is visualized.</p> <p>As a result, we see a proliferation of initiatives across the EU internal market lacking coherence and standardization. This is unfortunate, because harmonized environmental labelling across categories helps consumers compare products on a like for like basis. So, it has the potential to accelerate the transition to a sustainable food system, by driving improvements in production systems and by evaluating their performance according to specific impact categories.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>This fragmented situation generates confusion among consumers who want to shop responsibly, but also among business operators.</p> <p>The impact is twofold: 1) the fragmentation increases the costs of companies who want to use environmental labels across multiple markets, as they may need to adapt to different systems; 2) the different formulas per market used to calculate LCA means no thorough assessment of the product's environmental impact can be made, hindering businesses in gaining a marketing advantage and reinforcing their brand.</p> <p>The fact that the information on the labels is not always properly assessed and coherently communicated to consumers in the end undermines the trust in environmental labels and hampers the market uptake of innovative solutions becoming available in the agrifood sector and eventually the transition to a sustainable food system. A more speedy adoption of environmental labelling could stimulate positive competition between producers and incentivize them to invest in innovations which improve the environmental and climate footprint of their food products.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p>According to Special Eurobarometer 505 (2020) "Almost all Europeans call on the public and private sectors to improve access to sustainable food and information on food sustainability on food labels".</p> <p>Link:  <a href="https://data.europa.eu/data/datasets/s2241_505_eng?locale=en">https://data.europa.eu/data/datasets/s2241_505_eng?locale=en</a> </p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p><b>Denmark:</b> in 2022, the <a href="#">Danish government</a> announced the adoption of a climate label for food.</p> <p><b>France:</b> In the context of its Climate Resilience Law (<a href="#">2021</a>), the French government is in the process of introducing environmental labelling for the food sector. One of the solutions which is being considered is <a href="#">Planet-score</a>. In parallel a group of private sector organizations have launched the <a href="#">Eco-score</a>.</p> <p><b>Italy:</b> adoption of the national scheme <a href="#">Made green in Italy</a>.</p>

	<b>Several EU countries:</b> companies are piloting the adoption of <a href="#">Eco-impact</a> developed by Foundation Earth across several European countries.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	EU legislation: Regulation (EU) No 1169/2011 on the provision of food information to consumers France: LOI n° 2021-1104 du 22 août 2021 portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets Italy: Legge 28 dicembre 2015, n. 221 Disposizioni in materia ambientale per promuovere misure di green economy e per il contenimento dell'uso eccessivo di risorse naturali.
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Agrifood
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The European Commission is aware of this barrier and is partly addressing it through the proposed Green Claims Directive. However, its provisions are not specifically targeting the agri-food sector. In the meantime, the initiatives taken by Member States and the private sector to propose different environmental labelling systems may jeopardise the efforts to build a common, consumer-friendly and science-based European standard. Only the adoption of an ambitious EU environmental food labelling policy will provide sufficient incentives to move towards a harmonized European system.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	This barrier could be addressed by the adoption of sustainable food labelling provisions to be included in the future legislative framework on Sustainable Food Systems, foreseen by the Farm to Fork Strategy. However, this proposal has not been tabled yet.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	dsm-firmenich
b. Contact details for follow-up purposes (in company or association)	Name: Giovanni Colombo Position: Public Affairs Lead Europe Email: giovanni.colombo@dsm-firmenich.com Phone or mobile number: +32(0)473 844 903
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.2.1.7 Euratex / The European Apparel and Textile Confederation

<b>BARRIER: Labelling / fees on plastic packaging</b>
<b>1. Barrier description</b>

a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Spanish royal decree mandating labelling and fees on plastic packaging
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Several shipments have been stopped because customers in Spain are requiring to declare within the transportation documents information about the recycled plastic incorporated in the packaging of the goods, in compliance with the Spanish Royal Decree 1055/2022
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	N.A.
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Spain
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	- National legislation: Royal Decree 1055/2022
c. Type of problem*	The requirements represent a barrier to the free circulation of packaged goods within the EU
d. Relevant ecosystem*	Textiles – packaged goods – B2B and retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, barrier notified in TRIS
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	We call on the MS to refrain from adopting this kind of regulation, trying to anticipate the requirements that will be introduced by the revised PPWR. MS should wait for the new EU Regulation to be in place. We do not challenge the level of ambition in terms of circularity of plastics packaging. We are against any measure that impeaches the free circulation of goods within the EU. The PPWR is the best place to regulate the properties and the features of packaging in the EU.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	EURATEX
b. Contact details for follow-up purposes (in company or association)	Name: Paolo SANDRI Position: Senior Policy Office, Trade, Internal Market and Energy Email: paolo.sandri1@gmail.com Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>

5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	N.A.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	N.A.

#### 1.2.1.8 Kosmetyczni / The Polish Union of the Cosmetics Industry

BARRIER: Divergent packaging / labelling	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The new, national mandatory harmonised sorting label to be placed on the packaging of FMCG products placed on the French market. France requires presence of TRIMAN logo on the product packaging.</p> <p>Important: Not every EU country accepts occurrence of this logo on the product.</p> <p>The aim is to provide your consumers in France with the information on the local rules of sorting of the packaging.</p> <p>From 9 March 2023 All packaging placed on the FR market must include Sorting Info unless exempted by law</p> <p>There were also national initiatives of several other Members States in progress, as in Italy, Spain, Bulgaria, however, we do not have information whether they were adopted or not.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>This requirement poses a barrier to the EU market as cosmetics (or other FMCG products) can no longer be placed on the EU market. The products on the FR market has to have different packaging, than in the rest of EU Members States.</p> <p>It generates the necessity of printing dedicated unit packaging with TRIMAN logo or special labels with TRIMAN logo, which need to be labelled on product before sending goods. It causes additional workload and inability to unify the packaging. That means the process for the production of the products for the FR market should be separated as in the filling and pre-packing different packaging should be used. This poses significant logistic and financial burden for the producers.</p> <p>In case of the most cosmetics products this is not possible to adapt and use the same packaging as for other EU markets, as the product are too small to place all the labelling elements on the international version of the packaging.</p>
c. Any extra evidence (e.g. links to publications or	<p>French AGECE Law and Decree no. 2021-835 of 29 June 2021 <a href="https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045726094">https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045726094</a></p>



background materials, from your organisation or external sources).	The decree was subject to EP Parliamentary question: <a href="https://www.europarl.europa.eu/doceo/document/E-9-2022-003822-ASW_EN.html">https://www.europarl.europa.eu/doceo/document/E-9-2022-003822-ASW_EN.html</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	The regulation was introduced in France. It poses barrier for producers in all EU countries (incl. France), as packaging of FMCG pre-packed products should be differentiated.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	French AGECE Law and Decree no. 2021-835 of 29 June 2021 <a href="https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045726094">https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045726094</a>
c. Type of problem*	Restrictions on advertising/marketing;
d. Relevant ecosystem*	Retail. Other: production and placing on the market of pre-packed FMCG products, e.g. cosmetics.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes.  <a href="https://ec.europa.eu/commission/presscorner/detail/EN/inf_23_525">INFR(2022)4028</a> <a href="https://ec.europa.eu/commission/presscorner/detail/EN/inf_23_525">https://ec.europa.eu/commission/presscorner/detail/EN/inf_23_525</a>  More info: <a href="https://www.lexology.com/library/detail.aspx?q=c85da015-80cc-4b6c-b3b0-62798240c297">https://www.lexology.com/library/detail.aspx?q=c85da015-80cc-4b6c-b3b0-62798240c297</a>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Withdrawal of the AGECE Law and Decree no. 2021-835 of 29 June 2021 Ensuring in the upcoming packaging and packaging waste regulation (PPWR), which is now developed in the EU, that Member States would not have possibility to introduce national regulations on the packaging labelling. This should be done via deleting article 4.5: <i>In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended producer responsibility scheme or a deposit and return system other than those referred to in Article 44(1).</i> Currently, there is a discussion ongoing in the Council and the EP, whether to keep or not the possibility for MS to introduce national labelling of the packaging in the art. 4 of the draft PPWR regulation. Therefore, harmonisation of the EU Market is still not certain.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	The Polish Union of the Cosmetics Industry

b. Contact details for follow-up purposes (in company or association)	Name: Ewa Starzyk Position: Director, Scientific and Regulatory Affairs Email: estarzyk@kosmetyczni.pl Phone or mobile number: +48 696 08 08 40
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.2.1.9 L'Oreal

<b>BARRIER: Concerns about divergent packaging labelling requirements</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>EU Member States have been establishing their own national labelling requirements, thus hampering efforts by companies to design a single packaging format across the EU on small packaging products.</p> <p>Member countries require household products to bear different symbols and/or pictos on their packaging<sup>1</sup>, which may signify that the company takes part in an extended producer responsibility (EPR) scheme for the recovery, or be sorting instructions such as the Triman logo or the Tidyman pictogram.</p> <p>The many fragmented national measures multiply the number of packaging labelling formats required for the same product to meet the national requirements.</p> <p>The recently adopted revision to the Packaging and Packaging Waste (PPWR) aims to harmonise requirements across the EU but allows Member States to keep or introduce additional sustainability or information requirements beyond those outlined in the Regulation. Differing national labelling requirements create barriers to cross-border trade, complicating market access and increasing costs for manufacturers. For example, France<sup>1</sup> mandates to place the Triman logo and sorting instructions on-pack on all packaging placed on the French market. Similarly, according to the Spanish law, household packaging shall bear country-specific sorting instructions as of January 2025.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Divergent national requirements burden businesses, confuse consumers, and undermine both harmonized labeling and packaging minimization effort.

<sup>1</sup> France, Italy and Spain

c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p>L'Oréal case-study in the ERT's 2021 : <a href="#">Don't let the foundation crack – ERT</a>. Since then, the issue is <b>being tackled but not yet solved</b>.</p> <p>Letter from AIM (European Brands Association) and other industry associations to European Commission:  <a href="https://www.aim.be/wp-content/themes/aim/pdfs/Joint%20industry%20call%20for%20an%20EU%20approach%20to%20packaging%20waste%20labelling%20-%20June%202021.pdf?t=1626438440">https://www.aim.be/wp-content/themes/aim/pdfs/Joint%20industry%20call%20for%20an%20EU%20approach%20to%20packaging%20waste%20labelling%20-%20June%202021.pdf?t=1626438440</a></p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	France and Spain
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>National legislative initiatives on product packaging labelling. <ul style="list-style-type: none"> <li>France: Décret n° 2014-1577 du 23 décembre 2014 relatif à la signalétique commune des produits recyclables qui relèvent d'une consigne de tri.</li> <li>Spain: Real Decreto 1055/2022, de 27 de diciembre, de envases y residuos de envases.</li> </ul> </li> <li>Some EU countries<sup>2</sup> require symbols or instructions such as the Triman logo pictogram. These type of symbols often confuse and mislead consumers.</li> <li>The recent revision of EU legislation on Packaging and Packaging Waste (PPW) will harmonise sorting instructions, while some Member States are still introducing new requirements to comply with in the meanwhile (e.g. Spain). This is an issue as companies will have to re-do the artwork twice.</li> <li>Sorting instructions are not yet harmonised across Member States. Various Members States<sup>3</sup> have introduced regulations that contains mandatory sorting instructions for household packaging, creating regulatory divergence among Member States.</li> </ul>
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes.
d. Relevant ecosystem*	Health; Retail; Cosmetic & Beauty.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>In June 2021, over 62 other European and national organisations wrote an open letter to the European Commission in response to diverging national packaging labelling and information requirements.</p> <p><a href="https://www.aim.be/wp-content/themes/aim/pdfs/Joint%20industry%20call%20for%20an%20EU%20approach%20to%20packaging%20waste%20labelling%20-%20June%202021.pdf?t=1626438440">https://www.aim.be/wp-content/themes/aim/pdfs/Joint%20industry%20call%20for%20an%20EU%20approach%20to%20packaging%20waste%20labelling%20-%20June%202021.pdf?t=1626438440</a></p>
<b>3. Suggested solution / recommendation</b>	

<sup>2</sup> France

<sup>3</sup> [Spain](#), Italy, Portugal, Slovenia

Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<ul style="list-style-type: none"> <li>• Common approach for packaging waste-sorting labelling.</li> <li>• European Commission to set common terms and symbols for the collection, sorting and recycling of products across the EU Single Market.</li> <li>• The revision of EU legislation on Packaging and Packaging Waste (PPWR), via its article 12, will harmonize waste sorting labels, and other labelling requirements (e.g., PCR-content, reusability and recyclability). Member States should prioritise consistent application of these rules, avoiding potential further national measures leading to market fragmentation, to ensure free movement of goods and protect the Single Market. Another solutions could be to further digitalise information, especially for small products, as foreseen by PPWR.</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	LOREAL.
b. Contact details for follow-up purposes (in company or association)	<b>Name:</b> Gianni Sanges. <b>Position:</b> Public Affairs Project Manager. <b>Email:</b> gianni.sanges@loreal.com <b>Phone or mobile number:</b> +33 6 76 56 94 66
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

## 1.2.2 Waste

### 1.2.2.1 AkzoNobel

<b>BARRIER: Paints - circularity</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<ul style="list-style-type: none"> <li>• Fragmented environmental regulation and other obligations, notably in the field of circularity and Extended Producer Responsibility (national recycling schemes, restricted reuse of post-use waste, lack of standards).</li> <li>• Reuse of paint leftovers post use across borders is hindered as it takes 3-6 months to get a permit, which is valid for 12 months after which it has to be requested again. A freer flow of post use waste would prevent paint being incinerated in one country, whereby it could have been reworked, reused elsewhere. AkzoNobel has experienced this with the Recycled Paint, launched with</li> </ul>

	35% post use waste as raw material in Belgium (2020), France and NL (2021) and Sweden (2023).
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<ul style="list-style-type: none"> <li>Producers are hampered in bringing to the market circular solutions (e.g. scaling up recycled paint products). National instead of cross border EPR schemes miss economies of scale to do more with post use waste as the legislation and permits originate in the linear economy.</li> <li>Forward looking is the concern that the green transition will lead to more fragmentation (e.g. lack of standards) and therefore suboptimal solutions.</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<ul style="list-style-type: none"> <li>At request.</li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<ul style="list-style-type: none"> <li>In principle all Member States, because of product launch we currently have the experience in Belgium, France, the Netherlands, and Sweden.</li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ol style="list-style-type: none"> <li>National definition of concepts such as mass balance (no standardization at the moment).</li> <li>Complexity of national authorization for cross-border transport of waste (as input for recycled materials).</li> </ol>
c. Type of problem*	<ul style="list-style-type: none"> <li>Insufficient cooperation or communication between national administrations</li> <li>Lack of mutual recognition</li> <li>Issues around authorisations</li> </ul>
d. Relevant ecosystem*	<ul style="list-style-type: none"> <li>Construction</li> <li>Retail</li> </ul>
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<ul style="list-style-type: none"> <li>We have communicated barriers with European institutions and Member States, directly and as part of industry association efforts such as by VNO-NCW and ERT.</li> </ul>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<ul style="list-style-type: none"> <li>Convergence of national EPR approaches: a freer flow of post use waste to empower municipalities and other stakeholders to treat it as valuable raw material.</li> <li>Review of waste regulation to address constraints to deliver circular products.</li> <li>European standards for sustainability performance such as the mass balance method for biobased raw materials (the added value is understood in one Member State and</li> </ul>

	mistrusted in another as the standards are not available or shared).
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	AkzoNobel
b. Contact details for follow-up purposes (in company or association)	Name: Jesse Martens Position: Head of Global Public Affairs Email: jesse.martens@akzonobel.com Phone or mobile number: +31614393959
c. Type of organisation (please select answer by highlighting in bold)	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.2.2.2 Amazon

<b>BARRIER: Extended Producer Responsibility (EPR) Registration Procedures (Recycling)</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	While EPR aims to reduce the environmental impact of products, the effectiveness of the schemes is questionable. Different EPR systems and registration procedures in EU member states cause bureaucratic and financial burdens, that are particularly difficult for SMEs. Elements contributing to the complexity include: 1) differences in product categories to be registered (e.g. DE: packaging, Waste Electrical and Electronic Equipment (WEEE), batteries, single-use plastics), FR: toys, packaging, WEEE, tires etc.), 2) different types of data to be provided during registration, 3) product registration procedures differ not only between EU Member States, but even within countries (i.e. single-use plastics registration differs significantly from packaging or WEEE in DE). As a result, vendors have to individually register with every single EPR scheme in every single country and and/or pay for different services & scheme fees in each country in which they want to sell, which constitutes a high administrative burden. Registration forms are often not available in multiple languages for example requiring a Spanish business to complete forms in German, and often no guidelines for completion are provided.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The high amount of different EPR systems has led to many small sellers giving up and not becoming compliant or refusing to sell outside their home country. Many stores have detected a decrease of vendors and selection which appears to be (to a significant extent) due to the EPR schemes. It also reduces the funds available for recycling thus limiting recycling rates.</p> <p>A recent study by the EU Think Tank Eunomia also argues that the fragmented EPR systems in Europe constitute a major Single Market hurdle. (Link: <a href="https://eunomia.eco/reports/the-">https://eunomia.eco/reports/the-</a></p>



	<p>administrative-burden-of-extended-producer-responsibility-is-a-one-stop-shop-the-answer/)</p> <p>Their major points are:</p> <ol style="list-style-type: none"> <li> <p><b>1. Time &amp; Resource Burden</b></p> <p>The administrative burden of EPR compliance creates massive time demands on companies. Companies are forced to dedicate entire teams to EPR compliance, with one service provider requiring eight people solely to monitor global obligations (p.29). Even for a single EPR scheme in one country, companies may spend up to 120 hours understanding obligations, 50 hours on registration, and 100 hours on reporting (p.29-30). The burden multiplies significantly with market expansion, as selling just one product like a computer in five EU countries could require 45 hours for basic compliance tasks (p.31).</p> </li> <li> <p><b>2. Direct Financial Costs</b></p> <p>The financial impact of EPR compliance varies dramatically based on company size, with annual costs ranging from €260 for micro-enterprises to €400,000 for large companies (p.33). Companies face multiple cost layers, including service provider support ranging from €500-100,000 annually (p.32-33), registration and membership fees up to €25,000 per year (p.33), and additional expenses for Authorized Representatives, with one SME reporting €6,000 annually for this requirement alone (p.33). These direct costs are further increased by mandatory financial guarantees in certain markets (p.28).</p> </li> <li> <p><b>3. Disproportionate Impact on SMEs</b></p> <p>Small and medium-sized enterprises face particularly severe challenges under the current system, with estimates suggesting administrative costs of €140,000 just to sell a single phone model across the EU (p.33). Many SMEs cannot afford professional compliance support and must rely on non-expert staff to handle complex EPR requirements alongside their regular duties (p.34). This lack of expertise increases the likelihood of reporting errors and often forces SMEs to either avoid certain markets entirely or risk non-compliance due to the overwhelming burden (p.34).</p> </li> <li> <p><b>4. Market Access Barriers</b></p> <p>The complexity of EPR requirements has become a significant barrier to market access, leading companies to actively withdraw from certain markets (p.35). A striking example is one service provider reporting 200 clients ceasing operations in Germany in 2023 due to new EPR requirements (p.35). Over one-third of survey respondents indicated they had stopped selling in certain markets due to EPR complexity, with SMEs particularly affected as new markets must be highly profitable to justify the compliance costs (p.35). These market access barriers ultimately reduce consumer choice and overall EU market competitiveness (p.35).</p> </li> <li> <p><b>5. Economic Inefficiencies &amp; Costs</b></p> <p>The fragmented EPR system creates significant economic inefficiencies through duplicate processes across countries and lengthy registration delays of up to five months that prevent legal</p> </li> </ol>
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	sales (p.34-35). Companies must divert substantial resources from core business activities to compliance tasks (p.29), while increased likelihood of errors and non-compliance requires additional resource allocation (p.35). The system also enables unfair competition from non-compliant companies, undermining those who invest in proper compliance (p.36).
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	Example: A telling example is the German business NCC-design. NCC-design sells electronics and home lighting (e.g. light bulbs, outdoor lights) across the EU. To sell its full selection of products, they need to comply with three EU directives for Extended Producer Responsibility (recycling fees) in the fields of packaging, WEEE (Waste from Electrical and Electronic Equipment) and batteries respectively. For these they require registration numbers in Spain, France and Germany. This translates into 16 registration numbers: ten numbers for WEEE, three numbers for batteries and three for packaging. To obtain these registration numbers, NCC-design needs to engage with ten different authorities in three countries, follow different processes, pay admin and registration fees of up to €80K in total (est. €5K per number) and wait for up to 16 weeks to receive the registration number. Next year, we will see the implementation of similar regulations in Belgium and Italy, as well as the introduction of at least one new EPR regulation in Germany (single use plastic), which will add five additional registration numbers combined for this particular business (and up to €25K additional registration/admin fees).
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	DE, FR, ES, IT All EU countries.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>- DE- Packaging <a href="https://www.gesetze-im-internet.de/verpackg/VerpackG.pdf">https://www.gesetze-im-internet.de/verpackg/VerpackG.pdf</a></li> <li>- DE WEEE <a href="https://www.gesetze-im-internet.de/elektrog_2015/ElektroG.pdf">https://www.gesetze-im-internet.de/elektrog_2015/ElektroG.pdf</a></li> <li>- DE SUP <a href="https://www.gesetze-im-internet.de/ewkfondsg/BJNR07C0B0023.html">https://www.gesetze-im-internet.de/ewkfondsg/BJNR07C0B0023.html</a></li> </ul>
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes; Insufficient cooperation or communication between national administrations; Insufficient digitalisation of information or of procedures; Issues around certified translation requirements; Issues around authorisations/licences/permit requirements, or other document requirements.
d. Relevant ecosystem*	Retail, Electronics
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes to national authorities and European Commission. European Commission has included a provision on the upcoming CE Act which includes questions specifically about <b>"Setting up an EU-level online platform to register and access national EPR schemes (one-stop shop)"</b> .

3. Suggested solution / recommendation	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<ol style="list-style-type: none"> <li>1. The European Commission should develop EU-level guidelines on simplified and uniform registration templates (e.g. basic vendor information, product categories, product measurements etc.), which would lead to more simplified and standardized registration templates in each Member State.</li> <li>2. Promote provisions for EU EPR legislation, that supports pay on behalf models (i.e. in our case, we could pay EPR registration fees for their sellers)</li> </ol>
4. Organisation info & contacts	
a. Organisation name	Amazon
b. Contact details for follow-up purposes (in company or association)	Name: Helena Hånell McKelvey Position: Head of Public Policy, Nordics Email: <a href="mailto:hhanellm@amazon.com">hhanellm@amazon.com</a> Phone or mobile number: +46738211198
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	Not a must
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	Not a must

BARRIER: EPR Check Obligations	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Online marketplaces (OMP) have the obligation by law to check whether the sellers that sell on their marketplace are compliant with the law (i.e. have registered their product categories and/or packaging). Although most EPR categories have the same origin through EU legislation (e.g., Waste Electrical and Electronic Equipment (WEEE) directive, Single Use Plastics (SUP) directive etc.), the check obligations vary widely from Member State to Member State.</p> <p>Furthermore:</p> <ol style="list-style-type: none"> <li>1. Each EU member state has its own specific EPR implementation and reporting requirements. Example: in ES OMPs must verify registration only for non-Spanish Seller. In Italy, OMPs can provide simplified compliance services for Packaging EPR only to non-Italian sellers, while for the remaining categories they can offer the services both to in-country and out-of-country sellers.</li> <li>2. Varying registration procedures and documentation needs.</li> <li>3. Different fee structures and calculation methods across countries. Taking batteries as an example, reporting requirements differ markedly between ES, BE, IT, and FR - from how batteries are categorized based on product characteristics to the fundamental reporting metrics. While FR, IT, and ES require total aggregated weight put on market, BE demands individual battery weights. These</li> </ol>

variations in reporting requirements consequently lead to different eco-fee calculations, adding another layer of complexity to cross-border compliance.

4. Multiple reporting deadlines and formats. E.g. declaration period for batteries is monthly in BE, quarterly in IT / ES, annual in FR.
5. Seller Verification Challenges:
  - a. Need to verify seller compliance with EPR obligations in multiple jurisdictions. Each EU member state implement its own public registry for each category with varying structures, information and update frequencies. Often such registries cannot be accessed via tech solutions (e.g. APIs), requiring manual effort to validate sellers' registration. Currently we are manually validating across 20 different registries.
  - b. Difficulty in tracking sellers who operate across multiple EU countries. In IT, public registry is not yet available for 3 out of 6 categories, without an ETA. Moreover, changes will be implemented in the 3 existing registries (WEEE, Batteries, Tires), but without clear ETA for implementation. In addition, because registries are different, the same seller will have different registration numbers in each country.
6. Complex verification process for international sellers based outside the EU. For non-EU sellers, an Authorized Representative (AR) is mandatory for registration. Additional complications arise when Amazon needs to register as an Entity (producer or OMP) in countries where this process cannot be delegated to a PRO. For instance, portals in Spain and Italy require citizens of their respective countries with national electronic IDs to complete registration. This presents a challenge as Amazon's leadership functions are primarily based in Luxembourg headquarters. The workaround involves obtaining electronic certificates through authorized providers - a process that in Spain required 6 months and submission of personal data (passport) from a Luxembourg-based manager. Beyond being cumbersome, this system creates critical vulnerabilities, as Amazon could lose the ability to declare or amend registrations if the authorized individual leaves their role.

#### Administrative Burden:

1. Managing multiple EPR registrations and compliance schemes. We need to contract with a dedicated EPR scheme for each country/category. This leads to duplicate effort and lengthens compliance timelines, as contracting with a new entity requires 4-6 months. Today we have 29 contracts in place across FR, IT, ES, BE, UK. This also creates complexity in payments as we need to manage invoices for each PRO, with different invoicing cadence.
2. Different reporting systems and interfaces for each country. Each PRO has its own portal or method to

submit declarations, with different operating instructions. As these portals also do not provide multi-factor authentication and single-sign-on, there is an increased operational burden on Amazon to securely store and maintain credentials for each portal.

3. Need for country-specific expertise and local representatives. In FR and IT, we face language barriers as PROs do not speak English at a professional level, lengthening the time required to close contract and troubleshoot issues when they occur.
4. Increased costs for maintaining compliance across borders
  - a. **DE** - In Germany, producers face a fragmented multi-registry system requiring separate registrations and fees for packaging (LUCID), WEEE (Stiftung ear), and batteries, with no unified interface. Costs are driven up by variable dual system fees, mandatory annual audits, late-change surcharges, and Authorized Representative requirements for foreign producers, including substantial translation and legalization expenses.
  - b. **FR** - France's system requires compliance with multiple Producer Responsibility Organizations (PROs) across various waste streams (packaging, WEEE, batteries, textiles, furniture, toys), each with distinct timelines and portals. Companies must invest significantly in marketplace systems for IDU management and French-language seller verification, while eco-modulation requirements add considerable documentation burden for recyclability and durability proofs.
  - c. **IT** - Italy's compliance costs stem from the complex National Packaging Consortium (CONAI) packaging system with its material-specific contributions, exemptions management, and regional variations. Distance sellers face multiple Authorized Representative requirements across fragmented digital registration services, while new EPR schemes (such as textiles) continue to add parallel compliance structures and fee systems.
  - d. **ES** - Spain requires management of multiple RPP (Registro de Productores de Producto) sections and PROs, each with distinct material/category fee structures. Compliance is complicated by granular reporting requirements at the Autonomous Community level, while recent Royal Decrees have introduced new marketplace backstop liability requirements for packaging, tires, and oils, necessitating additional verification systems.
    - a. **DE** - Germany faces uncertainty in classifying 'first placing on the market' for cross-border

sales versus importer responsibilities. Local authorities interpret service and transport packaging obligations differently under VerpackG amendments, affecting cross-regional compliance.

- b. **FR** - France shows ambiguity in IDU (Unique Identifier) implementation, with varying requirements for document display across platform inspections. The overlap between fast-fashion bill fees and TLC eco-modulation raises interpretation questions for certain SKUs.
  - c. **IT** - Italy inconsistently treats marketplace cross-border sales, defining them as producer activity in some streams and distributor obligations in others. Local interpretations on temporary in-store storage/collection duties for distributors (thresholds/format) is still in draft version.
  - d. **ES** - Spain demonstrates unclear application of platform-as-producer 'subsidiary' clauses across different Royal Decrees, with varying interpretations of organizational duties. Questions persist regarding AR versus importer backstop requirements for goods that transit via hubs before delivery to ES consumers.
2. Unclear responsibilities when products cross multiple borders
- a. **DE** - Germany faces EPR attribution challenges for goods imported and re-exported within the EU, particularly when the final consumer is outside Germany. Drop-shipment fulfilment from German warehouses for non-German orders creates uncertainty in determining point of market (PoM) location for packaging and WEEE obligations.
  - b. **FR** - France encounters conflicts when goods cross-dock in French facilities but sell to other Member States, with PROs demanding contributions while sellers claim PoM elsewhere. Additional complexity arises with refurbished goods re-entering the French market, creating confusion between original and subsequent producer WEEE obligations.
  - c. **IT** - Italy struggles with EPR liability allocation between logistics operators and sellers when goods transit via Italian 3PL facilities for sales outside Italy. The processing of returns in Italy for EU resale further complicates first PoM determination.
  - d. **ES** - Spain's special tax territories (Canary Islands, Ceuta, Melilla) require separate compliance processes from mainland operations. Cross-border fulfilment from Spanish hubs to Portugal and France creates dual-reporting challenges for marketplace orders.



3. Challenges in determining which country's EPR rules apply in specific scenarios

- a. **DE** — Germany faces complexities in identifying the correct point of market entry for packaging and batteries in distance sales scenarios, especially when comparing direct non-EU to DE sales versus sales via EU hubs. WEEE classification as 'household' or 'professional' equipment varies based on B2B or B2C criteria, affecting compliance requirements.
- b. **FR** — France struggles with producer identity determination, as own-brand versus reseller status can alter obligations. White-label products may trigger producer responsibilities even without manufacturing involvement. Multi-component kits present challenges in determining which element dictates the applicable EPR stream and country obligations.
- c. **IT** — Italy grapples with 'first making available' scenarios, particularly when marketplace storefronts are registered abroad but use Italian Authorized Representatives, creating uncertainty about which rules govern the fee base. Mixed shipments with varying VAT arrangements further complicate the determination of the PoM country.
- d. **ES** — Spain's new platform liability rules for packaging, tires, and draft oils interact with existing Authorized Representative and importer regulations, creating confusion about whether the platform or seller is the responsible producer. Under SUP/Balloons regulations, there is confusion about whether products made of natural polymers fall into EPR, despite conflicting EU definitions.

Data Management Complexity:

1. Need to collect and maintain different data sets for each country
  - a. **DE** — Germany's LUCID system demands detailed packaging data including material type, weight, and system participation proof, while Stiftung ear requires separate device categorization and B2B/B2C split reporting. Battery reporting differentiates chemistries/classes, and the evidence retention periods vary.
  - b. **FR** — France requires storage of Unique Identifier (IDU) data for each product category. Data points requested varies across PROs (e.g. eco-design criteria). Data is stored per seller and SKU family. Foreign producers must maintain additional records of their Authorized Representative and display logs for online information duties.

- c. **IT** — Italy's National Packaging Consortium requires material-specific declarations with periodic adjustments, plus local reuse and return flow data for certain sectors. The upcoming textile EPR scheme will add new data requirements for market placement, collection, and reuse/repair metrics.
- d. **ES** — RPP (Registro de Productores de Producto) mandates registration number for each waste stream and annual reporting of products placed on the market and their categories. Some systems request for regional, CCAA-level granularity "Comunidades Autónomas"

## 2. Varying product categorization requirements

- a. **DE** — Germany's Stiftung ear categories for WEEE diverge from EU open-scope mapping, causing disputes over borderline products like smart home devices and e-mobility items. E-commerce faces additional complexity with different treatments for sales, transport, and service packaging in small consignments.
- b. **FR** — France grapples with overlapping categories for composite textile-electronic items, which could fall under textiles, toys, or small equipment EPR schemes. Citeo's packaging sub-categories result in varied fees. Labelling obligations differ based on pack size and material.
- c. **IT** — Italy's National Packaging Consortium (CONAI) uses material-specific classification, which may vary from EU guidance. Composite packaging allocation rules vary. The forthcoming textile EPR scheme may introduce categories that differ from other Member States scoping lists.
- d. **ES** — Spain's Royal Decree 1055/2022 introduces distinct packaging material families and formats for fee calculations. Draft legislation expands the SUP wipes definition beyond the EU's plastic-only scope. Categorization challenges also arise for products like balloon kits which could be classified as either balloons or toys.

## 3. Different calculation methods for EPR fees across borders

- a. **DE**: German dual systems negotiate variable packaging fees (€/kg) with annual marketing adjustments. New eco-modulation pilots are in development. Device group classifications and chemistry types determine WEEE and battery fees. Costs are influenced by take-back performance rates.
- b. **FR**: France's fee system varies by product category (filière), with different incentives and

	<p>penalties based on recyclability, repairability, and recycled content. Calculations mix per-unit and per-kilogram fees. The proposed fast-fashion legislation will add new penalty fees on top of existing textile/clothing (TLC) contributions.</p> <p>c. <b>IT:</b> Italy sets CONAI contributions per material, subject to periodic revisions, with credits or penalties for specific recycling flows. Other waste streams managed by local PROs use distinct fee structures and indexation methods.</p> <p>d. <b>ES:</b> Spain's packaging PRO fee tables vary and require invoice itemization. SUP drafts allow fixed multi-annual amounts for litter clean-up. Draft regulations for oils include regeneration targets affecting cost models. The tires Royal Decree introduces specific treatment ratios impacting fee calculations.</p> <p>These issues create significant operational complexity and compliance costs for Amazon as a marketplace operator serving multiple EU markets.</p> <p>Moreover, EU-wide operating marketplaces have to build a different compliance interface for each country.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>1. Confusion of vendors (especially small and medium sized businesses) on what information to provide.</p> <p>2. Resource and head count intensive as marketplaces have to build different compliance portals for each country and sometimes even within countries across product categories.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	DE, FR, IT, ES
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>- DE- Packaging <a href="https://www.gesetze-im-internet.de/verpackg/VerpackG.pdf">https://www.gesetze-im-internet.de/verpackg/VerpackG.pdf</a></li> <li>- DE WEEE <a href="https://www.gesetze-im-internet.de/elektrog_2015/ElektroG.pdf">https://www.gesetze-im-internet.de/elektrog_2015/ElektroG.pdf</a></li> <li>- DE SUP <a href="https://www.gesetze-im-internet.de/ewkfondsg/BJNR07C0B0023.html">https://www.gesetze-im-internet.de/ewkfondsg/BJNR07C0B0023.html</a></li> </ul>
c. Type of problem*	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</p> <p>Insufficient cooperation or communication between national administrations;</p> <p>Insufficient digitalisation of information or of procedures;</p> <p>Issues around certified translation requirements;</p>

	Issues around authorisations/licences/permit requirements, or other document requirements
d. Relevant ecosystem*	Retail Electronics
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Not aware
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Simplified and uniform check obligations for all product categories in all countries. OMPs should be obligated to check selling partner registration (by checking registration numbers in publicly accessible databases) and system participation through a uniform template.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Amazon
b. Contact details for follow-up purposes (in company or association)	Name: Helena Hånell McKelvey Position: Head of Public Policy, Nordics Email: <a href="mailto:hhanellm@amazon.com">hhanellm@amazon.com</a> Phone or mobile number: +46738211198
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.2.2.3 Anonymous 1

<b>BARRIER: Fragmentation of the Textile Extended Producer Responsibility (EPR) obligations and waste management policies</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Diverging national textile waste regulation within the EU -wide framework and fragmentation of the EPR schemes difficult EU competitiveness and distorts Single Market
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	The Waste Framework Directive (WFD) set forth only some minimum generic requirements for the design, implementation and operation of EPR for any waste stream, providing the Member States the freedom to decide how these requirements shall be achieved and implemented. This lack of specific harmonized details in the EPR systems are incentivising different requirements, interpretations and approaches between Member States, setting out different regulations which reduce effectiveness and efficiency of the scheme across Europe. Said

	<p>variations in regulation and compliance result in increased administrative burden and associated costs, particularly burdensome for smaller entities that do not have the economies of scale (or labour) to deliver on requirements across jurisdictions, in particular if the producer is selling into multiple Member States.</p> <p>The different national approaches to the EPR creates:</p> <ul style="list-style-type: none"> <li>• Differences in the scope of the national regulations involves differences in the products regulated under national EPR for textiles</li> <li>• Inappropriate allocation of responsibilities. Different liabilities for the various operators of the value chain depending on the Member States regulations</li> <li>• Different targets and fees structure within the EU</li> <li>• Different eco-modulation criteria for same products, differences in the reporting</li> <li>• Lack of common objectives, principles and definitions for textiles (i.e. clear definitions of “waste textile”, uniform and aligned “end-of-waste criteria” which allows a material effectively cease to be “waste” and obtains again the status of “product-secondary raw material” in one EU country but not in others).</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Several MS
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Currently France, the Netherlands, Austria and Hungary have already developed EPR schemes and are already showing remarkable differences among the different systems which clearly indicates the fragmentation that the upcoming 23 national EPR regulations will create
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Alignment and harmonisation in the various EU regulations concerning waste and a true single European market for textile waste and waste intended for reuse would help to support transition of the sector and circular product development while

	ensuring efficient waste management in the EU. Additionally, considering the separate collection obligation of textile waste by 2025, harmonization across textile EPR schemes would be critical to amplify the expected environmental benefit, contribute to reach high recycling rates and the uptake of recycled materials in new products which ensures a Single Market for secondary raw materials for the sector. Likewise, harmonisation is a fundamental pillar for operationalising the "polluter pays" principle essential in the transition towards a circular economy.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.2.2.4 BASF

<b>BARRIER: Lack of harmonised classification and shipment rules for waste</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p><u>Barrier:</u> lack of harmonized classification and shipment rules for waste from lithium-ion batteries, battery production waste and black mass</p> <p><u>Barrier description:</u> the current EU legislative framework, specifically the regulatory environment set by the EU Waste Framework Directive &amp; List of Waste, and the EU Waste Shipment Regulation, does not yet provide sufficient guidance on the rules governing the classification and shipment of the materials in the battery recycling loop. It is unclear whether the product or (hazardous) waste classification is applicable to end-of-life lithium-ion batteries as well as intermediates of recycling such as battery production waste and black mass.</p> <p><b>The views on the proper classification of these materials differ dramatically across EU Member States.</b></p> <p>Austria and some states in Germany, for instance, are currently classifying certain types of spent batteries as waste. Spain decided that LIB should be considered as Amber list in the Basel Convention. Other Member States consider black mass as a product mix, product substance or waste, depending on oftentimes diverging criteria applied after pre-treatment.</p>



	<p>Moreover, as end-of-life lithium-ion batteries and intermediates of recycling do not fulfil the end-of-waste criteria laid out in Article 6 of the Waste Framework Directive, they cannot be classified as a “product” by companies in some Member States.</p> <p>This lack of common interpretation (due to a failed policy integration at EU-level), causes extensive circulation problems within the Single Market, and creates significant uncertainty for EU recyclers.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Experienced barriers in both Germany and Poland. but materials' circulation is affected throughout most of the EU. Similar barriers are expected to be present in several other Member States, as the regulatory framework – and in this case failed harmonization – is similar across EU countries.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>Please elaborate on any of the following:</p> <ul style="list-style-type: none"> <li>- National legislation or technical requirements (please specify and provide links where possible)</li> <li>- EU rules, where applicable (exact name of Regulation, Directive, Delegated Act, etc.)</li> <li>- <b>National interpretation of EU rules. Different interpretations by member states of Article 6 of the Waste Framework Directive</b></li> </ul>
c. Type of problem*	<b>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</b>
d. Relevant ecosystem*	<b>Mobility-Transport-Automotive</b>
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>a) Inclusion of harmonized waste codes (“hazardous waste”) in the EU List of Waste for waste lithium-ion batteries, battery production waste and black mass</p> <p>b) Harmonization of shipment rules for hazardous waste as part of the revision of the Waste Shipment Regulation</p> <p>c) Establishment of a fast-track notification procedure for pre-consented recycling facilities as part of the revision of the Waste Shipment Regulation</p> <p>Such improvements could be effectively achieved via targeted amendments of the two following EU regulations:</p> <p><b>Waste Framework Directive &amp; List of Waste</b></p>

	<ul style="list-style-type: none"> <li>Clarify that materials generated during the end-of-life lithium-ion battery recycling process, such as black mass and battery, module and cell waste, are strictly classified as “waste” and therefore cannot be considered as “product”</li> <li>Clarify that, based on the assessment of the chemical properties of their components, some of the materials such as black mass are classified as “hazardous waste”</li> <li>Include a specific absolute “hazardous waste” European Waste Codes (EWC) in the EU List of Waste for the black mass</li> </ul> <p><b><u>Waste Shipment Regulation</u></b></p> <ul style="list-style-type: none"> <li>Harmonize rules for waste shipments across the EU</li> <li>Establish level playing field and equivalent conditions for treatment and recycling of waste exported outside of the EU</li> <li>Introduce a fast-track digital procedure for notification of hazardous waste for pre-consented facilities</li> </ul> <p>When implemented, these regulatory solutions, aimed at clearly classifying waste lithium-ion batteries, battery production waste and black mass as “hazardous waste” as well as clarifying, harmonizing and enforcing their shipment rules, would help remove the grey areas and leave no room for dispute. This would ensure that the battery waste generated in Europe remains in Europe and that it is handled with full respect to high European EHS standards.</p> <p>To reduce unnecessary delays and the associated safety risks, we propose that the “hazardous waste” classification is accompanied by an accelerated (fast-track) notification procedure for pre-consented recycling facilities.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	BASF
b. Contact details for follow-up purposes (in company or association)	Name: Carolina Brusoni Position: Senior Manager – Sustainability and Trade Policies Email: carolina.brusoni@basf.com Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

1.2.2.5 *Eurometaux / European non-ferocious metal association*

BARRIER: Lack of harmonised waste classification across the EU Member States as a barrier to waste shipment	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>In the context of the EU Circular Economy it is utmost important to keep the waste containing metals in the EU and to direct them to the state-of-the-art European recyclers. Intra-EU shipments of waste are frequently delayed due to <b>inconsistent Member State interpretations of whether waste is hazardous or not or whether it is waste or by-product</b>. These delays are a barrier leading to delays, unpredictability and also cases where shipment between the Member States is nearly non-existent.</p> <p><b>Practical examples:</b></p> <p><b>1) waste codes &amp; classification (hazardous vs. non-hazardous):</b>  <b>E-scrap</b> was shipped from Hungary through Austria and Belgium without a problem as those MSs considered it non-haz. However, Danish authorities deemed it opposite and stopped the shipment.</p> <p><b>2) waste &amp; by-product</b>  <b>Anode slimes</b> containing precious metals were classified as by-products in Austria and Belgium, while the Dutch authorities recognised them as hazardous waste.</p> <p><b>3) waste &amp; by-product</b>  <b>Final slags</b> are a rock-like material co-produced out of the metals pyrometallurgical refining and recycling processes (e.g. smelting and refining of metal concentrates and metal scrap, recycling of batteries from electromobility and electronics, recycling of electronic scrap and (industrial) consumables, refining of complex by-products).</p> <ul style="list-style-type: none"> <li>Ferro-Molybdenum (FeMo) slags in Belgium need a Certificate of Resource to prove that it is a by-product and that it fulfils all the EoW criteria. The Belgian Certificates are only valid for transport within Belgium and don't have any value in other member states.</li> </ul> <p>Because the Certificates are only applicable in Belgium, the same slag is considered as a waste in the Netherlands or France because they use other criteria to accept slags as a by-product.</p> <p>The slags need to comply with leaching limits of Flanders (Belgium) to obtain a certificate of resource. However, the Netherlands have their own set of leaching limits and they are not the same as in Belgium.</p> <p>As a result, to avoid different interpretations between countries the FeMo slags are only applied within Belgium.</p> <ul style="list-style-type: none"> <li>A project was developed in France to treat manganese containing residues coming from the FeMn and SiMn production sites to produce a manganese (Mn) rich slag by removing all impurities.</li> </ul> <p>The Mn rich slag would be then processed to produce FeMn instead of Mn ore in a next door plant. However, the legislation in France considers slags as a waste thus the next-door plant cannot use them unless it is duly authorized to treat this kind of waste which would mean in practice changing the permit, implying new duties, new requirements.</p>
b. Describe the negative impact on your company and	<p><b>Delays and unpredictability</b> in delivering metal-containing waste to recycling facilities <b>influence the internal planning</b> at the recycling site, resulting also in <b>additional time for administrative procedures</b>.</p>

potentially your sector or the economy. Please provide facts & figures.	<ul style="list-style-type: none"> <li>• <b>Average delays in waste shipments is reported to be between 3-6 months.</b></li> </ul> <p><b>Materials value</b> - The recyclables for the non-ferrous metals have a high value and prices fluctuate on the stock-exchange. The prices for recyclables are following these fluctuations but price levels depend on the type of waste, volume, metal composition of the waste etc. The supplier wants to be compensated for the value of the metals contained in the recyclable waste stream as soon as possible given the high value. The waiting time and delays makes it less attractive for the supplier to deliver materials.</p> <ul style="list-style-type: none"> <li>• <i>E-waste example: printed circuit boards (PCB)</i> - the typical content of gold, silver and copper is about 220 g/ton gold, 900 g/ton silver and about 454 kg/ton of copper. Waste shipment of 20 tons of PCBs represents, at the actual price levels of these materials, much more than 200000 EUR for those three metals only. Besides them, other valuable materials i.e. palladium, indium, bismuth, account even for a higher total value.</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<ul style="list-style-type: none"> <li>• Study to assess Member States practices on by-product (BP) and end-of waste (EoW) (<a href="https://op.europa.eu/en/publication-detail/-/publication/beb56eaa-9fc0-11ea-9d2d-01aa75ed71a1/language-.en/format-PDF/source-130854906">https://op.europa.eu/en/publication-detail/-/publication/beb56eaa-9fc0-11ea-9d2d-01aa75ed71a1/language-.en/format-PDF/source-130854906</a>).</li> <li>• Scoping possible further EU-wide end-of-waste and by-product criteria (<a href="https://publications.jrc.ec.europa.eu/repository/handle/JRC128647">https://publications.jrc.ec.europa.eu/repository/handle/JRC128647</a>).</li> <li>• Eurometaux input to the Waste Shipments Regulation: <ul style="list-style-type: none"> <li>○ <a href="https://www.eurometaux.eu/media/1910/wsr-evaluation_public-consultation_eurometaux-answer_2018-04-27.pdf">https://www.eurometaux.eu/media/1910/wsr-evaluation_public-consultation_eurometaux-answer_2018-04-27.pdf</a></li> <li>○ <a href="https://www.eurometaux.eu/media/o1hp1ukd/wsr_eurometaux_comments-on-the-legislative-proposal_2022-01-17_final.pdf">https://www.eurometaux.eu/media/o1hp1ukd/wsr_eurometaux_comments-on-the-legislative-proposal_2022-01-17_final.pdf</a></li> </ul> </li> <li>• Eurometaux input to the Chemicals, Products, Waste interface <a href="https://www.eurometaux.eu/media/1634/eurometaux-response-chemicals-products-waste-interface-stakeholder-c.pdf">https://www.eurometaux.eu/media/1634/eurometaux-response-chemicals-products-waste-interface-stakeholder-c.pdf</a></li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>It's an issue across the EU.</p> <p>The example listed in 1a compare Austria / Belgium and Denmark (e-scrap); Austria / Belgium and the Netherlands (anode slimes); Belgium and the Netherlands as well as France (final slags).</p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision	<ol style="list-style-type: none"> <li>1) Waste Framework Directive</li> <li>2) Waste Shipment Regulation</li> <li>3) EU List of Waste</li> <li>4) REACH &amp; CLP regulation</li> </ol>

in a specific EU or national law or rule)	
c. Type of problem*	Insufficient enforcement of legislation by Member State or Commission; Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;
d. Relevant ecosystem*	Energy-Intensive Industries (EII)
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>Eurometaux has already highlighted the problem to the European Commission on the numerous occasions where the stakeholders' input was requested. For example:</p> <ul style="list-style-type: none"> <li>• Waste Shipment Regulation review process (both at the preparatory stage and during the on-going review. From 2018 onwards)</li> <li>• Stakeholders' consultation on the interface between chemicals-products-waste policy (2017)</li> <li>• Targeted stakeholders' consultation on the on the End-of-Waste and By-Products (2020 - 2021)</li> </ul>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>To create the level playing field across the EU waste acquis for the European recyclers and to allow for achieving a true EU Circular Economy we need to:</p> <ul style="list-style-type: none"> <li>• Harmonise waste classification (hazardous/non-hazardous, waste/by-products) across Member States to facilitate intra-EU shipments (e.g. for waste batteries, electronic scrap, anode slimes or slags).</li> <li>• Introduce a fast-track procedure for transporting waste shipments to pre-consented recyclers, to encourage high-quality recycling.</li> <li>• Introduce new relevant waste codes under the EU Waste List and make sure that they are transposed at the national level.</li> </ul> <p>In addition to that a coherent approach should be applied in connection to the other parts of the EU legislation on chemicals, products design, critical raw materials and trade policy.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Eurometaux
b. Contact details for follow-up purposes (in company or association)	<p>Name: Kamia SLUPEK  Position: Sustainability Director  Email: <a href="mailto:slupek@eurometaux.be">slupek@eurometaux.be</a>  Phone or mobile number: +32 (0)2 775 63 25</p>
c. Type of organisation (please select answer by highlighting in bold)	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain	No

anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.2.2.6 France Chimie

<b>BARRIER: Current end-of-waste procedure</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Current End of Waste (EoW) procedure, coming from Art.6 of the Waste Framework Directive, hampers importations and exportations of product from recycling.</p> <p>The problem is that a product which has ceased to be a waste at a national level becomes a waste again when crossing a border. In other words, residue is considered as “waste” or “product” differently in different Member States (where there is a national regulation of EoW).</p> <p>So, if a “product” status is necessary, the EoW procedure only helps for national markets. In an EU market, you can’t cross a border with a product if it has ceased to be a waste at a national level.</p> <p>To give an example, plastic wastes recycling plant producing a pyrolysis oil which ceases to be a waste in France cannot export its pyrolysis oil (as a product) to other Member States. But oils and raw materials for steam crackers are driven by international market.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Example of France given in 1a, but in theory applies to every Member State in the EU
b. Legislation, legal instrument, standard or technical	Par.3 of Art.6 of the WFD only says that Member States may establish criteria to certain types of waste, where criteria have not



requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	been set at Union level. This leads to fragmented standards across the EU.
c. Type of problem*	Lack of mutual recognition Business/Competitiveness impacted by highly complex and/or unclear regulatory requirements Administrative burden
d. Relevant ecosystem*	Other: manufacturing industry
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, from France Chimie to the FR ministry and from Cefic to European Commission: position papers, meetings, etc.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Mutual recognition between MS of national EoW Or, better: Revision of the WFD by adding a par.6 to Art.6 saying that a product which has ceased to be a waste at a national level remains such a product, even when crossing a border
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	France Chimie
b. Contact details for follow-up purposes (in company or association)	Name: Rémi Leturcq Position: EU Policy Officer Email: <a href="mailto:rleturcq@francechimie.fr">rleturcq@francechimie.fr</a> Phone or mobile number: +32 485 88 78 48
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No need
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No need

#### 1.2.2.7 Hydrovolt

<b>BARRIER: Applying for notification for the transport of hazardous waste</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	When applying for notification of the transport of hazardous waste, approval is required from the sending country, the receiving country, and all transit countries. These countries may sometimes demand different types of information such as different contract templates (Finland), registration in a portal (Belgium) or no feedback at all as a transit country (Netherlands) and have varying processing times before they handle the application. Waste is also classified differently between countries. In Poland, waste EV batteries are classified as 160605, but in Germany as

	<p>160121*. This creates a conflict when something is classified as greenlisted waste in one country but as hazardous waste in another.</p> <p>The cost of the process also differs between countries, and when applying for the first time, it is challenging to predict the upfront cost. Sweden charges approximately 946 EUR, Finland 2200 EUR.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Due to lengthy processing times and unpredictable costs, this creates both a trade barrier and potential environmental consequences when hazardous waste is stored longer than necessary. Navigating the regulations is also challenging when waste is classified differently, increasing the risk of inadvertent violations.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	From our experience; France, Germany, Sweden, Finland, Norway, Belgium, Poland, Netherlands
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	- Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste
c. Type of problem*	
d. Relevant ecosystem*	
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	No
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	What is needed is a clearer and uniform regulatory framework within the EU where EWC codes are standardized. Additionally, there should be a common data system that clearly specifies the required documentation and information. It should also be possible to track the process electronically and receive information about the expected processing time. Currently, there is uncertainty about how long the process will take, which could be addressed by introducing a clear expected processing time.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Hydrovolt AS
b. Contact details for follow-up purposes (in company or association)	<p>Name: Camilla Olsson</p> <p>Position: Logistics manager</p> <p>Email: Camilla.olsson@hydrovolt.com</p> <p>Phone or mobile number: +47 913 72 398</p>

c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.2.2.8 IGMNIR

BARRIER: waste classification / shipments	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	1. inconsistencies in waste classification between the European catalogue and the Basel Convention 2. differences in the approach of different States to the issue of international waste shipments, 3. too restrictive regulations in this area, e.g. in Poland the penalty of imprisonment for up to 12 years for considering a shipment illegal, which may result from the lack of precise regulations or differences in interpretation 4. lack of possibility of free circulation of certain metal waste, the components of which do not have hazardous properties - lack of correlation between properties of substances and classification, e.g. pure metals in dispersed form or metallic antimony do not have hazardous properties but are not listed in the green list
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	The lack of consistency in the approach to regulations or excessive restrictiveness causes a disproportionate increase in the risk of doing business in the EU and makes a given sector much less competitive in relation to similar companies operating in other regions of the world or even in other European countries where more favorable interpretations of regulations are applied or less strict regulations.
c. Any extra evidence (e.g., links to publications or background materials, from your organisation or external sources).	Substance classification: <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L:2008:353:FULL">https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L:2008:353:FULL</a>  Waste classification: <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:21993A0216(02)#d1e32-22-1">https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:21993A0216(02)#d1e32-22-1</a> <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32006R1013&amp;qid=1699286426611">https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32006R1013&amp;qid=1699286426611</a> <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018XC0409(01)">https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018XC0409(01)</a>
2. Barrier categorisation	
a. Country or countries where barrier	EU, PL

occurs (feel free to refer to external sources where the Member States are mentioned).	
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>As in point 1.c.</p> <p>Penal provisions in Poland - Penal Code, Chapter XXII Art. 183 § 5</p> <p>Classification of some waste streams as hazardous even though their components do not exhibit hazardous properties in accordance with the CLP Regulation No. 1272/2008. Additionally, there is no consistency in the European Waste Catalog with the Classification in Regulation 1013/2006. E.g. metals: in accordance with Commission Notice of Technical Guidelines on the Classification of Waste No. 2018/C 124/01 point 1.4.6. Metals and alloys, waste in metallic form are not considered hazardous, although some of them are listed as hazardous in the regulations on transboundary movements of waste (Regulation 1013/2006) under the code A1010.</p>
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;
d. Relevant ecosystem*	Health, Mobility-Transport-Automotive
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The problem requires action at EU level.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Correlation of waste classification, creation of a coherent classification system that will be constantly updated based on the classification of substances (CLP).
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	IGNMIR
b. Contact details for	<p>Name: Kazimierz Poznański</p> <p>Position: President</p>

follow-up purposes (in company or association)	Email: <a href="mailto:kpoznanski@igmnir.pl">kpoznanski@igmnir.pl</a> Phone or mobile number: 604-167-400
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.2.2.9 Michelin

BARRIER: Lack of EU-wide End-of-Waste criteria for End-of-Life Tyres derived material	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>A key lever of the circular economy is keeping products and materials in circulation for as long as technically and economically feasible, contributing to decreasing both CO2 emissions, the reliance on natural resources and their extraction, while promoting industrial growth opportunities. Currently, End-of-Life Tyres (ELTs) can be <b>transformed into high-quality secondary raw materials via either mechanical or chemical recycling processes</b>. These materials can be used in a broad spectrum of applications, including the manufacturing of tyres and rubber goods.</p> <p>However, as ELTs are waste, any material recovered from ELTs is deemed to be waste in most European countries, given the lack of national End-of-Waste (EoW) criteria. The <b>waste status of ELT-derived materials creates a set of administrative and financial burdens</b> including specific requirements for transportation, particularly for cross-border shipments. In addition, the use of such materials in manufacturing as waste can only be handled by industrial site holding a waste permit. This <b>prevents the use of ELT-derived material across value chains as secondary raw material, with a negative impact on the circularity of the tyre industry</b>.</p>
b. Describe the negative impact on your company and potentially your sector or the	<ul style="list-style-type: none"> <li>In 2017, the Michelin Group acquired Lehigh Technologies, specialized in the <b>production of rubber micropowders (MRPs)</b> obtained by a cryogenic micronization process. This technology can transform rubber from ELTs into materials for new tyres and other products, reducing the amount of virgin raw materials initially needed,</li> </ul>

economy. Please provide facts & figures.	<p>such as elastomers and fillers from oil- and rubber-based sources. Following this, the Michelin Group built a new MRP production unit located in Poland, which is scheduled to start in early 2024 to supply Michelin tyre manufacturing factories throughout Europe. These micropowders have ceased to be waste in Poland and are REACH/CLP compliant, according to a decision taken on a case-by-case basis by the competent authority. However, differences among EoW criteria for rubber granulates and powders between European countries (including their total lack) can hamper the transportation and trade of Lehigh Technologies' MRP across national borders and constitute a barrier for adoption by customers.</p> <ul style="list-style-type: none"> <li>In 2020, the Michelin Group also took a 20% stake in the Swedish company Enviro, which currently produces and markets <b>recycled carbon black (rCB)</b> from the recycling of ELT tyres. rCB has been phased out of waste status in Sweden and is REACH/CLP compliant, according to a decision taken on a case-by-case basis by the competent authority. However, the acceptance and the use of rCB as product via the establishment of EoW criteria in other Member States is currently far from being obtained.</li> </ul> <p>The presence of national EoW criteria in certain Member States vis-à-vis the absence of such criteria in most countries leads to a situation of both regulatory uncertainty and complexity <b>for the whole supply chain</b>. The current situation is detrimental and is <b>slowing down the implementation of Michelin's circular economy industrial projects</b> (see also the following point 2.a.).</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<ul style="list-style-type: none"> <li>Scoping possible further EU-wide end-of-waste and by-product criteria (<a href="https://publications.jrc.ec.europa.eu/repository/handle/JRC128647">https://publications.jrc.ec.europa.eu/repository/handle/JRC128647</a>).</li> <li>Environmental and economic assessment of plastic waste recycling (<a href="https://publications.jrc.ec.europa.eu/repository/handle/JRC132067">https://publications.jrc.ec.europa.eu/repository/handle/JRC132067</a>).</li> <li>Study to assess Member States practices on by-product (BP) and end-of waste (EoW) (<a href="https://op.europa.eu/en/publication-detail/-/publication/beb56eaa-9fc0-11ea-9d2d-01aa75ed71a1/language-en/format-PDF/source-130854906">https://op.europa.eu/en/publication-detail/-/publication/beb56eaa-9fc0-11ea-9d2d-01aa75ed71a1/language-en/format-PDF/source-130854906</a>).</li> <li>ETRMA, key topics-circular economy: <a href="https://www.etrma.org/key-topics/circular-economy/">https://www.etrma.org/key-topics/circular-economy/</a>.</li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>The EU regulatory framework on waste provides that materials recovered from waste cease to be waste through the compliance with regulatory defined criteria, either at national or at EU level. While this framework ensures a high standard of environmental and human health protection, it acts in reverse a barrier to circularity, because of the lack engagement of regulatory authorities in the definition of EoW criteria (either at national and at EU level).</p> <p>Since the 2018 revision of the Waste Framework Directive, the initiative on the definition of EoW criteria lies on Member States and currently, there are only four waste streams for which EU harmonized criteria exist (see following point b.). In 2022 the EU Commission has prioritized two additional streams – plastics and textile – out of 39 sectors assessed by the Joint Research Center (JRC), with a timeline extending to 2024 to complete the work. In</p>



	<p>parallel, <b>no initiative has been taken so far</b> on recycled rubber derived from ELTs (the third in the ranking, following plastics and textile).</p> <p>When it comes to ELT waste stream, <b>only four Member States</b> – Italy, Portugal, Spain, the Netherlands – and the UK <b>have introduced national criteria in place for ELT derived material</b> (1). This leads to a redoubtably complex situation where the whole supply chain is confronted with discrepancies in the implementation of EoW criteria at Members States level, (i.e., countries where EoW criteria are already in place or not at all). The only viable solution to facilitate and support any circular economy industrial project is setting out EU-wide EoW criteria for the tyre industry sector: a necessary step to fully enable the adoption of ELT-derived material across value chains.</p> <p>(1) EoW criteria for rubber granulates and powders obtained from the mechanical recycling of ELT, according to the criteria set out in the Waste Framework Directive.</p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>Article 6 of the Waste Framework Directive (2008/98/EC and subsequent amendments) sets out four requirements for Member States for the establishment of EoW criteria. Their implementation varies significantly across EU Member States and <b>currently, EU-wide EoW criteria only exist for iron aluminum and steel scraps, copper scraps, and glass cullets</b> (2).</p> <p>In March 2022, the JRC released the report <i>Scoping possible further EU-wide EoW and by-product criteria</i>, according to which it has recognized the need of developing EoW criteria for recycled rubber derived from ELTs. However, as already highlighted, the work for developing harmonized criteria for the tyre sector – a urgency stated also by the Critical Raw Materials Act's Impact Assessment – has not started yet, leaving internal market's actors with no certainty on the timeframe and solutions towards this cross-border issue.</p> <p>Developing a secondary raw material market is not only beneficial for circular economy <i>per se</i>, by <b>enabling recyclables to re-enter the production value chain, but it also reduces dependency on primary resources</b>, by contributing to Europe's <b>strategy autonomy</b> – i.e., reduce Europe's dependency on third countries, diversifying supply, etc. – and <b>resilience</b>.</p> <p>Against this, the European industry for recycled rubber derived from ELT has proved to be robust and dynamic:</p> <ul style="list-style-type: none"> <li>- The ELT collection in Europe is very high (95% in 2019) and material recovery of ELT has increased from 10% to up to 60% annually in Europe over the last 25 years, making the</li> <li>- ELT recycling industry able to provide secondary raw materials of sufficient quantity and quality to meet Europe's demand, which is one of the key requirements of Article 6 of the Waste Framework Directive. More info: <a href="https://environment.ec.europa.eu/topics/waste-and-recycling/waste-framework-directive_en#end-of-waste-criteria">https://environment.ec.europa.eu/topics/waste-and-recycling/waste-framework-directive_en#end-of-waste-criteria</a>.</li> </ul>
c. Type of problem*	<p>(i) <b>Lack of implementation of the Circular Economy Action Plans' objectives.</b></p> <p>The EU Commission, in its Communication on the <i>"implementation of the circular economy package: options to address the interface between chemical, product and waste legislation"</i> (3) stated that EU rules on EoW are</p>

	<p>one of “the four most critical issues identified in the way the legislation on chemicals, products and waste work together and how these are hampering a circular economy development”. One of the issues reported by the Communication is that these rules are “not fully harmonised, making it uncertain how waste becomes a new material and product”.</p> <p><b>(ii) Lack of harmonized criteria across Europe against the recent JRC scoping study exercise and related initiatives, according to the Waste Framework Directive.</b></p> <p>The Waste Framework Directive (2008/98/EC), as last amended, sets a legal basis for the monitoring and the possible development of EU-wide EoW criteria: “the Commission shall monitor the development of national end-of-waste criteria in Member States, and assess the need to develop Union-wide criteria on this basis. To that end, and where appropriate, the Commission shall adopt implementing acts in order to establish detailed criteria on the uniform application of the conditions laid down in paragraph 1 to certain types of waste” (Article 6(2), End-of-waste status).</p> <p>(2) <a href="https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52018DC0032">https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52018DC0032</a>.</p>
d. Relevant ecosystem*	Environment / Circular Economy.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The lack of EU-wide EoW criteria for ELT derived secondary materials has already been raised by the European Tyre & Rubber Manufacturers Association (ETRMA) at EU level. As Michelin, we are also present in several Member States, where this regulatory need has been shared with the local authorities in charge.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Michelin has been an active advocate and practitioner of circular economy, by adopting a business model which aims at reducing material use through eco-design; reusing practices such as retreading, regrooving and repairing; recycling ELT, and developing renewables.</p> <p>Promoting material recycling and the use of ELT-derived material is therefore paramount for Europe to (i) <b>achieve a true circular economy</b> by integrating tyre-derived material into broader value chains, to increasing the level playing field between secondary and virgin material and support trade across EU borders upon fair conditions; (ii) <b>help fostering its secondary raw material market and strategic autonomy</b>.</p> <p>That is why speeding up the technical and regulatory work on the definition of such criteria, with a clear schedule for implementation, is crucial and <b>shall be priority for the next EU Commission’s circular economy agenda</b>.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Michelin
b. Contact details for follow-up purposes (in company or association)	<p>Name : Francesca Nante</p> <p>Position : Corporate EU Public Affairs Manager</p> <p>Email: francesca.nante@michelin.com</p> <p>Phone or mobile number: +32 472 77 22 39</p>

c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.2.2.10 Orange

<b>BARRIER: Circular economy for telecommunication network equipment</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>In March 2020, the European Commission adopted the <a href="#">new circular economy action plan</a>, an important block to the European Green Deal, and a prerequisite to the EU's 2050 climate neutrality target.</p> <p>The ICT sector is one of the main focuses of this action plan because of its high potential for circularity. Current legislation in the Single Market focuses on the mass market but does not enable the transfer of used Electronic and Electrical Equipment (EEE) from one country to another between two affiliates from a company, or two separate companies.</p> <p>For example, when Orange wishes to circulate its network equipment from Orange Romania to Orange Poland it results in a heavy series of tests and requirements to fulfil.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The complexity of the circular economy rules for managing the WEEE at the EU level creates an important administrative burden that complicates the process and hinders the implementation of circular economy practices within companies. This affects willing companies' environmental performances and the ability to leverage a circular economy model's benefit fully.</p> <p>Another consequence of this non-adapted framework is that it does not incentivise the creation of a market for second-hand network equipment at the EU scale.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<ul style="list-style-type: none"> <li>- <a href="#">GSMA report</a> on circularity and network equipment</li> <li>- Orange CEO C Heydemann <a href="#">edito on circular economy</a> published in February 2023</li> </ul>

	<ul style="list-style-type: none"> <li>- <a href="#">Orange “OSCAR”</a> program that is Orange Sustainable and Circular Ambition for Recertification platform, whose objective is to allow network equipment circularity where possible</li> <li>- EP report on <a href="#">Waste in EU statistics</a></li> <li>- <a href="#">position paper WEEE : WEEE evaluation Orange position paper</a></li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	This situation is due to the WEEE Directive, also it occurs within the EU countries, and in our cases every time we want to move our EEE from France, Belgium, Poland, Romania, Luxemburg, Spain and Slovakia.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<b>Directive 2012/19/UE</b> on waste electrical and electronic equipment (WEEE), and its annex 6
c. Type of problem*	9
d. Relevant ecosystem*	Digital
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes. We already reported this barrier to the Commission notably in the recent EC consultation on the WEEE Directive assessment.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>In the context of the WEEE directive review, it is essential to ensure cross-border transfer conditions for EEE that enable network equipment circular potential and facilitate the development of a secondary market for network equipment. Furthermore, adapting the WEEE transfer rules could enable telecoms to expand such initiatives and reduce an essential part of the carbon footprint of their network equipment.</p> <p>Indeed, the shipment of dismantled EEE between affiliates of a same company must be mandatorily provisioned under derogations of Appendix 6 of the directive on waste electrical and electronic equipment (WEEE). This requires fulfilling four prerequisites for any transfer of EEE; otherwise, the transfer is qualified as illegal waste transportation:</p> <ol style="list-style-type: none"> <li>1. All used EEE needs to be packed appropriately and not transported in bulk mode;</li> <li>2. Obligation to ensure traceability of all flows, including Serial Numbers, through Electronic Data Interchange;</li> <li>3. Produce evidence of good functioning for each dismantled but still functional EEE, i.e. an individual checking per unit rather than sampling in case of control by Customs Authorities;</li> <li>4. A “competent authority” needs to be appointed as responsible for the global transfer process.</li> </ol>

	<p>If operators do not apply these highly demanding conditions, then the shipping or the transfer between our affiliates shall be de facto qualified as illegal transportation of waste under the specific legislation for waste.</p> <p>A solution brought by the WEEE directive review could be to send the EEE without any test, then the receiver will test it and send it back if it is WEEE.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Orange
b. Contact details for follow-up purposes (in company or association)	Pascal Rogard ; <a href="mailto:pascal.rogard@orange.com">pascal.rogard@orange.com</a>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.2.2.11 Solvay

<b>BARRIER: Divergent RDF importing arrangements</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	At Solvay, we have an energy transition programme for producing steam that, among others, replaces coal with industrial waste, known as Refuse-Derived Fuel (RDF). There are different arrangements for importing RDF across the EU: for example, while Germany offers a competitive steam price and sufficient volume of RDF, France says RDF cannot travel more than 300km, effectively blocking imports. In Bulgaria, availability of sufficient volume of RDF is an issue and regulation limits imports to max. 50%. Indeed, although the use of RDF is actively stimulated by Bulgaria, including via imports (to improve local quality), they put a limit in order to prevent waste dumping due to some abuses linked to the actual quality of some imported RDF content.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	These various local situations described in 1a may either raise the cost for energy recovery plants that use these waste streams or just simply make it impossible. This severely limits the scope for private sector involvement and in turn prevents countries like Spain, where the underlying RDF market is still nascent, from advancing in its energy transition away from fossil fuels.

c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	According to Eurostat, 5.2 tonnes of waste are generated per EU inhabitant each year. 38.5% of that waste goes to landfill and 37.9% gets recycled. Numbers that can certainly be improved, if the EU can advance the concept of the circular economy within the bloc. Data: <u>Eurostat</u> .
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	In our experience, the barrier occurs in Germany, France, and Bulgaria. But the problem is much broader and would apply to the whole of the EU.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	
c. Type of problem*	
d. Relevant ecosystem*	Retail Energy-intensive industries
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, in the ERT's 2021 flagship publication on the Single Market ( <a href="#">here</a> ). Since then, policymakers have <b>not made progress</b> on addressing the issue.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	A European legal framework for waste management would need to replace the current patchwork of national waste transport rules. This would not only reduce landfills in the short term but could also advance entrepreneurship in circular economy models in the medium to long term. In time, expanded availability of RDF would ultimately contribute to the selection of clean energy options that can help the EU's efforts to become a carbon neutral continent by 2050.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Solvay
b. Contact details for follow-up purposes (in company or association)	Name: Aimée Klutke Position: Government Affairs Manager Email: aimee.klutke@solvay.com Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published)	



in the public domain)? If yes, why?	
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### 1.2.2.12 Syensqo

BARRIER: classification and shipment of (hazardous) waste	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>When dealing with EU regulations concerning battery recycling, we have come to realize that the current EU legislative framework does not yet provide sufficient guidance on the rules governing the classification and shipment of the materials in the battery recycling loop.</p> <p>Currently, it is unclear whether the product or (hazardous) waste classification is applicable to end-of-life lithium-ion batteries as well as intermediates of recycling such as black mass and battery, module and cell waste. The views on the classification of these materials differ between various companies and EU Member States, which creates significant uncertainty for European recyclers across Europe. We are convinced that the end-of-life lithium-ion batteries as well as intermediates of recycling such as black mass do not fulfil the end-of-waste criteria laid down in the Article 6 of the Waste Framework Directive and therefore must be classified as “waste”.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
2. Barrier categorisation	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	When it comes to the classification of black mass, there is currently a fragmented approach. Some member states define black mass as a product while others define it as hazardous waste.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Article 6 of the Waste Framework Directive
c. Type of problem*	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</p> <p>Other: lack of EU legislation.</p>
d. Relevant ecosystem*	Batteries

e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Current revision of the waste codes
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>We therefore see an urgent need to modify and harmonize the EU waste legislation by clearly classifying the end-of-life lithium-ion batteries and intermediates of recycling (i.e., black mass) as “hazardous waste”. This would help:</p> <ul style="list-style-type: none"> <li>• Reduce EU dependency on imports of virgin and recycled critical raw materials;</li> <li>• Uphold high EU standards on safe, sustainable and ecological recycling as well as create a level playing field for EU recyclers;</li> <li>• Secure supply for circular and sustainable EU battery value chain.</li> </ul> <p>Furthermore, based on the assessment of the hazard-bearing chemical properties of their components, some of the materials such as black mass should be classified as “hazardous waste” waste since they fulfill the classification criteria such as Cobalt oxide of Ni hydroxide content more than 0,1% leads to Carcinogenic 1A&amp;B.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Solvay
b. Contact details for follow-up purposes (in company or association)	Name: Aimée Klutke Position: Government Affairs Manager Email: <a href="mailto:aimee.klutke@syensqo.com">aimee.klutke@syensqo.com</a> Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	no
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	no

#### 1.2.2.13 Umicore

<b>BARRIER: Removing the barriers of intra-EU shipments of (critical raw materials containing) waste destined for recovery</b>	
<b>1. Barrier description</b>	
a. Please describe, concretely, the cross-border issue hampering the Single Market.	<p>Shipping waste within the EU is still subject to a lot of different national regulations, although there is a EU Waste Shipment Regulation (that is currently being revised).</p> <p>The EU Waste Shipment Regulation 1013/2006 (EU WSR) is a transposition of the <a href="#">Basel Convention</a>, the global framework for transboundary waste shipments. Shipments of so-called</p>

	<p>hazardous waste need to must be preceded by a notification and approval of the state of export, transit and destination.</p> <p>Unfortunately different rules apply within the EU such as but not limited to the required details of the content of waste contracts that need to be attached to a notification, a different calculation of the financial guarantee accompanying a waste shipment, a different national assessment on whether a notification is complete, different timings to ask additional information, no flexibility on “clerical errors”, English not being accepted as language for notifications.</p>
b. Describe the negative impact on a company or the economy. Please provide facts & figures.	<p>The European Union wants with the Critical Raw Materials Act to recycle by 2030, 15% or more of its critical raw materials. However, current differing national regulations for shipping waste across borders could hamper this target and <b>risk that we are not recovering these strategic materials</b> from waste streams that are key in reaching our targets of the EU Green Deal.</p>
c. Any extra evidence (e.g. links to background materials, by your organisation or others).	<p>The remaining hurdles to ship waste across EU borders also create more incentives to export valuable waste outside the EU. Data from the European Council from June 2023 show that around 32.7 million tonnes are exported to non-EU countries – an increase of 75% since 2004. With the recycling benchmarks for critical raw materials there is an urgent need to finalise the single market for waste shipments, especially for critical raw materials containing waste such as WEEE, automotive catalysts, battery waste.</p> <p><a href="https://www.consilium.europa.eu/en/policies/waste-trade/">https://www.consilium.europa.eu/en/policies/waste-trade/</a></p> <p>Information video Umicore on the need to streamline waste shipment procedures:  <a href="https://www.youtube.com/watch?v=3NMW7DWjbNY">https://www.youtube.com/watch?v=3NMW7DWjbNY</a></p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs	<p>Some examples:</p> <p>In <b>Germany</b> some Bundesländer require the notification being sent by fax and translated in German and ask for specific documentation such as signatures from the shipment company, that are not required in other member states.</p> <p>Related to this, the certification of a hazardous waste transporter or collector is subject to national rules. The permit issued by a particular member state for a waste transporter (e.g. a carrier) is not always recognised by the other member states/regions due to which the carrier has to register/permit in different member states. There is no such thing as a European waste permit for the carriers. The requirements for obtaining such permit differ from one member state to another and sometimes even per region such as in <b>Belgium</b>, where the three regions have different procedures to apply for a waste transporter.</p> <p>In <b>Austria</b>, it is mandatory to organise the transportation of waste by rail or alternative means of transport and this needs to be</p>

	<p>documented as part of the required information accompanying the notification.</p> <p>In <b>Hungary</b>, the registration as a notifier for transboundary waste shipments requires different documents and such as an Environmental Customer Number (KÜJ) and Environmental Territory Number (KTJ), both subject to a VAT-registration.</p> <p>Especially for shipments in <b>transit</b> destined to a recovery facility, only a few EU member states give an automatic consent, but most member states require written consent even if the waste during this transshipment is not being unloaded from the truck or ship.</p> <p>Also, permits for <b>collectors, dealer, brokers</b> (CBD) are issued regionally/nationally and in most cases the CBD permit issued in one member state is not recognised by the other member state. It would be useful if a European permit could be issued here too.</p> <p>Related to the EU waste shipment regulation and also harmful for the intra-EU shipments of waste, is the lack of harmonisation in waste codes for the same waste products such as End of life HEV Li-ion batteries:</p> <ul style="list-style-type: none"> <li>• Germany: 16 01 21*</li> <li>• Netherlands: 20 01 33*</li> <li>• Belgium: Brussels region: 16 01 21* ; Flanders region: 16 06 05</li> </ul> <p>The discussions in the trialogues show that Member states in the Council still want a lot of control on waste shipment regulations. Although some improvements can be expected in the upcoming review of the EU WSR such as the introduction of an Electronic Data interchange for handling notifications, each member state has a lot of freedom to shape its own rules and requirements.</p> <p>A few additional barriers, or country-specific requirements that complicate waste transport (and thus go beyond the EU Waste Shipment Regulation 2024/1157):</p> <p><b>Poland – SENT Registration</b></p> <ul style="list-style-type: none"> <li>• Poland requires waste shipments to be registered in the <b>SENT system</b> (Electronic Transport Supervision System).</li> <li>• Transporters must submit notifications via the <b>PUESC platform</b>, provide geolocation data, and carry a reference number and GPS tracker.</li> <li>• Non-compliance can result in fines up to <b>100,000 PLN (~€23,000)</b><sup>3</sup>.</li> </ul> <p><b>Germany – A-Plates (A-Schild)</b></p> <ul style="list-style-type: none"> <li>• Vehicles transporting non-hazardous waste must display <b>white plates with a black “A”</b> (for <i>Abfall</i>, meaning waste).</li> <li>• These must be mounted on the front and rear of the vehicle.</li> </ul>
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	<ul style="list-style-type: none"> <li>Failure to comply can result in fines up to <b>€20,000</b>, and even higher for hazardous waste<sup>5</sup>.</li> <li>Importantly, the A-plate alone is <b>not sufficient</b>—a <b>waste transport permit</b> is also required.</li> </ul> <p><b>Hungary – Additional Licenses</b></p> <ul style="list-style-type: none"> <li>Hungary requires a <b>waste transportation license</b> issued by regional or national environmental authorities.</li> <li>The application involves detailed documentation, including environmental impact assessments and insurance.</li> <li>Fees range from <b>120,000 HUF (~€310)</b> for non-hazardous waste to <b>180,000 HUF (~€465)</b> for hazardous waste.</li> <li>Foreign companies may need Hungarian permits depending on the type of waste and transport activity.</li> </ul>
b. Legal instrument or technical requirement causing the barrier (refer to the exact name)	<p><b>EU rules:</b></p> <ul style="list-style-type: none"> <li>EU Waste Shipment Regulation: Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste</li> <li>EU list of waste : Commission Decision of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (notified under document number C(2000) 1147)</li> </ul> <p><b>National interpretation of EU rules:</b> See under section “implementation” the information provided by Member States on (differing) national practices: <a href="https://environment.ec.europa.eu/topics/waste-and-recycling/waste-shipments_en">https://environment.ec.europa.eu/topics/waste-and-recycling/waste-shipments_en</a></p> <p><b>National legislation or technical requirements:</b> permits for transporter</p>
c. Relevant ecosystem (please select answer by highlighting in <b>bold</b> )	<b>Mobility-Transport-Automotive ; Energy-intensive industries ; Raw Materials</b>
d. Type of problem (please select answer by highlighting in <b>bold</b> )	<b>difference in rules ; procedures ; enforcement, digitalisation</b>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change your suggested improvement would require. Please specify, where relevant.	<p>The EU Waste Shipment Regulation 1013/2006 (currently in trilogues) <b>needs a more far-reaching review</b> to secure the recycling and thus access to critical raw materials in the EU. Therefore intra-EU waste shipments to pre-consented facilities really need to be facilitated even more:</p> <ul style="list-style-type: none"> <li>Art. 14.9 pre-consented facilities: <ul style="list-style-type: none"> <li><b>automatic recognition of pre-consented status</b> issued by a Competent Authority in one Member State by all EU Member States.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ respect the 7-day time limit in handling notifications for shipments destined to a pre-consented facility by all EU competent authorities involved</li> <li>- Art. 8: respect <b>short timelines in notification procedure</b> <ul style="list-style-type: none"> <li>○ Art. 8.3, 8.5a and 8.5b – limit requests for additional information by the competent authority (CA): One round for requesting additional information by CAs seems enough, otherwise the process will be endless and contrary to the ambition for having simple procedures for intra-EU shipments to make sure that metal-containing waste reaches state-of-the-art European recyclers.</li> </ul> </li> <li>- Art. 9.1 –<b>stimulate tacit consent from competent authorities</b>. Current provisions on assuming tacit consent are not applied in a harmonized way across EU Member States: various fees, definition, or process. <ul style="list-style-type: none"> <li>○ In the case of transit of waste destined for recovery in a EU pre-consented facility (art. 25), competent transit authorities <b>should introduce automatic tacit consent</b>.</li> <li>○ Now the provisions are: Tacit consent by the competent authorities of dispatch and transit may be assumed if no objection is lodged within the 30-day time limit</li> </ul> </li> <li>- Art. 17- to make shipments to EU recycling facilities easier, the different criteria in article 17 (“changes in the shipment after consent”) are burdensome. <b>Re-routings in the EU should NOT be considered as an essential change</b>. The requirement to have alternative routings in an annex can be helpful but not sufficient.</li> <li>- Art. 27: <b>English</b> should be accepted as working language in WSR.</li> <li>- Art.28.4: the possibility to create contamination thresholds resulting in additional notification procedures should be removed as it risks having the opposite outcome for the environment by undermining the meaning of the green list and resulting in more aborted notifications.</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Umicore
b. Contact details for follow-up purposes (in company or association)	Name: Ruth Lambrechts Position: Director Government Affairs Email: <a href="mailto:ruth.lambrechts@eu.umicore.com">ruth.lambrechts@eu.umicore.com</a> Phone or mobile number: +32 479 383760
c. Type of organisation ( <i>please select answer by highlighting in bold</i> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	



a. Should the name of a company remain anonymous? If yes, why?	no
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	no

### 1.2.3 Chemicals

#### 1.2.3.1 Fipac

<b>BARRIER: The identification of alternatives and their proper assessments</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>When a substance (e.g. a chemical or a biocide active substance) needs to be substituted in a product, the difficulties in obtaining information on alternatives (e.g. through public consultations) are acknowledged, as well as the challenge with the evaluation of the input received for the Competent Authorities, the Commission services and Member States. This is particularly true given the diversity of uses and the technical requirements for downstream products such as chemicals or treated articles. The search of information on alternatives can be notably driven at the European level (according to REACH, CLP or Biocide Product regulations) or at the National level in the context of National actions.</p> <p>The identification of alternatives and their proper assessments is key to ensure the suitable substitutions of a substance for a specific use. The current lack of such a robust evaluation process at European level can create discriminations between industries and divergent strategies on alternatives at national levels: some alternative technologies could be put forward without any robust evaluations have been carried out. Implementing at the European level such a robust system involving any interested parties (Industry, NGOs, Academia, Member States, etc.) is then necessary and important.</p> <p>To avoid distortions as far as possible between operators substituting a substance, this is all the more important that all the existing alternatives for a specific use are inventoried and assessed at the same time, particularly in the context of the “One substance, One assessment” strategy.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Not evaluating the existing alternatives of a substance in a proper way can lead through regrettable alternatives not only to distortion between economic operators on the market but also to divergent national Health and Environmental strategies, more broadly with possibilities to diverge with the goals of the Chemical Strategy for Sustainability.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	Over the past two years, our European federation CEPE and the DUCG (Downstream Users of Chemicals Co-ordination Group) have been actively promoting a better analysis of alternatives in the context of REACH revision. This process could be translated as well in other regulations such as the Regulation on Biocide

	Products (see the document attached named named “CEPE comment following the “CA-Sept23-Doc.5.5” document discussed at the September 2023 Biocide CA meeting”).
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Potentially every Member State.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	The barrier may arise when a substance needs to be substituted, notably under Regulations (REACH, CLP, Biocide product Regulation, National measures, etc.).
c. Type of problem*	Lack of or insufficient information; Overlapping/diverging/discriminatory (EU/national) product requirements, rules, procedures or taxes, notably caused by “gold-plating” (i.e., extensive transposition of EU regulation by Member States);
d. Relevant ecosystem*	Health ; And Environment
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, the lack of a robust system has been shared at the European level and at the National level, notably through 2 workshops organized in March and April 2023 by the DUCC : <a href="https://ducc.eu/ducc-workshop-on-assessment-of-alternative-substances-in-mixtures">https://ducc.eu/ducc-workshop-on-assessment-of-alternative-substances-in-mixtures</a> This has been also shared with the French Member State.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>The suggested robust process is detailed in the CEPE attached document named “CEPE comment following the “CA-Sept23-Doc.5.5” document discussed at the September 2023 Biocide CA meeting”.</p> <p>It consists in:</p> <ol style="list-style-type: none"> <li>1) Involving ECHA Secretariat for calling to the formation of groups of experts for each relevant use of a hazardous substance to be substituted. These groups should be opened to any interested Party (Industry, NGOs, Academia, Member States...).</li> <li>2) Calling for the identification of potential alternatives.</li> <li>3) Discussing within each group the suitability of each potential candidate using a set of key criteria and using a template, and reports its findings to the ECHA RAC and SEAC Committees. In case of confidentiality, ECHA Secretariat only receives the identification of the candidate alternatives. The Party that has suggested that candidate alternative completes the template while keeping its identification confidential. ECHA can contract out for detailed expertise when needed.</li> </ol>

	4) Checking by RAC and SEAC the validity of the information and sends an opinion to COM.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	FIPEC
b. Contact details for follow-up purposes (in company or association)	Name: SAUVAN Nancy Position: Product Regulatory Manager Email: nancy.sauvan@fipec.org Phone or mobile number: 0033 (0)6 83 52 49 18
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	This document can be publicly published.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

## 1.3 Digital

### 1.3.1 Spectrum allocation

#### 1.3.1.1 Deutsche Telekom

<b>BARRIER: Spectrum allocation rules for electronic communications networks</b>	
<b>Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Lack of harmonisation on the rules relating to spectrum allocation at national level. While the European Electronic Communication Code includes several new provisions aiming at developing a more common approach on spectrum allocation, this has not materialised into practice when implemented at national level. This relates notably to substantial differences between Member States on <ul style="list-style-type: none"> <li>- Availability of spectrum bands</li> <li>- Reserve prices</li> <li>- (Artificial) spectrum scarcity and auctions designs leading to excessive spectrum prices</li> <li>- Annual fees</li> <li>- Spectrum license duration</li> </ul>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	- lack of legal certainty for market players on future conditions in various member States  - additional costs depending on reserved prices and auctions processes decided by the national authority and other diverse criteria decided at national level
c. Any extra evidence (e.g. links to publications or background materials, from	<ul style="list-style-type: none"> <li>• <a href="https://www.gsma.com/spectrum/resources/best-practice-mobile-spectrum-licensing/">https://www.gsma.com/spectrum/resources/best-practice-mobile-spectrum-licensing/</a></li> <li>• <a href="https://www.gsma.com/spectrum/spectrum_resources/">https://www.gsma.com/spectrum/spectrum_resources/</a></li> </ul>

your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>All Member States Ex: See differences</p> <ul style="list-style-type: none"> <li>- in spectrum license duration between Spain (40y) and many other MS like France (15y)</li> <li>- in spectrum fees</li> <li>- EMF rules in Belgium, Italy or Greece vs other MS</li> <li>- In spectrum award: no 5G band allocated yet in Poland while it was done back in 2019 in Germany and even before in Spain</li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Issue relates mainly to the implementation of the EEECC chapter on spectrum (Directive 2018/1972 dated 11 December 2018 – articles 35 and next, as well as articles 42 and next) with too much discretion given to Member States, no sufficient binding peer review at EU level
c. Type of problem*	Insufficient enforcement of legislation by Member State or Commission; Issues around authorisations/licences/permit requirements, or other document requirements
d. Relevant ecosystem*	Digital – telecommunications
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>Yes – to Member States and to EC: various CEOs letters notably + answer to EC exploratory consultation on the future of the electronic communications sector and its infrastructure</p> <p><a href="https://digital-strategy.ec.europa.eu/en/library/results-exploratory-consultation-future-electronic-communications-sector-and-its-infrastructure">https://digital-strategy.ec.europa.eu/en/library/results-exploratory-consultation-future-electronic-communications-sector-and-its-infrastructure</a></p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Less Member State discretion for implementation at national level.</p> <p>Currently, there is a peer review among the NRAs (RSPG instrument), but this is neither done ahead of spectrum award procedures nor is it binding.</p> <p>From our point of view, the NRA peers should review upcoming awards in advance, and the outcome of the review should be binding. This should help to avoid outlier auction designs, e.g., over-favoring a certain party.</p> <p>Compulsory peer review should be required to take comments on board and still provide the necessary flexibility to cater for national specifics in an efficient way. This would be a very useful instrument to avoid outliers such as extreme reserve prices, artificial scarcity, unjustified reservations/caps etc.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Deutsche Telekom AG

b. Contact details for follow-up purposes (in company or association)	Name: Franca Schraa Position: Public and Regulatory Affairs Manager Email: Franca.Schraa@telekom.de Phone or mobile number: +49 151 70595830
c. Type of organisation (please select answer by highlighting in bold)	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

### 1.3.1.2 Nokia

<b>BARRIER: Divergent 5G rollout</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>For 5G, Europe identified the pioneer bands 700 MHz in the low band range and 3400-3800 MHz in the mid band range, with CEPT (European Conference of Postal and Telecommunications Administrations) providing timely technical harmonization. Further, the EU set ambitious goals to make that spectrum available to the market by the end of 2020.</p> <p>However, the European 5G observatory – which monitors 5G market developments and preparatory actions taken by industry stakeholders and Member States – found that only Finland assigned and made available 100% of both pioneer bands, and including high band spectrum in 26GHz, by the end of 2020, while, seven European Member States had not yet assigned any 5G spectrum.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Data consumption is predicted to grow by a factor of 3 from 2022-2027. In order to address this growth and also to minimize the ecological footprint, more spectrum to existing site infrastructure is required. In addition, early access to affordable harmonized spectrum is crucial for investment into mobile network performance and capacity.</p> <p>If the current divergent national approaches to spectrum policy go unaddressed, also towards the upcoming 6G technology, the EU's economy and society won't be able to timely exploit new innovations promised by the newest wireless connectivity technologies that will be vital for digital and green transitions.</p> <p>To specify, looking ahead, 6G will require additional spectrum resources. In the low band range, 470-694 MHz provides options. In the mid band range, 6435-7125 MHz and bands between 7 and 15 GHz need to be considered in order to allow Europe to further grow mobile services to the benefits of consumers and businesses.</p>

c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	5G observatory reports from the EU Commission ( <a href="#">Observatory Reports – 5G Observatory</a> )
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>As per 5G observatory reports, the spectrum assignments progress within European countries (<a href="#">Observatory Reports – 5G Observatory</a>)</p> <p>Low-band and mid-band spectrum were assigned in respectively 23 and 25 out of 27 Member States. Only 10 out of 27 Member states assigned high-band 5G spectrum. Poland did not assign any 5G spectrum for now.</p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	The European Commission's 5G Action Plan from 2016 set clear targets to the EU Member States to make these bands available by the end of 2020. But many member states did not follow through since spectrum is currently a national competence.
c. Type of problem*	Insufficient cooperation or communication between national administrations; Insufficient enforcement of legislation by Member State or Commission; lack of Union competence
d. Relevant ecosystem*	Digital
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, at EU level and including in the Radio Spectrum Policy Group (RSPG). RSPG attempts coordination, with some positive results but this is not sufficient.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>More coordination among Member States on spectrum assignments and assignment conditions and <b>better enforcement</b>, supported by the European Commission.</p> <p>Member states should be encouraged to further improve cooperation with the EU and CEPT to ensure additional spectrum is more timely available across the EU. We hope the newly announced Digital Network Act initiative will address those issues.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Nokia
b. Contact details for follow-up purposes (in company or association)	<p>Name: Marc Vancoppenolle</p> <p>Position: VP, Government Affairs International</p> <p>Email: marc.vancoppenolle@nokia.com</p> <p>Phone or mobile number: +32479790278</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	



a. Should the name of a company remain anonymous? If yes, why?	Ok to publish
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	Ok to publish

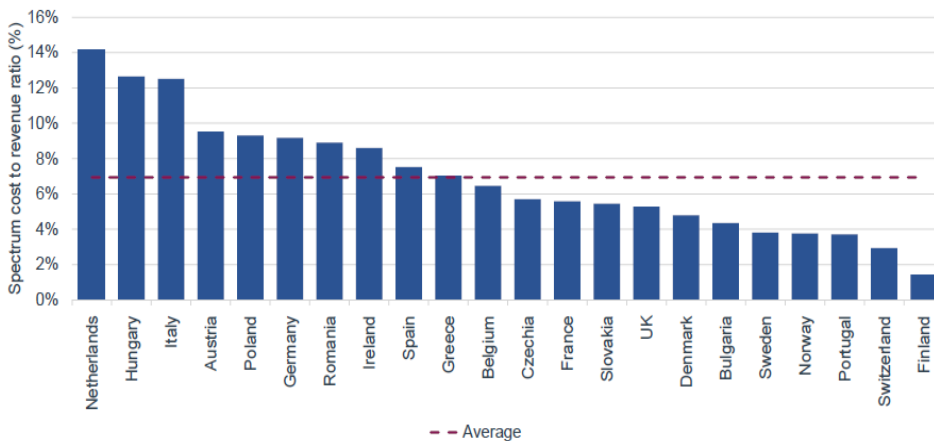
### 1.3.1.3 Orange

<b>BARRIER: Spectrum allocation rules for electronic communications networks</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Lack of harmonisation on the rules relating to spectrum allocation at national level. While the European Electronic Communication Code includes several new provisions aiming at developing a more common approach on spectrum allocation, this has not materialised into practice when implemented at national level. This relates notably to substantial differences between Member States on</p> <ul style="list-style-type: none"> <li>- Award timing</li> <li>- Reserved prices</li> <li>- Spectrum fees</li> <li>- Spectrum license duration</li> </ul> <p>Also on spectrum, we can observe a very fragmented situation across the EU, or even within a single Member State, on the rules relating to Electromagnetic Fields with very diverse levels applied. It means that similar networks face different limit on radio emissions at base stations without justification.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<ul style="list-style-type: none"> <li>- lack of legal certainty for market players on future conditions in various member States</li> <li>- no possibility to launch similar offers at same time due to timing differences in spectrum allocation</li> <li>- additional costs depending on reserved prices and auctions processes decided by the national authority and other diverse criteria decided at national level</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<ul style="list-style-type: none"> <li>- see recent <a href="#">summary report</a> of the EC on the consultation on the future of connectivity</li> <li>- <a href="#">GSMA report</a> on spectrum best practices</li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>All Member States Ex: See differences</p> <ul style="list-style-type: none"> <li>- in spectrum license duration between Spain (40y) and many other MS like France (15y)</li> <li>- in spectrum fees</li> <li>- EMF rules in Belgium, Italy or Greece vs other MS</li> <li>- In spectrum award: 5G band allocated in October 2023 in Poland while it was done back in 2019 in Germany and even before in Spain</li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the	Issue relates mainly to the implementation of the EEECC chapter on spectrum (Directive 2018/1972 dated 11 December 2018 – articles 35 and next, as well as articles 42 and next) with too

barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	much leeway given to national authorities, no sufficient binding peer review or harmonisation at EU level
c. Type of problem*	Overlapping/diverging/discriminatory (EU/national) product requirements, rules, procedures or taxes, notably caused by “gold-plating” (i.e., extensive transposition of EU regulation by Member States).
d. Relevant ecosystem*	Digital – telecommunications
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes – through various CEOs letters notably + answer to EC consultation on the future of connectivity
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Less leeway for implementation at national level
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Orange
b. Contact details for follow-up purposes (in company or association)	Pascal Rogard ; pascal.rogard@orange.com
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.3.1.4 Telefonica

<b>BARRIER: Divergent approach to assignment of spectrum for mobile broadband</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Spectrum policy is one of the key factors that influence investment in mobile networks. A high-quality mobile network is essential for building a future-ready technological environment, and this depends on access to sufficient spectrum.</p> <p>However, regulatory barriers are evident in a heterogeneous and suboptimal spectrum licensing framework. Divergence in spectrum assignment for mobile broadband, including award processes, license duration and conditions, create regulatory fragmentation that acts as a barrier. This fragmented approach risks, creating imbalances, where some Member States foster investments and innovation through best practices, while others fall behind.</p> <p>Greater certainty is needed through longer licence duration for new allocations and easier renewal of existing ones. This would support long-term network</p>

	<p>planning and deployment. In addition, spectrum auction designs should be geared towards spectrum efficiency and network deployment, over revenue maximisation. Additionally, reinforcing the process of technical harmonisation would better support pan-European services. The expectation of additional harmonised spectrum availability suitable for the deployment of mobile broadband is key to enhance the capacity of mobile networks in a sustainable manner.</p>																																														
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>Short licence durations, high spectrum fees and artificial spectrum scarcity for mobile broadband hinder investment. As a result, the size of the potential market of well-connected and tech-ready European citizens and business is reduced, harming digital services providers that wish to provide solutions covering more than one EU country.</p> <p>Lack of a consistent quality of connectivity across the EU limits the economies of scale available to developers and providers of digital services, putting the EU at a disadvantage versus other regions (see the article references in the next section for concrete estimates on the impact of spectrum policy on market outcomes).</p> <p>For individual operators, spectrum usage rights take up a very significant amount of our cash flow. The graph below extracted from a study by Aetha for Ericsson (<a href="https://www.aetha-consulting.com/aetha-consulting-european-spectrum-renewals-report.pdf">aetha-consulting-european-spectrum-renewals-report.pdf</a> <a href="https://www.ericsson.com">ericsson.com</a>) shows how on average EU operators dedicate 7% of their revenues to buy spectrum usage rights, which amounts to between 35% and 40% of yearly Capex. A sound spectrum policy could free up much of those resources and divert them to increase investment in networks.</p> <p><b>Figure 1-4: Spectrum cost to revenue ratio [Source: Aetha]</b></p>  <table border="1"> <caption>Data for Figure 1-4: Spectrum cost to revenue ratio (%)</caption> <thead> <tr> <th>Country</th> <th>Spectrum cost to revenue ratio (%)</th> </tr> </thead> <tbody> <tr><td>Netherlands</td><td>14.2</td></tr> <tr><td>Hungary</td><td>12.5</td></tr> <tr><td>Italy</td><td>12.2</td></tr> <tr><td>Austria</td><td>9.5</td></tr> <tr><td>Poland</td><td>9.2</td></tr> <tr><td>Germany</td><td>9.0</td></tr> <tr><td>Romania</td><td>8.8</td></tr> <tr><td>Ireland</td><td>8.5</td></tr> <tr><td>Spain</td><td>7.5</td></tr> <tr><td>Greece</td><td>7.0</td></tr> <tr><td>Belgium</td><td>6.5</td></tr> <tr><td>Czechia</td><td>5.8</td></tr> <tr><td>France</td><td>5.5</td></tr> <tr><td>Slovakia</td><td>5.2</td></tr> <tr><td>UK</td><td>5.0</td></tr> <tr><td>Denmark</td><td>4.8</td></tr> <tr><td>Bulgaria</td><td>4.5</td></tr> <tr><td>Sweden</td><td>3.8</td></tr> <tr><td>Norway</td><td>3.8</td></tr> <tr><td>Portugal</td><td>3.8</td></tr> <tr><td>Switzerland</td><td>3.0</td></tr> <tr><td>Finland</td><td>1.5</td></tr> </tbody> </table> <p>--- Average</p>	Country	Spectrum cost to revenue ratio (%)	Netherlands	14.2	Hungary	12.5	Italy	12.2	Austria	9.5	Poland	9.2	Germany	9.0	Romania	8.8	Ireland	8.5	Spain	7.5	Greece	7.0	Belgium	6.5	Czechia	5.8	France	5.5	Slovakia	5.2	UK	5.0	Denmark	4.8	Bulgaria	4.5	Sweden	3.8	Norway	3.8	Portugal	3.8	Switzerland	3.0	Finland	1.5
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<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	<p>A scientific paper published in the Telecommunications Policy journal by GSMA-I economists Kevin Bahia and Pau Castells showed how policies that reduce the amount of spectrum available to operators, delay the assignment of spectrum and increase the cost of spectrum all impacted two important consumer outcomes - network coverage and quality.</p> <p><a href="#">The impact of spectrum assignment policies on consumer welfare - ScienceDirect</a></p>																																														
<h2>2. Barrier categorisation</h2>																																															

<p>a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).</p>	<p>There are many examples across the EU of instances in which a particular spectrum policy measure taken by a Member State has negatively impacted the quality of connectivity. The solutions to the problem proposed in the next section give an indication of the issues that in are view are most relevant.</p> <p>Due to its large impact in the past and its relevance in the future, we would like to highlight how reservations of spectrum for local networks create artificial scarcity for other possible users, raising the price of spectrum and preventing an efficient use.</p> <p>The German Government reserved for local private networks 25% of the mid-band spectrum identified by the industry to deploy 5G. Those frequencies were very valuable for mobile operators as a means to provide good connectivity to end users. The artificial restriction resulted in an estimated extra cost of 3 billion Euros for mobile operators, and in suboptimal connectivity for German consumers and firms. See case study by Aetha for GSMA. <a href="#">Impact-of-Spectrum-Set-Asides-on-5G.pdf (gsma.com)</a></p> <p>The EU is currently working on legislation to reserve for local users, at EU level, 400 MHz of very valuable frequencies in the 3800-4200 MHz band. Future scarcity of mid-band spectrum for mobile networks can compromise good connectivity not only in Germany, but all across the EU. Ironically, in this case there is a risk that a decision taken in the name of the single market, to create economies of scale for providers of local private networks, ends up negatively impacting the mobile connectivity used by most firms and customers, and reducing the economies of scale potentially achievable by developers of content and applications.</p>
<p>b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)</p>	<p>Spectrum policy is implemented through a wide range of national legislative instruments. All of them can have an impact on the quality and reach of connectivity and should be addressed as proposed in the next section.</p> <p>Regarding the specific proposal to reserve 400 MHz for local networks, the mandate by RSC to CEPT from December 16<sup>th</sup> 2021 can be found here: <a href="https://ec.europa.eu/newsroom/dae/redirection/document/82230">https://ec.europa.eu/newsroom/dae/redirection/document/82230</a></p>
<p>c. Type of problem*</p>	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes; Issues around authorisations/licences/permit requirements, or other document requirements</p>
<p>d. Relevant ecosystem*</p>	<p>Digital</p>
<p>e. Has the barrier already been reported to a relevant European</p>	

and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Best practices in spectrum policy that foster investments have been identified at EU level (<a href="#">The Connectivity Toolbox   Shaping Europe's digital future (europa.eu)</a>) but there is a lack of effective processes in place to ensure their effective application. We suggest to use the forthcoming DNA and RSPP to address this issue. They could also be used to increase the expectation of additional spectrum supply.</p> <p>Examples of possible concrete measures to be included:</p> <p><u>A mandate to Member States to assess, by a certain date [end 2025], the possibility of renewal of the licences expiring before 2033</u></p> <p>Article 50 of the EECC already mandates Member States to assess renewals sufficiently ahead of the end of the licence term. There are precedents in Europe that show the value of doing that analysis long before expiration. The UK switched in 2010 to a regime of indefinite licences for 900, 1800 and 2100 MHz, with administrative prices after year 20. Spain introduced in the last Telecoms law the possibility for licensees to ask for a 10-year extension of all existing licences, up to a maximum of 40 years total duration.</p> <p><u>A strengthened review of award processes with a stronger EC role to ensure compliance with the EECC.</u></p> <p>Reserve prices should be based on opportunity cost (art. 42) Maximising revenues should not be an objective of award processes (art. 55) Market shaping measures should be justified with a market analysis (art. 52) <u>Expectation of increase in spectrum suited for cellular broadband in UHF</u> Recognition of the value of the band for mobile broadband Report due before WRC 27 with proposals to reduce barriers to the introduction of mobile post-2030, at least: (i) in countries with low DTT use; and (ii) in countries that voluntarily wish to do so <u>Expectation of increase in spectrum suited for cellular broadband in mid bands</u> Recognition of the value of increased spectrum in mid-bands for mobile broadband Guidelines and deadline for cost-benefit analysis of alternatives in upper 6 GHz Ensure harmonised neutral approach for the 3.8-4.2 GHz band (see GSMA discussion paper)</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Telefónica
b. Contact details for follow-up purposes (in	<p>Name: Juan Luis Redondo Position: Director of Digital Public Policy Email: <a href="mailto:juanluis.redondomaillo@telefonica.com">juanluis.redondomaillo@telefonica.com</a> Phone or mobile number:</p>

company or association)	
c. Type of organisation (please select answer by highlighting in bold)	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.3.1.5 Vodafone

<b>BARRIER: Spectrum allocation rules for electronic communications networks</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Lack of harmonisation on the rules relating to spectrum allocation at national level. 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 into practice when implemented at national level.</p> <p>This relates notably to substantial differences between Member States on:</p> <ul style="list-style-type: none"> <li>- Award timing – impacting the timing of service launch</li> <li>- Reserve prices – diverting capital budget from network investment</li> <li>- Spectrum annual fees – increasing operating costs</li> <li>- Spectrum licence duration – creating uncertainty over long term service continuity and risk of stranded assets</li> </ul> <p>A number of Member States (Spain, Germany, Portugal, France) have recognised the importance of long-term licensing certainty to encourage investment, and have extended (or are in the process of extending) licences for up to 40 years, often free of charge but in return for commitments to invest in whitespot areas. Europe would benefit from this approach being adopted consistently across all Member States.</p> <p>Furthermore, some regulators use licence award rules to introduce market-sharing measures, outside the required market dominance test, which can result in unmerited favourable</p>



	<p>treatment of market entrants and discrimination against existing players.</p> <p>In addition, with advances in both mobile and satellite network technology, there will be an increasing overlap in the markets they serve – and yet the radical differences in approaches to spectrum access and charging are likely to introduce discrimination and disadvantage the provision of mobile services. Also, European Member States do not all adhere to global (ICNIRP) standards in EMF, resulting in unjustified different limits placed on radio emissions at base stations, impacting network costs.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Impacts include:</p> <ul style="list-style-type: none"> <li>- no possibility to launch new services (such as 5G for enterprise) at same time across all Member States</li> <li>- additional licensing costs, reducing investment capital and operating profits (Vodafone has spent more €7bn spent on licences for 5G over the last 6 years, and recurring spectrum fees cost an additional c.€0.26bn annually)</li> <li>- some auctions result in spectrum scarcity (e.g., Italy, Germany) and sub-scale networks for 5G</li> <li>- lack of future licensing certainty creates investment risk and discourages in-life upgrades and innovation</li> <li>- increased costs to deploy mobile infrastructure compliant with exceptional and overly stringent national EMF rules</li> <li>- discrimination in the spectrum input costs for mobile versus satellite business case</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>Licensing issues are found in all Member States:</p> <ul style="list-style-type: none"> <li>- The Netherlands has still not awarded 3.5GHz spectrum for 5G</li> <li>- Reserve prices were set high in Italy, by copying other markets, rather than allowing market-based price discovery</li> <li>- Spectrum scarcity and poor auction rules led to outlier auction prices in Italy and Germany, as well as several other markets</li> <li>- Auctions were designed to favour new entrants in Portugal and Czechia (and previously the Netherlands), resulting in subscale market players</li> <li>- Licences in some markets need to be renewed via auction, where some Member States are providing for early administrative licence extensions (e.g., Germany 800MHz, Spain 30/40 years potentially for all licences, France, Portugal)</li> <li>- Annual fees vary enormously across EU, (with high fees in Spain, Romania, Ireland etc)</li> <li>- Risks to the harmonisation of additional future spectrum to meet mobile user demands leads to scarcity, and therefore high prices in auctions, whereas the plentiful supply of satellite spectrum means it can be awarded free of charge</li> </ul>

	- EMF rules in Belgium, Italy and Greece (and measurement method in Germany) depart from international standards
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Issue relates mainly to the implementation of the Code chapter on spectrum (Directive 2018/1972 dated 11 December 2018 – articles 35 and next, as well as articles 42 and next) with too much leeway given to Member States, no sufficient binding peer review or harmonisation at EU level.
c. Type of problem*	
d. Relevant ecosystem*	Digital – telecommunications
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes – to Member States and to EC: various CEOs letters notably + answer to EC consultation on the future of the future.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Less leeway for implementation at national level unless supported by clear market and cost benefit analysis.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Vodafone
b. Contact details for follow-up purposes (in company or association)	Name: Daniel Gueorguiev Position: Senior Advisor Government Relations and Policy Engagement Email: <a href="mailto:daniel.gueorguiev@vodafone.com">daniel.gueorguiev@vodafone.com</a> Phone: +32 492 14 28 19
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

### 1.3.2 Data availability and interoperability / fragmentated telecom regulation

#### 1.3.2.1 Anonymous 5

<b>BARRIER: Copyright Levies for Cloud</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Following the recent ECJ judgment, the possibility for Member States to impose copyright levies on cloud computing services has been widened. Since the ECJ judgment, the issue has arisen in Germany, for example. This forms part of a wider issue of fragmentation of the internal market relating to copyright levies, where different EU countries follow different rules. In the specific case of copyright levies for cloud computing, there is a clear risk

	of creating further market barriers to introducing new cloud services and for European businesses and public authorities to move to the cloud. This will arise because as levies are placed on providers these costs can lead to increased costs in turn for users of those services. This risk is exacerbated as there is a strong likelihood that cloud levies arise as duplicative levies, as component parts of cloud services already are subject to levies. As a result, the extension of the scope of levies to cloud would create an imbalance and competitive drag in the EU, due to increased costs and additional administrative requirements to track the imposition of levies applied on a national basis.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	ECJ Judgment C-433/20, <i>Austro-Mechana</i>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Austria, following outcome of national litigation that required ECJ judgment; potential for extension to other countries
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	- InfoSoc Directive (as root permitting levies)
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;
d. Relevant ecosystem*	Digital
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>The Commission can resolve this through a clarification to the copyright acquis that cloud levies should not be imposed by Member States, as the risk of duplicative levies (for instance in digital storage components placed on the market in a B2B context and making up the physical components of a cloud service) is too high.</p> <p>An EU-wide study be conducted to determine if there is any evidence that private copying in the cloud is causing harm to copyright owners (as a prerequisite to determine if levies may</p>

	apply). More definitively, a legislative clarification that cloud levies should not be imposed by Member States could be introduced (for instance clarifying the concept of “medium”), as the risk of duplicative levies (for instance in digital storage components placed on the market in a B2B context and making up the physical components of a cloud service) is too high.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	Yes, in view of expected future consultation on this issue.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: Software as a Product</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Regulations and requirements applied in product legislation are based upon longstanding EU model rules, the New Legislative Framework (NLF). The EC and Member States developed these rules at a time where physical products were those that were typically regulated. As we modernize our product legislation and look to create an effective digital single market for new types of products, these model rules are now increasingly being applied to software. This unfortunately creates frictions, as the rules reflect that previously products were developed on a much longer development cycle and with different business models in mind. The monitoring of such requirements is subject to national enforcement, while guidelines (contained in the ‘Blue Guide’) struggle to accommodate digital solutions and business models. An example arises in the concept of “substantial modification”, which is already debated strongly as regards its impact on software development and in the case of machinery products. In the case of “substantial modification”, this term has been introduced in EU legislation previously and led to a number of interpretative papers or guidance documents at Member State level. The lack of common guidance now on how to apply the NLF terms to software can be expected to give rise to a raft of national approaches, creating barriers to companies placing a product on the market across the EU. For example, if a software update is deemed “substantial” by one national market surveillance authority, but not by the others, companies will be forced either to withdraw from that market or to renew their compliance work for that updated software. This may be considered under the recently opened Call for Evidence on the

	New Legislative Framework, which acknowledges that “without a cohesive framework, new legislation could introduce digital and circularity elements inconsistently, threatening the coherence and consistency of the EU product legislation system”.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	See Impact Assessment study on the Evaluation of the Machinery Directive ( <a href="https://op.europa.eu/en/publication-detail/-/publication/57914c1d-ebfb-11ea-b3c6-01aa75ed71a1/language-en - p130">https://op.europa.eu/en/publication-detail/-/publication/57914c1d-ebfb-11ea-b3c6-01aa75ed71a1/language-en - p130</a> ) for a discussion on the evolution of guidance on the concept of “substantial modification”, including citation of four MS (FR, DE, NL, SE) who have issued individual guidance on the topic.
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	For now, divergent approaches registered in FR, DE, NL, SE (see 1c), but risks becoming an EU-wide problem.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	E.g., Cyber Resilience Act; Machinery Regulation; Product Liability Directive; AI Act
c. Type of problem*	Lack of or insufficient information; Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes.
d. Relevant ecosystem*	Digital
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, see Call for Evidence at <a href="https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14715-Product-legislation-ensuring-futureproof-rules-revision-of-the-New-Legislative-Framework-NLF-_en">https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14715-Product-legislation-ensuring-futureproof-rules-revision-of-the-New-Legislative-Framework-NLF-_en</a>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	A fit-for-purpose approach is needed that facilitates software development and matches customer expectations in terms of ongoing support, rollout of new features and security needs. The Commission should launch a review of the NLF as regards new technologies, and prepare an omnibus revision of NLF dossiers affected by outdated procedures to modernize the EU's product compliance framework.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	

c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	Yes, in view of expected future consultation on this issue.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: Restrictions on the Free-Flow of Data</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Restrictions on the free-flow of data between Member States runs counter to the objectives of the Regulation on the Free-Flow of Non-personal Data and to the EU's wider objectives to promote a competitive and innovative Digital Single Market. Requirements to localize data in certain jurisdictions mean that businesses face additional costs and complicate access to the latest technologies, which can hamper the ability for Europe's companies to modernize their operations. An example is accounting laws, which frequently require that records are kept in the home Member State (e.g., in Denmark, Sweden or Germany). Similar requirements exist in the case of public sector data, for instance restrictions on cloud storage applied in France. This has a particular impact on new business models built around data-driven insights and solutions and on those SMEs in the sector looking to grow and scale across the Single Market. Furthermore, the ability to benefit from free flow of data provisions with external trading partners is also hampered by such requirements, as freedoms enjoyed when internationalizing beyond the EU are not then found when trading internally. This means, for example, that a startup finds it more attractive to expand into a non-European market first, than to benefit from a digital single market approach across the whole of EU.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	As explained in the 2021 report commissioned by Digital Europe cited below, obstacles to the free flow of data act as a constraint to economic development and "domestic measures that increase data localisation act as a tax on a country's exports.". The below report cites two possible projections of the impact on the economy, based on policy outlooks, namely: "The difference between a path that is moderately liberalising and one that is moderately restrictive is economically significant: worth a little over 1.5% in EU GDP per year. This is equivalent to approximately one year of GDP growth for the EU according to the IMF's long-run forecasts. Over a ten-year period to 2030, the difference between a moderately liberalising path and a moderately restrictive path would amount to €2 trillion, in today's money."
c. Any extra evidence (e.g. links to publications or background materials, from	<a href="https://www.digitaleurope.org/resources/the-value-of-cross-border-data-flows-to-europe-risks-and-opportunities/">https://www.digitaleurope.org/resources/the-value-of-cross-border-data-flows-to-europe-risks-and-opportunities/</a>



your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	EU-wide, for example taking list compiled by ITIF: <a href="https://itif.org/publications/2021/07/19/how-barriers-cross-border-data-flows-are-spreading-globally-what-they-cost/# Europe">https://itif.org/publications/2021/07/19/how-barriers-cross-border-data-flows-are-spreading-globally-what-they-cost/# Europe</a>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	- See link above.
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;
d. Relevant ecosystem*	All
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	The requirements under the above-cited EU Regulation should be reinforced, to prevent barriers to the free-flow of all types of data being introduced or maintained by Member States. This approach should aim for coherence with the G7's initiative on data free flows with trust.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.3.2.2 *Philips*

<b>BARRIER: Data fragmentation and lack of interoperability</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the	Today, data fragmentation and lack of interoperability remain a barrier in the health sector. Most health data remain stored in

cross-border issue hampering operations.	disparate systems that do not interoperate. The result is that healthcare organisations and health professionals have difficulty to exchange information on a regional, national, let alone a European scale. To unlock data and turn it into meaningful insights, healthcare organisations must be able to share and interpret those data in a seamless, real-time, and meaningful way.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	(i) Lack of a unique and aligned position on the concept of personal data and non-personal data among Member States, (ii) no adequate and recognized standards on the anonymization of personal (health) data, (iii) fragmentation of local conditions on data processing for scientific research purposes (GDPR allows Members States to introduce further conditions and limitations to the processing of health data) and (iv) low level of interoperability between healthcare systems and health IT systems are factors that limit the capability to use and re-use health data effectively in the context of healthcare delivery, research and innovation for the benefit of patients and health systems across the EU.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	- <a href="#">Assessment of the EU Member States' rules on health data in the light of GDPR</a> - <a href="#">Impact assessment report EHDS</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Local/national level and across the EU
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	- GDPR - Lack of interoperability
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes; Insufficient digitalisation of information or of procedures.
d. Relevant ecosystem*	Health, Digital
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, the European Commission (DG SANTE) has proposed a Regulation on the European Health Data Space (EHDS) to make the use and re-use of health data more effective. The European Parliament and the Council are currently working towards their respective positions to be finalised in the coming months.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	For the EHDS to be successful it should preserve incentives to invest in ways of generating value through data in a balanced and proportionate way, foster a genuine Single Market in digital health, create a harmonised framework with clear and consistent mechanisms for the use and re-use use of health data, as well as

	the harmonised use of international standards for interoperability and ensure consistency with horizontal and sectorial legislation.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Philips
b. Contact details for follow-up purposes (in company or association)	Name: Daphne Dernison Position: Head of Government and Public Affairs Europe Email: <a href="mailto:daphne.dernison@philips.com">daphne.dernison@philips.com</a>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.3.2.3 SAP

<b>BARRIER: Fragmented cloud market in Europe</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p><b>There is no Single Market for cloud computing in the European Union.</b> The EU cloud market stays fragmented as EU member countries have announced or adopted requirements that are specific to their national markets.</p> <p>The three main areas of discrepancies are the following:</p> <ul style="list-style-type: none"> <li>• Certification – There are various requirements now in place in some EU member countries. As examples: Germany requires C5, France requires SecNumCloud, and Spain requires ENS.</li> <li>• Public procurement policy – Each country defines contract terms that are non-negotiable. In the Netherlands, for example, bids often contain clauses requiring all bidders, regardless of size, to prove they are signed up to an escrow service.</li> <li>• Data localization – Many public customers in the EU require data to be hosted in their home country, even though EU law allows and promotes the free flow of data within the EU. We observe that even if national regulatory requirements for data localization do not exist, de facto they may appear in public procurement. Additionally, each public institution may have a program on information security which may contain particular provisions in this regard.</li> </ul> <p>All these various national requirements add to market fragmentation and limit the ability of cloud providers to offer scalable solutions within the EU. They have effectively fractured the European market in this important, emerging area.</p>
b. Describe the negative impact on your company and potentially your sector or the	Regarding certification, for the cloud providers, the costs of hosting, maintenance, and audits run in the millions of euros per solution, per market, and per year. Deployment and certification adjustments at a national level can become multi-year projects.

economy. Please provide facts & figures.	<p>Against such a disjointed European backdrop and amplified by the fact that there are very few European cloud providers, only the largest, but mainly the non-European, cloud providers (and specialised local editors) can fulfil the different requirements of each member country.</p> <p>On public procurement, under the Directive 2014/24/EU on public procurement, each Member State has certain freedom to decide how it procures the goods and services it needs to carry out its functions. Differences in the application of the Directive imply various interpretations and procurement requirements across the EU. This is especially challenging in the procurement of cloud services, in such topics as multi-cloud strategies, requirements for portability and switching, qualifying cloud expenses, to name just a few.</p> <p>On data localization, similarly to the certification issue, such a proliferation of rules and requirements which needs major adjustments or creation of a completely new service portfolio increases costs of these services and makes only few providers able to deliver.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	The European Union as a whole. See 1a and 2b for country-specific examples.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>- Various national security certifications, eg. German C5, French SecNumCloud, Spanish ENS</li> <li>- Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC and its various national interpretations (like in the Netherlands, see 1a).</li> <li>- Various requirements on data localization by public customers towards cloud providers, e.g. in the Netherlands, Poland, Romania...</li> </ul>
c. Type of problem*	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</p> <p>Lack of mutual recognition;</p> <p>Issues around authorisations/licences/permit requirements, or other document requirements</p>
d. Relevant ecosystem*	Digital
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which	<ol style="list-style-type: none"> <li>1. To get all the players on the same page, consensus would need to be achieved through the recently launched European Alliance for Industrial Data and Cloud,</li> </ol>

improvement is required? Please specify, where relevant.	<p>composed of EU Member States, European industry players, and other stakeholders.</p> <ol style="list-style-type: none"> <li>The relevant legislation (GDPR, Regulation on a framework for the free flow of non-personal data in the EU) proving with free flow of data within the EU should be effectively enforced.</li> <li>Replacing individual state cloud certification schemes with a single, EU-wide label such as the European Cybersecurity Scheme for Cloud Services (EUCS) that is currently being developed by ENISA, is necessary. This would enable providers to fully implement, conform to and be certified for a comprehensive framework rather than having to comply with multiple rules from multiple countries. To that end, it is important that EUCS provides <ol style="list-style-type: none"> <li>clarity regarding the various level of security needed,</li> <li>homogeneity of the highest categories across all 27 Member States to avoid further fragmentation of the cloud market.</li> </ol> </li> <li>Two ongoing initiatives by the European Commission – the EU Cloud Rulebook and the Guidance on Cloud Public Procurement – have a potential to provide coherent framework at the disposal of both private and public sector organisations to inform their decision making in procuring suitable cloud services, including areas such as data security, data privacy, data portability, and energy efficiency. However, these rules and guidance are non-binding tools, and the Commission is limited by the Directive on public procurement that may need revision to achieve the objective.</li> </ol>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	SAP
b. Contact details for follow-up purposes (in company or association)	Name: Wolfgang Dierker Position: Global Head, SAP Government Affairs Email: wolfgang.dierker@sap.com Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.3.2.4 Siemens

<b>BARRIER: Building Information Modelling</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the	There are currently <b>no joint technical standards across the European Union</b> for digital twins and Building Information Modelling (BIM) software. This absence is causing projects like

<p>cross-border issue hampering operations.</p>	<p>Building Twins to be developed based on different proprietary software – ultimately risking issues with interoperability and making it less attractive for SMEs to invest in BIM.</p> <p>In other words, this means that there is no common set of rules or specifications that all digital twins and BIM software must follow. There is no common standard for the exchange of data between digital twins and other systems, such as building management systems and energy management systems. This can make it difficult to integrate digital twins into the existing workflows of building owners and operators.</p> <p><b>Even though ISO 19650 has already been adopted, there are still significant gaps in its implementation in the operational phase.</b> Even though BIM is the most widely used digital technology in the construction sector, its market adoption is still quite low.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>The absence of open BIM standards has a number of negative impacts on our company and sector, including:</p> <ul style="list-style-type: none"> <li>• Increased costs: Without open BIM standards, companies have to invest in multiple BIM software platforms in order to collaborate with other stakeholders on projects. This can lead to increased costs for companies, especially small and medium-sized enterprises (SMEs).</li> <li>• Reduced efficiency: It can make it difficult to share and exchange BIM data between different stakeholders. This can lead to inefficiencies and delays in projects.</li> <li>• Reduced quality: It is difficult to ensure that BIM data is consistent and accurate. This can lead to quality problems in projects.</li> <li>• Reduced innovation: It can stifle innovation in the BIM sector. This is because companies are less likely to invest in developing new BIM software and applications, especially to optimise operations, if they are not sure whether they will be compatible with the BIM software used by other stakeholders.</li> </ul> <p>In addition to these specific impacts, the absence of open BIM standards can also have a negative impact on the productivity and competitiveness of an entire sector. For example, a study by the UK government found that the lack of open BIM standards was costing the UK construction industry £1.3 billion per year.</p> <p>Here are some specific examples of how the absence of open BIM standards can impact a company or sector:</p> <ul style="list-style-type: none"> <li>• A real estate developer may have difficulty finding BIM data on buildings and infrastructure assets that they are interested in acquiring or developing, as no common standard for the digital representation of buildings and infrastructure assets exists.</li> </ul>



	<ul style="list-style-type: none"> <li>A government agency may have difficulty managing the BIM data that it receives from different contractors and suppliers.</li> </ul> <p>It can also have a negative impact on the environment. For example, if different stakeholders are using different BIM software platforms, they may have to create and maintain multiple copies of the same BIM data. This can lead to duplication of effort and increased waste.</p> <p>It is important to note that there are a number of organisations working to develop open BIM standards. However, it is likely to be several years before these standards are finalised and widely adopted.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p>A buildingSMART International and GS1 Positioning Paper: <a href="https://www.gs1.org/sites/gs1/files/2021-12/digitizingconstruction%20whitepaper%20gs1%20bsi%202021.pdf">https://www.gs1.org/sites/gs1/files/2021-12/digitizingconstruction whitepaper gs1 bsi 2021.pdf</a>.</p> <p>More background on BIM: "A digital twin (DT) - also referred to as digital shadow, digital replica or digital mirror - is a digital representation of a physical asset. Linked to each other, the physical and digital twin regularly exchange data throughout the PBOD lifecycle and use phase. Technology like AI, machine learning, sensors and IoT allow for dynamic data gathering and right-time data exchange to take place"</p> <p>Download the white paper - <a href="https://f3h3w7a5.rocketcdn.me/wp-content/uploads/2020/06/Enabling-Digital-Twins-Positioning-Paper-Final.pdf">Enabling Digital Twins</a>  <a href="https://f3h3w7a5.rocketcdn.me/wp-content/uploads/2020/06/Enabling-Digital-Twins-Positioning-Paper-Final.pdf">https://f3h3w7a5.rocketcdn.me/wp-content/uploads/2020/06/Enabling-Digital-Twins-Positioning-Paper-Final.pdf</a></p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>While Austria, Italy and the Netherlands are mandating open BIM standards, others are not. This link gives an overview and show that many EU member states are missing: <a href="https://www.bimspot.io/blogs/bim-adoption-in-the-world/">https://www.bimspot.io/blogs/bim-adoption-in-the-world/</a></p> <p>The problem, however, as already mentioned, is the state of implementation.</p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>It is about <b>lacking EU legislation</b>. To ensure a Single Market approach that addresses this issue, a common digital framework would need to be adopted, preferably the ISO 19650 standard.</p>
c. Type of problem*	<p>Other: <b>Lacking harmonized EU legislation and standards</b> to help making BIM mandatory EU-wide.</p> <p>To a lesser extent:</p> <p>Insufficient cooperation or communication between national administrations.</p> <p>Insufficient digitalisation of information or of procedures.</p>
d. Relevant ecosystem*	Construction but also Digital

e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, via the 2021 ERT paper. <b>Problem is being tackled but not yet resolved.</b>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p><b>Recommendation: Develop new European building standards that include BIM and forge regulation that promotes interoperability and data-driven efficiencies</b> in the building &amp; construction sector.</p> <p>We like to underline that <b>in its proposal on the revision of the Energy Performance of Buildings (published in dec 2021 / trilogue stage), the European Commission did not include provisions on BIM</b>, which is a missed opportunity. Why not correct this as soon as possible?</p> <p>A digital twin certificate for a built asset could take the form of a document or digital file that provides essential information about the digital twin and its associated asset. While the specific details and format may vary depending on the industry, stakeholders, and requirements, specific key elements should be included in a digital twin certificate.</p> <p>Today, there is no single definitive way to assess the quality of a building's digital twin. For the smart readiness indicator, we would like to create clear KPIs, based on some general guidelines. To get an honest and meaningful assessment, the following criteria must be considered:</p> <ol style="list-style-type: none"> <li>1) Accuracy <ol style="list-style-type: none"> <li>a. How accurate is the data captured by the digital twin?</li> <li>b. How accurate are the models that are created relative to the physical nature of the building?</li> <li>c. What is the Level of Detail (LOD) of the data in hand? How well detailed, complete and accurate is the digital twin?</li> <li>d. Does it match the physical version of the build asset and has it been and it was adjusted after plan changes?</li> </ol> </li> <li>2) Updating and recovery <ol style="list-style-type: none"> <li>a. How often is the digital twin updated when changes are made to the physical version?</li> <li>b. Which part of the digital twin are maintained by updating mechanisms/ services?</li> <li>c. How well is the digital twin able to communicate with different systems and exchange data reciprocally?</li> </ol> </li> <li>3) Functionality <ol style="list-style-type: none"> <li>a. What potential does the digital twin offer for comprehensive monitoring tasks, such as energy consumption, environmental conditions and sustainability?</li> </ol> </li> </ol>

	<p>b. What are the benefits for the users and occupants of the building?</p> <p>4) Reliability</p> <p>a. How reliable is the Digital Twin compared to reality?</p> <p>b. How quickly does it respond to changes?</p> <p>c. Orientation and positioning in space.</p> <p>d. Is the model correctly on track with the building's orientation and does it have supporting features for navigation and indoor navigation?</p> <p>5) User-friendliness</p> <p>a. How easy is it to use the Digital Twin?</p> <p>b. What is the size of all Digital twin data, what is the Digital twin loading time</p> <p>c. Is it possible to handle specific parts of the digital twin (only the energy modules, ...)</p> <p>d. How intuitive are the applications?</p> <p>6) Scalability and customisation</p> <p>a. How well can the digital twin be adapted to new requirements and on which technological platform is it available?</p> <p>b. Can it easily adapt to changing, scalable architectural support?</p> <p>c. Can the Digital Twin be extended to multiple end devices?</p> <p>d. Can it be easily adapted to new technologies?</p> <p>7) Costs and administrative management</p> <p>a. How quickly and cost-effectively can the digital twin be installed, operated and maintained?</p> <p>8) Maintenance</p> <p>a. How much maintenance and care does the Digital Twin require?</p> <p>b. How quickly can changes be made?</p> <p>The evaluation of a building's digital twin should always depend on standardised conditions and requirements. However, these criteria can be used to effectively evaluate the quality of a digital twin.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	SIEMENS
b. Contact details for follow-up purposes (in company or association)	<p>Name: <b>Christian Frey</b> / Eddy Roelants</p> <p>Position: <b>VP Industry Affairs</b> / VP R&amp;D, Innovation &amp; IPR Policy</p> <p>Email: <a href="mailto:christian.frey@siemens.com">christian.frey@siemens.com</a> / <a href="mailto:eddy.roelants@siemens.com">eddy.roelants@siemens.com</a></p> <p>Phone or mobile number: <b>+41 79 5657436</b> / +32 2 2861920</p>
c. Type of organisation (please select answer by highlighting in bold)	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published)	It was already published – can be re-used as it was approved in 2021.

in the public domain)? If yes, why?	
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### 1.3.2.5 Telefonica

<b>BARRIER: Digital Services categorization</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	According to the European Electronic Communications Code, <i>“Member States shall ensure the freedom to provide electronic communications networks and services”</i> . Additionally, <i>“Member States can consider that a notification requirement is justified for undertakings subject to a general authorisation”</i> . But, <u>there is not a harmonized telecommunication services categorization</u> . Consequently, a specific analysis per country is required to prepare the aforementioned notification, and the process is not as straight forward as could be expected.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	As the analysis required before preparing the notification has to be made per country, the process is lengthy, therefore incurring extra costs on companies.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Even the European Electronic Communications Code recognizes a unique General Authorization regimen, <u>from a practical perspective, it is not so unique</u> . Each country has its own communication electronic services categorization. For instance, in Germany there are 7 different categories, in Spain more than 20, in Slovakia 11, in Austria 5, etc
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	National Telecommunication Acts include the obligation of notifying before starting to provide services in the country, but do not specify the different electronic communication services categories. The different categories can be found in the guidelines or website where the notification process is described.
c. Type of problem*	Issues around authorisations/licences/permit requirements, or other document requirements
d. Relevant ecosystem*	Telecommunications
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	No
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which	Harmonizing at European level a closed list of electronic communication services categories.

improvement is required? Please specify, where relevant.	
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Telefonica
b. Contact details for follow-up purposes (in company or association)	Name: Juan Luis Redondo Position: Director of Digital Public Policy Email: juanluis.redondomaillo@telefonica.com Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.3.2.6 Vodafone

<b>BARRIER: Technical Regulation of NB-ICS</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The Code and its national implementation introduced the concept of interpersonal communication services ('ICS'). ICS includes different types of personal communication services, such as messaging, audio calls, video. The Code differentiates between those ICS, which use telephone numbers ('number based, NB'), and those, which do not ('number independent, NI'). Services that use telephone numbers and which provide the ability to make and receive calls are subject to detailed national regulations, in addition to the harmonised provisions of the Code.</p> <p>There is fragmentation in the regulation of ICS in terms of different versions of the same service (NI-ICS vs NB-ICS) and regarding differences between countries:</p> <p>(1) Different rules apply to services which are number based (NB-ICS, for example using the native mobile dialler) and those who are number independent (NI-ICS, for example making a call via WhatsApp instead). Whilst NB-ICS services have to (i) enable interoperability, need to (ii) present caller information, (iii) shall ensure customer rights when taking services in a bundle, (iv) ensure transparency according to consumer standards, (v) shall take technical measures to identify and prevent fraudulent communications, and shall (vi) enable emergency calling including up to date location information, all these provisions do not apply to NI-ICS services. Further, prices for NB-ICS are regulated ('termination rates'), whilst the commercial conditions for NI-ICS are free from regulation. Finally, there is no obligation to interconnect on NI-ICS. Whilst telecommunications regulations treat these services very</p>

differently, end-users don't. Studies show a longstanding trend that not only SMS but also voice calls are increasingly made by way of NI-ICS, an indication that NI-ICS are substitutes of traditional services.

- (2) Further to the above, regulations such as those described above can take a very different approach to the topic. We identify that telecom regulation remains highly fragmented across member states. Each country follows its own specifications as to how emergency calls need to be routed and how location information shall be provided. The same finding applies to how numbers can be configured in telecom networks and apps, how network and service providers need to filter against fraudulent communications at international and national level, and how law enforcement assistance shall be operated. The intent of those regulations is the same, the technical requirements are fundamentally different.

Some examples:

- Accountability for defining the numbering plan remains with the national regulatory authorities. This means, for example:
  - In France, there is no longer a 'geographic number' concept. A Paris geo number can now be assigned to a user in Marseille.
  - In Denmark, geo numbers can be used anywhere.
  - In Ireland and Poland, there is a narrow interpretation of geo-boundaries, and geo-numbers can only be used for their specific city.
  - In Belgium and Hungary, there is a requirement to verify the subscribers' location to provide a geographic number.
- This then translates into challenges with respect to CLI. For example, it may be possible in Denmark to use a geographic number as the CLI for a voice service that runs on a laptop, an IP phone or a mobile phone; but in Spain, for those cases, only a nomadic number is permissible.
- Regarding emergency calling the technical requirements as to how the service must work.
  - In Ireland, emergency calls must be handed over to a central carrier.
  - In France, the calls must be routed to the nearest emergency services centre.
- Regarding emergency calling and the provision of information about the location of the caller:



	<ul style="list-style-type: none"> <li>○ Some countries use a PUSH method, where location info is shared in parallel with the call (e.g. France, Hungary)</li> <li>○ Others use a PULL method, where the PSAP looks up information from databases, e.g. those managed by the service provider (e.g. Finland)</li> </ul>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Differences in technical requirements make it impossible to create a single communication service across countries. Consequently, different solutions are to be designed for same services in different countries, leading to an increase in costs for the creation and operation of the service, leading to delays in launching services across countries and leading to a certain level of legal uncertainty and risks as a provider of number-based services.</p> <p>Fragmentation of regulation is a barrier to be able to use the potential of scale and scope that the new technologies which are involved in the operation of networks and the provision of services offer.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Each member state has different implementation of these technical requirements. Therefore, the barriers exist across the EU.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>In the Code many obligations only apply to NB-ICS with NI-ICS services excluded, for example:</p> <ul style="list-style-type: none"> <li>• Emergency calling (article 109(2))</li> <li>• Number porting (article 106(5))</li> <li>• Public warning systems (article 110(1))</li> <li>• Compensation for QoS discrepancies (105(5))</li> </ul> <p>Then with per-country implementation of the Code, we see significant fragmentation on regulation of NB-ICS, for example:</p> <ul style="list-style-type: none"> <li>• Geographic numbers <ul style="list-style-type: none"> <li>- France has a more relaxed concept in the National Numbering Plan and French Postal and Electronic Communications Code (CPCE L36-7, L44)</li> <li>- Hungary has strict location-based requirements for geographic numbers (NRA Decree No. 14/2020)</li> </ul> </li> <li>• Emergency calling information <ul style="list-style-type: none"> <li>- Poland requires provision of caller address and correspondence address, identity document numbers, and passport details for non-citizens (Electronic Communications Law)</li> <li>- Italy requires geographic location of fixed network access point or geographical address of subscriber (Order on Numbering (32 T/2021 M))</li> </ul> </li> </ul>

c. Type of problem*	No Single Market for telecommunication products and services.
d. Relevant ecosystem*	Telecommunications networks and provision of Electronic Communication Services.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Not formally. Issues with respect to fragmentation have been raised in context of testing use cases with NRAs.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	The policy intent of a regulatory intervention is similar or the same across member states in the EU. However, even after the Code, regulation is fragmented across countries and between number dependent and number independent services. National specifications in areas such as numbering plan, caller location information, emergency calling, fraud prevention and law enforcement play an important role in the creation of services. Access regulations such as obligation to interconnect, termination rates, roaming rates and similar impact the ability to commercialise network investments. It is required to explore simplification of regulation that applies to telecommunications networks and to the provision of communication services. Potential to simplify is associated with further harmonising technical requirements between countries. Potential to improve regulation is identified in adjusting the regulatory models (what to regulate and how to regulate) to the realities of changed technology (software defined networks, cloud-controlled applications, the change in user behaviour (mobile dialler and WhatsApp calling are substitutes).
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Vodafone
b. Contact details for follow-up purposes (in company or association)	Name: Daniel Gueorguiev Position: Senior Advisor Government Relations and Policy Engagement Email: <a href="mailto:daniel.gueorguiev@vodafone.com">daniel.gueorguiev@vodafone.com</a> Phone: +32 492 14 28 19
c. Type of organisation (please select answer by highlighting in bold)	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

<b>BARRIER: Technical Regulation – Internet Access Services (open internet).</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the	Whilst the open internet regulation is a <i>regulation</i> , our observation is that there are differences in the way regulators interpret and apply the rules.

cross-border issue hampering operations.	<p>We are concerned that, as there is a growth in the number of solutions / services that are based on differentiation / optimised connectivity, this situation is going to worsen.</p> <p>For example, operators across Europe are working on shifting to a model where networks can be offered 'as a service'. A core component of this is the ability to offer 'quality on demand', where content creators can 'select' the quality parameters they require to suit their content, service or application.</p> <p>This capability creates a much more symbiotic relationship between connectivity and content. Yet, it sits at odds with the core concept of the open internet rules that all traffic should be treated equally.</p> <p>Therefore, such services must find a way to sit within the narrow and complex exceptions in the open internet rules, such as for so-called specialised services.</p> <p>We are concerned that this will result in operators being required to go to NRAs in each market, on a case-by-case basis, to understand whether they support the services.</p> <p>Note – we have already seen this as a live issue in Germany. Deutsche Telekom have launched a limited version of network on demand and, already, the German regulator is seeking information as a precursor to an investigation. We expect this could be extrapolated across each market these developments are launched.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	See above.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	All markets.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Open Internet Regulation.
c. Type of problem*	Application of historic telecommunications regulation to new technologies.
d. Relevant ecosystem*	Internet ecosystem.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes. We have notified the Commission of this issue.

3. Suggested solution / recommendation	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	In the first instance, additional guidance from the Commission, that encourages NRAs to take a more innovation permissive and flexible interpretation of the rules to innovative use cases would be helpful.
4. Organisation info & contacts	
a. Organisation name	Vodafone Group
b. Contact details for follow-up purposes (in company or association)	Name: Daniel Gueorguiev Position: Senior Advisor Government Relations and Policy Engagement Email: <a href="mailto:daniel.gueorguiev@vodafone.com">daniel.gueorguiev@vodafone.com</a> Phone: +32 492 14 28 19
c. Type of organisation (please select answer by highlighting in bold)	Company
5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

BARRIER: Customer protection rules in the electronic communications sector	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Lack of harmonisation on the rules relating to customer protection in the telecommunications sector.</p> <p>As Member States remain empowered to add specific rules on customer protection, operators need to ensure that each and every offer they want to launch is fully compliant with national specific rules. This means they cannot have the same terms and conditions for their retail contracts across the EU. Such lack of harmonisation prevents the launch of pan European offers.</p> <p>For instance, rules differ on</p> <ul style="list-style-type: none"> <li>- Provider switching; Different member states have differing requirements for overall timeframe for switching. CZ has a maximum of 4 working days while it is 5 for HU. Some member states don't stipulate any overall maximum timeframe.</li> <li>- Contractual impact of prices changes; some national legislation allows for price changes without reopening the contract in some circumstances, others don't. We see various approaches to implementation of the changes.</li> <li>- Know Your Customer requirements; data required at Member States level differ from one country to another: whether to ask for ID for a post paid or pre paid card for instance (yes for both in PL, no for pre paid in PT) ; specific requirement like a registry for prepaid customers also exist such as in ES.</li> <li>- Transparency: Whilst most markets apply some form of rules requiring transparency linked to, in particular, QoS, there are many different ways in which this is implemented. For</li> </ul>

	example: (1) Germany sets out details to be included for different service types, including coverage maps for mobile based services; (2) Hungary implemented per Code, but also requires GTC to be submitted to NRA before any changes made.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<ul style="list-style-type: none"> <li>- Due to the fragmentation in customer protection rules, it is not possible for providers to attain economies of scale in the Single Market. Providers are constrained to launch national offers and then to the degree possible adapt each offer to national rules.</li> <li>- Industry supports the baseline requirement to ensure that customers are protected with transparent and fair conditions but a lack of a Single Market for our sector denies customers the full benefits of a Single market due to increased costs and lack of efficiencies.</li> <li>- Lack of legal certainty for market players</li> <li>- Additional implementation costs depending on various conditions decided at national level</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	All See above examples
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>This barrier is due to:</p> <ul style="list-style-type: none"> <li>- An overload of varying customer protection rules for communications services at national level, while this market should be governed by horizontal EU customer protection laws</li> <li>- The lack of full harmonisation of rules on customer protection, giving Member States too much power to add additional requirements at national level or adopt their own interpretations of Code provisions</li> </ul>
c. Type of problem*	No Single Market for telecommunication products and services.
d. Relevant ecosystem*	Provision of communication services
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Fully harmonised customer protection rules across the EU27 removing duplication of rules and moving to horizontal customer protection rules, taking into account different level of protections required for consumers versus business customers.</p> <p>Full harmonisation at EU level And less sector specific rules</p>

<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Vodafone
b. Contact details for follow-up purposes (in company or association)	Daniel Gueorguiev
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Telecommunications
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

### 1.3.3 Data privacy

#### 1.3.3.1 Telefonica

<b>BARRIER: GDPR diverse interpretations at national level</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	On the one hand, the GDPR introduced a <b>high level of harmonisation</b> across Member States <b>contributing to the consecution of the internal market</b> (major achievement of GDPR). However, some National Data Protection Authorities go beyond their own competences giving diverging interpretations of the text and the spirit of the Law.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	The diverse interpretation of <b>GDPR</b> put at risk the harmonisation pursued by GDPR.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>Some examples of <b>GDPR</b> diverse regulation by DPA:</p> <ul style="list-style-type: none"> <li>▪ <b>Dutch DPA's</b> very strict interpretation of the principle "legitimate interest" has been appealed to Dutch Courts. Dutch DPA brought its restrictive interpretation to EDPB (composed by national DPAs) with the objective that EDPB endorses the same restrictive interpretation. Discussion at EDPB have been put on hold waiting for the Court ruling (at Dutch level and ECJ level).</li> <li>▪ <b>Spanish DPA</b> issued guidelines regarding cookies that had to be modified as they contradicted EDPB guidelines.</li> </ul>



	<ul style="list-style-type: none"> <li>▪ The <b>EDPB</b> (composed by national DPAs) has a very static and overly prescriptive approach to privacy, deviating from GDPR-provisions (which are technologically neutral and future-proof rules based on the principles of Risk Based Approach and Accountability). This brings confusion to companies and individuals. Some examples: <ul style="list-style-type: none"> <li>• EDPB Guidelines 2/2019 on the processing of personal data for the performance of a contract in the context of the provision of online services to data subjects.</li> <li>• “Security” cannot for instance be considered as part of the legal basis “performance of a contract” (e.g.: provision of a “secure” service).</li> <li>• EDPB Recommendation 1/2020 on measures that supplement tools for the international transfer of personal data.</li> <li>• Putting additional requirements on companies when exporting personal data outside the EU.</li> <li>• Whereby legal and organizational measures would not be enough, only technical measures (encryption) would be sufficient.</li> </ul> </li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>▪ <b>Regulation</b> (EU) 2016/679 – EU General Data Protection Regulation</li> </ul> <p>EDPB (composed by national DPAs) has a very static and overly prescriptive approach to privacy, deviating from GDPR specific provisions (which are technologically neutral and future-proof rules based on the principles of Risk Based Approach and Accountability)</p> <p>Some examples</p> <p>EDPB Guidelines 2/2019 on the processing of personal data for the performance of a contract in the context of the provision of online services to data subjects. Considering for instance that “security” cannot be considered as part of the legal basis “performance of a contract” (eg.: provision of a “secure” service) This brings confusion to companies and individuals. EDPB Recommendation 1/2020 on measures that supplement tools for the international transfer of personal data. Putting additional requirements on companies when exporting personal data outside the EU. Whereby legal and organizational measures would not be enough, only technical measures (encryption) would be sufficient.</p>
c. Type of problem*	Lack of harmonisation in GDPR interpretation by DPA and EDPB
d. Relevant ecosystem*	Digital
e. Has the barrier already been reported to a relevant European and/or national	This is an issue that has been constantly brought to the attention of European authorities, especially DG JUST. In fact, there are some infringement proceedings against the US (EC versus

administration? If yes, how, to whom and what is the status?*	Belgium, Sweden, Finland), for incorrect interpretation/application of GDPR.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>There is no numerical assessment of the economic impact of this situation on European companies, but it remains the industry's biggest demand - the need for harmonisation at EU level to avoid competitive disadvantages depending on the Member State in which the company operates.</p> <p>Regarding GDPR, we suggest that DPAs should only apply the Law, leaving interpretation of the rules to the Courts.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Telefónica
b. Contact details for follow-up purposes (in company or association)	Name: Juan Luis Redondo Position: Director of Digital Public Policy Email: juanluis.redondomaillo@telefonica.com
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	NO
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	NO

## 1.4 Trade

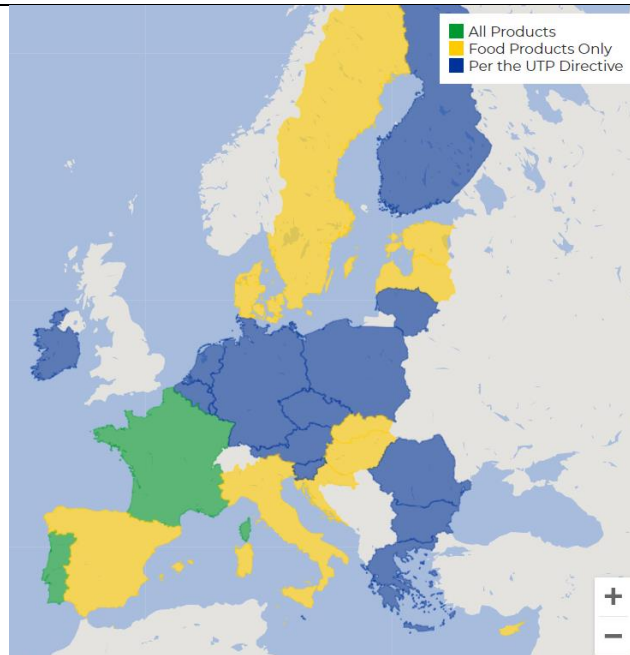
### 1.4.1 Customs and trade

#### 1.4.1.1 AIM

<b>BARRIER: Highly divergent transposition and enforcement of the UTP Directive</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The European Commission introduced the Unfair Trading Practices (“UTP”) Directive in 2019 to address the propensity of European distributors to engage in unfair trading practices with their suppliers, and on this occasion opted for a piecemeal and minimalist approach.</p> <p>Unfortunately, the majority of EU Member States have retained the € 350 million supplier turnover threshold contained in the UTP Directive when transposing it into national law, thus effectively depriving all large suppliers of any protection.<sup>4</sup></p>

<sup>4</sup> In AIM's assessment, the lack of protection for large suppliers is quite paradoxical, as they are the most affected by distributors' unfair trading practices and the main target of (threats of) delisting coordinated by European retail alliances, to the ultimate detriment of European consumers.

	<p>Although the UTP Directive has proved helpful and relatively effective, trends in national enforcement records show that too many UTPs remain too common and unchallenged, mainly because large suppliers are not protected, even though they are the main victims of UTPs.</p> <p>The most prominent UTPs include: refusal to sign a written contract, unilateral contract changes, retaliation and delisting, imposition of unclear logistical penalties, voluntary late payment of invoices to exert negotiation pressure, arbitrary price increases for similar services, or tying local and international negotiations.</p> <p>The UTP Directive leaves all enforcement to national authorities, making it extremely difficult for them to tackle cross-border cases as there is no formal procedure designed for doing so. In addition, UTP rules vary widely from country to country.</p> <p>This fragmented implementation affects suppliers' ability to navigate different UTP laws and makes it difficult for them to do business in the EU. Consistent legal remedies and redress mechanisms for suppliers across the EU would provide legal certainty for suppliers and make it easier for them to navigate the EU market and trade across borders.</p> <p>A wide range of different solutions and specific rules have been implemented: some countries have chosen to protect small farmers more than industrial producers, while others have similar rules for both sellers and buyers. In terms of fines, a country like France is quite strict, while in other countries the potential fines are relatively small compared to the size of the largest retailers.</p> <p>In short, not only are suppliers the target of unfair trading practices that go unchallenged because of the limited scope of some relevant national rules, but they also face additional difficulties due to fragmented implementation.</p>
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Two EU Member States prohibit unfair trading practices across the board: France and Portugal.

Eleven EU Member States prohibit unfair trading practices in the agri-food sector only: Croatia, Cyprus, Denmark, Estonia, Hungary, Ireland, Italy, Latvia, Slovakia, Spain and Sweden.

Fourteen EU Member States prohibit unfair trading practices in the agri-food sector unless the € 350 M turnover threshold is reached: Austria, Belgium, Bulgaria, Czechia, Finland, Germany, Greece, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania and Slovenia.

Unfortunately, under the triple effect of (1) the € 350 million turnover threshold implemented in fifteen jurisdictions, (2) the difficulty of addressing cross-border practices with national laws in the absence of a clear EU procedure for doing so, and (3) the difficulty for a supplier to consider taking legal action against some of its best customers, the vast majority of unfair trading practices (such as product delistings) that have taken place in recent years have gone unchallenged.

#### **First example of cross-border UTP practices that are difficult to tackle**

The Descrozaille Law has clarified that the French rules on unfair trading practices are overriding mandatory provisions considered essential to safeguard French public interests and must therefore be applied to all agreements and decisions affecting the marketing of products in France in order to ensure that all actors in the French value chain benefit from a fair trading environment. This approach is consistent with Recital 12 of the UTP Directive: “*Suppliers in the Union should be*

	<p><i>protected not only against unfair trading practices by buyers that are established in the same Member State as the supplier or in a different Member State than the supplier, but also against unfair trading practices by buyers established outside the Union. Such protection would avoid possible unintended consequences, such as choosing the place of establishment on the basis of applicable rules.”</i></p> <p>The French authorities have repeatedly tried to take action against what they consider to be an infringement, but without a common legal basis at European level and without the support of the authorities of other Member States to combat these cross-border practices, the work of the DGCCRF has been very difficult. The recent CJEU ruling C-98/22 Eurelec has highlighted the difficulty (of a purely procedural nature) of applying French legislation to international agreements concerning flows of goods that are predominantly Franco-French.<sup>5</sup></p> <p><b>Second example of cross-border UTP practices that are difficult to tackle</b></p> <p>As Sweden implemented the UTP Directive without adopting the €350 million turnover threshold, the Swedish UTP authority can open cases below that number (e.g. DNR 593/2023). However, this is not possible in Germany and Poland, where the €350 million threshold was accepted.</p> <p><b>Recent Member State report recommending a more consistent scope</b></p> <p>In its recent evaluation report pursuant to Section 59 of the Agricultural Organisations and Supply Chains Act (AgrarOLkG) on the regulations on unfair trading practices, the German Federal Ministry of Food and Agriculture highlighted (here, on pp. 74 and 91) the following policy recommendations to revise and extend the fragmented scope of application of German UTP laws: <i>“A key suggestion, which was made uniformly by all respondents, was the abolition of the turnover limit of EUR 350 million so that fair business relationships are generally applied and do not depend on the level of turnover. The distortions of competition caused by the turnover limit and the bureaucratic burden were emphasised. (...) Competitive disadvantages for</i></p>
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<sup>5</sup> In AIM's view, European retail alliances have organised themselves in recent years in such a way as to challenge the application of some strict rules of French commercial law (introduced by the EGAlim, ASAP, EGAlim 2 and Descrozaillie laws), which are designed to protect farmers' remuneration by guaranteeing it and to redress the balance of power within the food supply chain in France. The non-application of French laws, despite their extra-territoriality, affects not only French manufacturers and, by extension, the farmers who supply them, but also other distributors who respect them. AIM notes that some distributors negotiate under Belgian law with manufacturers who supply products for the French market and refuse to recognise the French rules on the deadline for commercial negotiations, the protection of agricultural raw materials and the revision clauses in the event of upward or downward variation in these raw materials.

	<i>protected companies compared to non-protected competitors have been identified as a result of the turnover thresholds of EUR 350 million and EUR 4 billion. (...) The majority of the associations were in favour of the extended scope of application being made permanent and even a complete abolition of the turnover thresholds."</i>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	The actual financial impact of unfair trading practices on large FMCG suppliers is difficult to measure precisely due to the secrecy of the agreements negotiated by suppliers and distributors and the variety of practices, but AIM understands that this impact is in the billions of euros.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p>Please see the attached annex – a non-exhaustive list of public decisions by national UTP authorities, which provides a useful illustration of the various aspects of the fragmented panorama of UTP laws in Europe:</p> <ul style="list-style-type: none"> <li>• The rules vary considerably from one country to another (types of possible infringements, turnover thresholds or not, confidentiality standards, level of fines...).</li> <li>• The overall level of enforcement of relatively similar rules by authorities varies greatly from one country to another. For example, France, Croatia and Poland are particularly proactive, while the Netherlands, Germany and Portugal seem to be rather inactive.</li> <li>• There does not seem to be a single EU-wide case where several authorities would have coordinated their efforts to tackle cross-border UTPs (e.g., the coordination of delistings by a European retail alliance) in the absence of a formal EU mechanism for this purpose.</li> </ul> <p>See as well:</p> <ul style="list-style-type: none"> <li>• Schebesta and others, "<a href="#">Unfair Trading Practices in the Food Supply Chain: Regulating Right?</a>", European Journal of Risk Regulation , Volume 9 , Issue 4 , December 2018 , pp. 690 – 700.</li> <li>• Victoria Daskalova, Kluwer Competition Law Blog, October 2018, "<a href="#">The proposal for a Directive on unfair trading practices in food: an end to a fragmented regulatory landscape?</a>".</li> <li>• Fairtrade Advocacy Office, November 2014, "<a href="#">EU Policy Briefing: What the EU should do against unfair trading practices</a>"</li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Possibly all EU countries are affected, although the prevalence of unfair trading practices varies from country to country. See AIM's <a href="#">UTP &amp; Antitrust Cases in the EU Supply Chain</a> .
b. Legislation, legal instrument, standard or technical requirement causing the	Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain,



barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	as implemented and enforced (in 27 different ways) by Member States.
c. Type of problem*	<ul style="list-style-type: none"> <li>- Diverging national rules and procedures</li> <li>- Insufficient cooperation or communication between national administrations</li> <li>- Insufficient enforcement of legislation by Member State or Commission</li> </ul>
d. Relevant ecosystem*	Agri-Food and Retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>AIM has not yet considered using any of the available tools to report Single Market barriers but may do so.</p> <p>This issue was reported to DG GROW on 26 September as part of AIM's response to the retail ecosystem and to DG AGRI on 29 November as part of AIM's response to the consultation on the revision of the UTP Directive.</p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>#1 – Extend the scope of application to agri-food suppliers of all sizes</p> <p>#2 – Extend the scope of application to all suppliers</p> <p>#3 – Prohibit self-preferencing and conflicts of interest due to gatekeeper / dual role practices</p> <p>#4 – Clarify the extraterritorial effect of EU UTP laws</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	AIM – the European Brands Association
b. Contact details for follow-up purposes (in company or association)	<p>Name: Laurent Cenatiempo</p> <p>Position: Competition &amp; Legal Affairs Manager</p> <p>Email: laurent.cenatiempo@aim.be</p> <p>Phone or mobile number: 0032.496.600.181</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

<b>BARRIER: Fragmented enforcement of intellectual property</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>While we have certain unitary IPRs (e.g. trade marks and designs), the enforcement of IP is fragmented in terms of both practice and law. For example:</p> <ul style="list-style-type: none"> <li>• Differing implementation of Directive 2004/48 on the Enforcement of Intellectual Property Rights (e.g. re injunctions and on the recovery of legal costs in IP proceedings, resulting in difficulties for right holders to recover such costs related to their brand enforcement);</li> <li>• Differing implementation of Regulation 608/2013 concerning customs enforcement of intellectual property rights, which</li> </ul>

	<p>also conflicts with the Union Customs Code (e.g. forcing IP right holders to pay for the storage and destruction of their illegal competitors' illegal goods);</p> <ul style="list-style-type: none"> <li>• Lack of political will to correctly resource customs authorities with sufficient trained, expert officers;</li> <li>• Lack of expert, certified facilities to sustainably recycle or destroy detained counterfeits, coupled with blocks on cross-border transfers of such loads where appropriate facilities do not exist in the Member State of detention;</li> <li>• Proliferation of non-interoperable databases used by law enforcement, particularly customs, to record data and information about right holders, detentions of IP-infringing goods and related intelligence, including refusal to deploy the <a href="#">IP Enforcement Portal</a> specifically developed for EU law enforcement officers, causing duplication and bottlenecks on all sides;</li> <li>• Lack of clarity surrounding data that can legally be shared between law enforcement authorities, both within one Member State and cross-border, and with the private sector, e.g. IP or cybercrime investigators;</li> <li>• No harmonised treatment of parasitic copies, which generally do not involve direct IP infringement but are deliberately produced and marketed to confuse consumers and free-ride on the brand. The issue falls between many stools at EU level (IP, unfair competition, consumer protection etc.).</li> </ul>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>The negative impacts of IP infringement are well known in all sectors. It accounts for <a href="#">2.5% of all global trade and almost 6% of all imports to the EU by value</a>. Counterfeiting is increasingly linked to organised crime, and is interconnected with a plethora of other high value criminal activities such as money laundering and the illegal drug trade. IP criminals do not comply with product or other safety standards: they make and sell goods that we know cause consumer harm – financial and physical. They don't pay tax or duties, thus public budgets are reduced. They attack the same innovators and creators that we need to help us rebuild after the global crises. Legal jobs are lost. Companies are bankrupted, especially SMEs. Our environment is endangered with the production and transportation of goods that should never have been made and cannot be sustainably destroyed or recycled as we do not know their composition.</p> <p>The lack of political will, thus resources, given to law enforcement authorities to effectively combat this problem is evidenced, inter alia, by the <a href="#">drop by 43%</a> in the number of IP-infringing items detained at our borders last year, thus even more infringing goods are flooding the single market.</p> <p>A comparative legal study conducted for the Commission on parasitic copies was <a href="#">published in September 2011</a>. It confirmed how differently this problem is dealt with at national level, and supported our call for more effective legal tools in those markets where remedies were weak. Nothing further was done. While recognised as a “commercial practices which [is] in all circumstances considered unfair/misleading” under Annex I of the <a href="#">Unfair Commercial Practices Directive</a>, enforcement varies by Member State, sometimes limited to public authorities, others</p>

	allowing civil actions by companies. Few public authorities have the resources to enforce these provisions. It made little – if any – difference on the ground. Requests for implementation guidelines were rejected.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	The negative effects of counterfeiting and other IP infringements on the EU's consumers, industries, creators, employment, markets, state budgets and environment have been examined and proven in a <a href="#">wide range of reports and studies</a> from the EUIPO's Observatory on Infringements of IPRs.
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	All.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>• Directive 2004/48/EC on the enforcement of intellectual property rights</li> <li>• Regulation 608/2013 concerning customs enforcement of intellectual property rights</li> </ul>
c. Type of problem*	Insufficient enforcement of legislation by Member State or Commission; lack of political will.
d. Relevant ecosystem*	All, including the branded goods sector.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Harmonised enforcement of IPRs to the extent possible; clarifying the interpretation of IPRED; ending the practice, which runs contra to the general principles of liability, that a right holder is forced to pay for the storage and destruction of illegal goods moved and marketed by its illegal competitors; amending the rules to allow goods under customs control to be legally transported to another Member State for the purposes of appropriate destruction; clarifying the data and privacy rules for law enforcement; promoting uptake of one, or at least interoperable, secure database(s) for right holder-LEA communication; re-examining the treatment of parasitic copying.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	AIM – European Brands Association
b. Contact details for follow-up purposes (in company or association)	Name: Marie Pattullo Position: Senior Manager, Trade Marks and Brand Protection Email: marie.pattullo@aim.be Phone or mobile number: 02 7360305
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Business association
<b>5. Confidentiality &amp; public communication</b>	

a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.4.1.2 AmCham EU / American Chamber of Commerce in the EU

BARRIER: Divergent FDI Screening Mechanisms	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Foreign Direct Investment (FDI) screening in the EU lacks coordination between Member States and with other transaction clearances like merger control and foreign subsidies screening. This unpredictable environment results in heightened unpredictability and increased costs for businesses engaged in FDI activities.</p> <p>FDI generates significant societal benefits by creating economic growth, enhancing competitiveness, creating jobs and economies of scale and bringing in capital, technologies, innovation and expertise. FDI principally takes two different forms: greenfield investments or mergers and acquisitions (M&amp;A).</p> <p>The Commission and the EU Member States have well-established systems for reviewing M&amp;A transactions under their respective merger control systems. At the Member State level, the EU's Merger Regulation subjects merger controls to extensive case cooperation mechanisms within the European Competition Network (ECN). Increasingly, best practices, studies and policy cooperation are done also at an international level through the International Competition Network (ICN) and the Organisation for Economic Co-operation and Development (OECD). Efforts are being made to ensure that global M&amp;A activity is subject to a framework where jurisdictional triggers, procedures and substantive reviews are more closely coordinated and aligned. This provides clarity and certainty to the relevant competition agencies and to business.</p> <p>In addition to merger control, M&amp;A activity is now subject to <b>FDI screening</b> in EU Member States as well as the newly established <b>EU Foreign Subsidies Regulation (FSR)</b>, which will be fully enforced as of 12 October 2023. M&amp;A transactions can thus be subject to three separate clearance regimes within the EU, creating significant challenges for business and their advisors going forward and a clear need for a coherent and administratively efficient approach. FDI screening and FSR are at an early stage of implementation. Conversely, merger control procedures have been developed and refined over decades of experience, and thus, helpful parallels can be drawn from that example.</p>

	<p>FDI screening procedures at the Member State level often lack due process present in merger control screening. Investigations at the member state level are often untransparent, unpredictable, and not properly administered. We recognise that national security and public order are of utmost importance to EU Member States. However, national authorities must in all circumstances - also when protecting legitimate and important interests - comply with due process to ensure that FDI screening is not used to conceal protectionism unless there is legitimate need to protect public security or public policy. Likewise, it is imperative that they offer adequate resources to FDI screening, including by having a sufficient number of well-equipped case handlers available.</p> <p>Additionally, misalignment between procedural and substantive elements of national FDI regimes create additional, unjustified costs for transactions that involve multiple member states. The Commission, in its <i>Third Annual Report on the screening of foreign direct investments into the Union</i>, has acknowledged that 20% of notified transactions constituted multi-jurisdictional FDI. These transactions were subject to FDI screening in each additional member state, along with subsequent screening intervention by the Commission.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>For many global firms, FDI screening in the EU is the single most expensive transaction screening process worldwide due to the costs stemming from navigating divergent and complex regimes across Member States.</p> <p>These costs are also disproportionate in comparison to the very low rate of in-depth (Phase 2) investigations across national FDI regimes, demonstrating that FDI regimes capture an excessively broad number of transactions, with a majority being pre-emptive. For instance, the French Treasury concluded that 73% of FDI notifications in 2024 were fell outside the scope of the French screening regime.</p> <p>This high degree of pre-emptive notification is also reflected in statistics on the number of cases subjected to in-depth (Phase 2) investigation. <a href="#">Commission statistics</a> show that out of the cases referred to the Commission in 2023, 92% were closed in Phase 1, 8% were closed in Phase 2, and the Commission only issued an opinion in less than 2% of cases. Statistics at the national level similarly demonstrate that the majority of notifications are pre-emptive, with <a href="#">Germany</a> only issuing restrictive measures on 3% of cases in 2024, and Belgium only opening a <a href="#">Phase 2</a> investigation in 7% of cases between 2023 and 2024. <a href="#">France</a> is a notable outlier: in 2024, 54% of transactions were approved subject to conditions.</p> <p>These costs exist in the context of a screening environment where transactions are subject to more clearances than ever. In fact, many of these cases are also subject to merger control and foreign subsidies screening at the EU level, creating significant additional complexities, uncertainties and legal costs.</p>

c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>The EU FDI Regulation is based on the principle that it is Member States' sole responsibility to safeguard their national security. Whereas the Commission encourages the roll-out of national FDI screening regimes, the decision on whether to set up a screening mechanism or to screen a particular FDI remains the sole responsibility of Member States. In that context, the current EU FDI framework enables national screening regimes with significantly diverging features, including at jurisdictional, procedural, and substantive levels.</p> <p>At the <u>jurisdictional level</u>, divergences in key notions increase the complexity of reportability assessments, especially in multi-jurisdictional transactions. Some examples are listed below:</p> <ul style="list-style-type: none"> <li>• Certain jurisdictions extend FDI rules to domestic and/or EU investors, whereas others cover incoming investment from outside the EU, or outside the OECD (in the case of Poland). The rules governing which investor qualifies as foreign also vary. For instance, Belgium and Germany use the notion of 'residence' to qualify an individual as foreign, others, such as France, use citizenship.</li> <li>• There is no alignment on the type of transactions covered by EU screening mechanisms. For example, Member States exempt certain intra-group transactions (e.g., France, Germany, Spain), whereas others capture them (e.g., Belgium, Italy). Recent FDI screening regimes neither specifically cover, or exempt intra-group transactions (e.g., Luxembourg, Netherlands, Sweden). Further, in the context of the acquisition of shares/voting rights, notification obligations may be triggered at very different percentage levels (For example, Luxembourg's and Ireland's thresholds are set at 25%, but other Member States' scrutiny generally kicks in at 10%. Italy also covers certain acquisitions of just 3%).</li> <li>• Member States have devised lists of 'sensitive' activities which differ both in terms of number of economic sectors, and types of activities covered. The notions used are broad and hard to apply in practice. The corresponding legal uncertainty is often not offset by consultation procedures on reportability, prompting many investors to submit full form notifications as a matter of precaution. Investors could also benefit from more soft law guidance setting out how key notions are interpreted and applied by regulators.</li> <li>• Member States' FDI regimes generally do not include filing thresholds based on <i>objective</i> criteria such as turnover, or asset value.</li> </ul>



	<p>At the <u>procedural level</u>, significant divergences in the length of reviews, and regulators' significant leeway to extend those reviews, introduce severe uncertainty for deal timelines.</p> <p>For example, information requests – events which usually cannot be anticipated by businesses – suspend review timelines in several Member States. Also, the expiration of statutory timelines does not always result in the automatic approval of notified transactions. Instead, in France and Spain, if a decision is not handed down within statutory timelines, a transaction is deemed rejected. Similarly, there is no principle of deemed approval under Luxembourgish and Romanian FDI rules, and businesses must therefore delay implementation until approval is received even if statutory timelines have expired.</p> <p>At the <u>substantive level</u>, as identified by the OECD, Member States use different probability thresholds for an impact on security and public order.<sup>6</sup> Member States have generally not issued soft law guidance setting out how substantive assessments are conducted, and underlying reasons are generally not published. This impairs the ability for business to understand outcomes / scrutinize the relevant agencies' investigations, which may also raise significant due process issues.</p>
<p>b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)</p>	<p>Please elaborate on any of the following:</p> <ul style="list-style-type: none"> <li>- National legislation or technical requirements (please specify and provide links where possible)</li> </ul> <p>Member States have their own FDI screening regimes, which they notify to the Commission.</p> <ul style="list-style-type: none"> <li>- EU rules, where applicable (exact name of Regulation, Directive, Delegated Act, etc.)</li> </ul> <p>The EU FDI Screening Framework (Regulation (EU) 2019/452).</p> <ul style="list-style-type: none"> <li>- National interpretation of EU rules</li> </ul> <p>In 2022, 423 notifications were submitted by 17 Member States under article 6 of the FDI Screening Regulation. The vast majority of these came from six member states with more developed FDI screening mechanisms: Austria, Denmark, France, Germany, Italy and Spain<sup>7</sup>.</p> <p>One of the causes for this imbalance is the criteria used for notification under the EU cooperation mechanism. Notifications are made by Member States to the Commission and other Member States when a Member State formally screens an FDI. Interpretations of what amounts to formal screening diverge:</p>

<sup>6</sup> OECD, Framework for Screening Foreign Direct Investment into the EU, Assessing Effectiveness and Efficiency, November 2022.

<sup>7</sup> European Commission, *Third Annual Report on the screening of foreign direct investments into the Union*. Brussels, Belgium, 2023 (pp. 14)

	<ul style="list-style-type: none"> <li>Some Member States, including Austria and Italy, feed all notified transactions into the cooperation mechanism without any prior assessment of security or public order implications.</li> <li>Others, such as France or Germany, only notify transactions which may affect their own, other Member States' security or public order, or projects and programs of Union interest.</li> </ul> <p>As a result, it is not uncommon that non-issue cases are submitted to the EU cooperation mechanism, and therefore subjected to additional layers of scrutiny. In such cases, businesses and regulators are overburdened by the significant volume of notifications. This is inefficient, as shown by the fact the vast majority of these cases, 81%, closed during Phase 1, while 11% needed additional Phase 2 screening.<sup>8</sup> These cases were also exposed to uncertain timelines during Phase 2. In 2022, it took Member States between 1 and 126 days to provide the Commission with requested information—with the average length being 24 days.<sup>9</sup> US-led investments were the single largest source of Phase 2 cases, accounting for 32% of ultimate investors in the 2022 cases.<sup>10</sup> These cases also predominantly concerned transactions in the manufacturing sector—largely in aerospace, energy, and defence.<sup>11</sup></p> <p>Without clear timelines, transactions impacting several member states could be subject to even more uncertainty and costs. It cannot be excluded that investors may also be tempted to abandon certain investment opportunity in an EU target, if faced with significant uncertainty as to regulatory deadlines.</p>
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes; Insufficient cooperation or communication between national administrations.
d. Relevant ecosystem*	All of the ecosystems, since this impacts any industry receiving foreign investment.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>The EU Foreign Investment Screening Regulation (FISR) is currently under discussion in trilogues. It would make a substantial contribution to aligning and coordinating FDI screening in Europe and setting minimum standards for procedures.</p> <p>However, the FISR could also risk increasing the number of pre-emptive notifications Member States receive should the co-legislators agree on an approach to the minimum sectoral scope that includes broad and vague language. This could, in practice, apply the FISR to almost any meaningful transaction, as well as intra-EU ones. This could mean applying the costs of FDI screening to more transactions that do not warrant FDI screening.</p>

<sup>8</sup> Ibid. (pp. 17)

<sup>9</sup> Ibid. (pp. 17)

<sup>10</sup> Ibid. (pp. 19)

<sup>11</sup> Ibid. (pp. 18)

	<p>Accordingly, creating a robust and targeted framework of mandatory authorisation requirements for investments with national security and public order implications should be a key priority for co-legislators in upcoming trilogue negotiations. Co-legislators should make this framework clear, flexible and straightforward, ensuring that screening authorities are appropriately focusing on high-risk cases while investors have the predictability and certainty they require.</p> <p>Likewise, establishing a concept of control should be a priority in the upcoming trilogue negotiations. A clear concept of control is critical to limiting the Regulation's divergent implementation and would provide investors with much needed clarity in assessing whether an investment is notifiable. Likewise, it may help resolve some of the issues related to effectively excluding internal corporate restructurings from the scope of the Regulation.</p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Aligning FDI screening regimes through the FISR is crucial to enhancing security and public order. Such alignment would not only strengthen the EU's economic security but also foster prosperity through close coordination with international partners, including the US.</p> <p>Greater alignment would also provide legal certainty, enabling companies to reduce administrative costs and risks. This would, in turn, enhance the attractiveness of the EU's Single Market as a preferred destination for foreign investments, promoting economic growth and job creation. In addition, a centralised FDI screening mechanism would enable the EU to effectively address common concerns regarding economic security and vulnerabilities.</p> <p>In terms of scope, the co-legislators could best achieve a proportionate balance <b>by maintaining the Council's approach of aligning the Regulation's mandatory authorisation requirements with the EU's dual-use and common military export control lists</b> (ie maintaining paragraphs 1 and 2 from annex II of the Commission's proposal). Introducing excessively broad or duplicative amendments would most likely lead to a high number of pre-emptive notifications, creating significant burdens for investors and screening authorities alike.</p> <p>Given the vast overlap between the Commission and Parliament's critical technologies list (annex II paragraph 2) and the dual-use and common military export control lists, the Council's approach substantively accomplishes the same scope without the unnecessary complexity stemming from duplicative and broad definitions in annex II paragraph 2.</p> <p>It is vital that the co-legislators start with a clear, well-understood baseline scope for mandatory authorisation. As the Regulation will introduce significant changes and practical difficulties for screening teams across the EU, starting with an <b>effective and manageable mandatory minimum scope</b> that can be scaled up</p>

	<p>over time is vital. This is far preferable to creating a far-reaching and unmanageable scope that would need to be simplified during the next revision.</p> <p>In terms of concept of control, the Parliament and Council's proposals are inadequately defined for the purpose of FDI screening, lack clear precedent in EU law and case law and stem from a European Court of Justice (ECJ) opinion relating to free trade agreements – not FDI screening. In addition, they miss an opportunity to align with the concept of control used in the EU Merger Regulation (EUMR) and the Foreign Subsidies Regulation (FSR), which typically apply alongside FDI screening.</p> <p>The EUMR and the FSR are well aligned on this point and rely on the concept of 'decisive influence' to determine the existence of control by an investor and thereby establish whether an investment is notifiable. This concept was established in the EUMR and expanded in the Commission's Consolidated Jurisdictional Notice. Instead of establishing static notification thresholds based on voting shares, deal size and other factors, the concept of 'decisive influence' takes a more dynamic approach, focusing on <b>the rights and powers conferred during a transaction that allow an acquirer to determine the 'strategic direction' of the target entity.</b></p> <p>The concept of 'decisive influence' is also <b>supported by ECJ case law, is well understood by investors and has a long history of usage and guidelines</b> to support its predictable implementation. Adopting it as the basis for the definition of 'foreign investment' would <b>significantly simplify compliance with the Regulation</b> and increase predictability for screening authorities and investors around what types of investments should be notified. It would also provide consistency in the regulatory framework by aligning the jurisdictional thresholds across EUMR, FSR and FDI filings.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	American Chamber of Commerce to the European Union (AmCham EU)
b. Contact details for follow-up purposes (in company or association)	Name: Andrew Hill Position: Senior Policy Adviser Email: AHI@amchameu.eu Phone or mobile number: +32 470 57 48 01
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.4.1.3 Anonymous 1

<b>BARRIER: Differences at European Customs</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	For certain products, there are conformity assessments and custom controls that differ from one Member State to another for the same type of goods. For example, control of product safety and health or labelling, are regulated through EU directives, but MS have the freedom to implement or not different national controls to release the goods for import in the EU (border controls). The discretion granted to the different MS create significant differences causing discrimination issues between the customs formalities (in this case “para-customs” obligations) and unfair differences between the MS
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Those Member States opting for implementing the “para-customs” controls through another means, other than “border controls” (such as through national consumers bodies and/or site inspections), are ultimately favoured in detriment of those who implement those checks as border controls. Conclusively, those regulations that might involve “a border control” should be regulated in an harmonized way across the European Union.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Several MS
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	In Spain, as an example, the “Royal Decree 330/2008 of 29 February 2008 adopting measures to control the import of certain products with regard to the rules applicable to product safety”, the General Secretariat for Foreign Trade, through the Inspection Service of the territorial and provincial Trade Directorate inspection service (SOIVRE) shall carry out the necessary checks on the conformity of the products to be imported with the applicable safety and labelling standards before issuing the relevant certificate for releasing the goods for free circulation in the European Union causing troublesome inconveniences in costs and time that most part of the operators in other countries should not bear.
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	

<p>Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.</p>	<p><b>Uniform procedures for Customs release within the EU:</b>          With the aim of not creating discrimination between operators in the EU countries, there is a uniform regulation at European level to set, in an harmonized approach, the more purely customs procedures (customs duties or taxes) but similar approach would be required for those regulations that might involve “a border control”, avoiding different scenarios for all the MS; thus, if a country proposes border controls for those kind of checks, all the MS should carry out them for customs clearance but if EU countries assume that the control might be internal, after the free release of the goods by the Customs Authorities, then all the territories within the EU should have some opportunities.</p> <p><b>Single Window for Customs:</b> Likewise, businesses should have access to a real single data entry point (Union single window/portal) and a simplified procedure for customs formalities. The EU Customs Union is not functioning as well as it could at present. The lack of uniform enforcement of customs legislation by each Member State is widespread. Sometimes there are even issues within the same territories.</p> <p>Single data inputs and IT connections are needed. Integration of such data and verification of the requirements per Member State should be avoided. Full customs clearance and associated procedures (quality controls, testing, etc.) for the EU must take place once when evaluating the life-cycle analysis of goods.</p> <p><b>Single Customs Code:</b> Harmonization within an International Single Customs Code Framework. We also call for better internal alignment with other EU regulations to avoid overlapping HS codes for the same products and operators.</p> <p>The EU must also consider issuing binding tariff/value information at a centralised level to resolve tariff classification and customs valuation issues that could be applied at EU level.</p>
<p align="center"><b>4. Organisation info &amp; contacts</b></p>	
<p>a. Organisation name</p>	<p>Contact details can be requested from the ERT Secretariat (<a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a>).</p>
<p>b. Contact details for follow-up purposes (in company or association)</p>	
<p>c. Type of organisation (please select answer by highlighting in <b>bold</b>)</p>	
<p align="center"><b>5. Confidentiality &amp; public communication</b></p>	
<p>a. Should the name of a company remain anonymous? If yes, why?</p>	<p>Yes - sensitive</p>
<p>b. Should the example remain confidential (not be published in the public domain)? If yes, why?</p>	

1.4.1.4 Anonymous 2

BARRIER: Divergent interpretation of EU rules by customs authorities
1. Barrier description



a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>We are a global company with presence and production in multiple countries, both within the EU and in third countries. We have noted that different member states' authorities seem to assess and interpret EU regulations differently in multiple respects. We lack a uniform approach, for example as regards to export restrictions. When it comes to export restrictions, Swedish Customs interpret EU regulations in a way that we do not see from other member states' customs. For instance, when exporting goods to Turkey from Sweden, the Swedish Customs require certain documentation (see 2b) that other member states' customs do not require. In other words, the requirements to approve export by local authority from Sweden to for example Turkey differ compared to the requirements applied by for example local authorities in Finland or Belgium. This leads to a non-uniform approach, which obstructs trade and may lead to negative impacts for the free movement of goods within the EU. Another example is classification of munitions. Local authorities seem to have different assessments of what is to be classified as munitions and what is not to be classified as munitions. This leads to distorted competition within the EU.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Sweden.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>"Certain documents" referred to in 1a: documents required by local authorities for release of goods for export under custom codex (for example article 194.1 (RF952/2013) and article 245.2 (GF2015/2447)).</p> <p>Separately, it is not easy to give references to local authorities' assessments and interpretations of EU regulation and we are not comfortable sharing any correspondence with local authorities.</p> <p><u>EU rules:</u> Title II – Free Movement of Goods – Articles 28 to 37 of the Treaty on the Functioning of the European Union (TFEU).</p>
c. Type of problem*	<ul style="list-style-type: none"> <li>- Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</li> <li>- Lack of mutual recognition;</li> </ul>

d. Relevant ecosystem*	This depends on what you are asking for (if the question relates to our two examples in 1.a, or to our business). Our two examples in 1.a could perhaps be categorized as “export restrictions” (and concerns customs and classifications).
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	To our knowledge, it has not been reported by us to any authority and we are not aware of any external report to any authority.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	What we would like to see is a harmonised legislative framework when it comes to customs between the member states. We understand the difficulties of this being a complex and general issue with no clear or simple solution. However, we would like to address the issue as such since it affects the possibilities to a “fair trade” within the EU.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	Yes. Given the fact that we have ongoing relations with local authorities, we require to be anonymous.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	Yes. The same as above. You are welcome to share our input/examples in 1.a but we require to be anonymous.

#### 1.4.1.5 Anonymous 5

<b>BARRIER: Customs processes</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	The complexity of current customs processes means that companies looking to import into or export from the EU face a multitude of trade barriers. These include the complexity of Harmonised System (HS) classification, tariff and origin rules, lack of harmonisation and coordination amongst customs authorities, insufficient levels of data sharing, and optionality of the Import One Stop Shop (IOSS). While customs policy is governed by EU legislation, the responsibility for implementation lies with the Member States. Different inspection/control systems in different countries result in large variations in the time taken to import goods (e.g. the average duration of an inspection is 0.73 days in France and 0.89 days in the Netherlands, compared to 3.34 days in Spain and 2.41 days in Italy). This suggests significant potential in increasing the awareness of national differences as well as exchange of best practices, as the lack of harmonisation affects all Member States importing goods.

	Customs procedures for trusted traders should be simplified and a level playing field between EU and non-EU companies should be ensured, making it simple for the vast majority of legitimate well-intentioned players and hard for bad actors.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	The current barriers cause high costs and time to process imports at entry, leading to delivery delays and unexpected costs for EU customers, high administrative burdens to EU businesses, in particular SMEs, and an unlevel playing field in the enforcement of customs rules.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p>IMCO Committee (European Parliament). (2022) <a href="#">A Comparative Analysis of Member States' Customs Authorisation Procedures for the Entry of Products into the European Union</a>.</p> <p>Report by the Wise Persons Group on the Reform of the EU Customs Union. (2022) <a href="#">PUTTING MORE UNION IN THE EUROPEAN CUSTOMS: Ten proposals to make the EU Customs Union fit for a Geopolitical Europe</a>.</p> <p><a href="#">Product safety and regulatory compliance in e commerce and non-EU imports (2025)</a></p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Customs policy is governed by EU legislation but the responsibility for implementation lies solely with the Member States. Differences emerge given officials in Member States with large sea ports (i.e. Belgium, Germany, the Netherlands and Spain) receive significantly higher volumes of goods compared to land-locked Member States. Furthermore, the former receive these goods via large containers while the latter are more likely to receive small consignments via air, rail or land. Moreover, Member State authorities seem to be largely unaware of national differences in the Single Market, signalling the limited exchange of good practices. Lack of harmonisation is therefore widespread and affecting all Member States importing goods.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Current Union Customs Code
c. Type of problem*	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</p> <p>Insufficient cooperation or communication between national administrations;</p> <p>Insufficient digitalisation of information or of procedures;</p> <p>Insufficient enforcement of legislation by Member State or Commission;</p> <p>Issues around authorisations/licences/permit requirements, or other document requirements</p>
d. Relevant ecosystem*	Other, customs
e. Has the barrier already been reported to a relevant	Yes. The European Commission proposed a Union Customs Reform Package in May 2023: Regulation (EU) No 952/2013 of

<p>European and/or national administration? If yes, how, to whom and what is the status?*</p>	<p>the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast)</p> <p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013. The reform package aims to address these barriers in the field of e-commerce via,</p> <ol style="list-style-type: none"> <li>1. Introduction of 'Deemed Importer' Fiction (akin to the already existing VAT Deemed Reseller concept), whereby online marketplaces are deemed 'Importers' for B2C imported shipments to EU customers, and therefore liable for customs duties.</li> <li>2. Extension of the current 'deemed reseller regime' and VAT IOSS system to capture all B2C imported sale irrespective of value.</li> <li>3. New customs data sharing obligations, with customs relevant data being transmitted to authorities in real-time via a central Customs Data hub, to allow EU customs authorities to strengthen customs supervision and control capabilities.</li> </ol>
<p><b>3. Suggested solution / recommendation</b></p>	
<p>Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.</p>	<ol style="list-style-type: none"> <li>1. Ensure a uniform implementation and application of customs laws and streamlined processes to legitimate trade as smooth as possible.</li> <li>2. Ensure effective collection of VAT and customs duties, whilst ensuring channel neutrality and a level playing field for all forms of trade and commerce business models, regardless of where they are established.</li> <li>3. Ensure a level playing field in rights and obligations between all trade operators regardless of their place of establishment, business model, size or shipping method.</li> <li>4. Ensure data minimization, data quality and re-use if data, as well as reciprocal data sharing ensure the data collection is targeted and meaningful and adequately addresses the issues customs reforms are trying to address.</li> <li>5. Swift implementation of the EU Customs Data Hub to exchange relevant data before the goods are crossing the EU border, limiting the volume of information to be swiftly processed, so that the process works fast and reliable.</li> <li>6. The data sharing mechanism and any documentary requirements need to be fully harmonized, removing the need for countries to comply with EU27 systems and requirements.</li> </ol>
<p><b>4. Organisation info &amp; contacts</b></p>	
<p>a. Organisation name</p>	<p>Contact details can be requested from the ERT Secretariat (<a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a>).</p>
<p>b. Contact details for follow-up purposes (in company or association)</p>	

c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.4.1.6 Colep

<b>BARRIER: Unfair burdens on cosmetics producers in Poland</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Cosmetic producers (mainly aerosols) use highly purified LPG gases as aerosol propellants in the course of their business. Such aerosol propellants are treated as fuels (petroleum products) under EU law as well as national law (in Poland). Therefore, a cosmetics manufacturer that purchases intra-Community aerosol propellants to Poland must maintain significant amounts of mandatory stocks of this gas. At the same time, it also bears the burden of the so-called stock fee.</p> <p>Cross-border difficulties in Colep's business profile concern three areas, i.e. logistics, finance and reporting. Logistics, because the Company, when purchasing aerosol propellants (raw materials for the production of cosmetics) from other EU countries, is obliged to maintain fuel stocks on its own. This requires the creation – or outsourcing of – storage infrastructure where gas will be stored. Financial, because when purchasing aerosol propellants from other EU countries, the Company is obliged to pay the so-called stock fee on imported fuels. Reporting, because when purchasing propellants from other EU countries, the Company must submit periodic reports to the President of the Strategic Reserves Agency, such as declarations and information on stocks. The above obligations do not apply to cosmetics producers who purchase raw materials for the production of cosmetics in Poland. The financial costs incurred by Colep must therefore be included in the price of the final cosmetics, which makes them less competitive on the European Union market. The Company mainly produces cosmetics for the European market.</p> <p>The essence of the problem is that aerosol propellants are not used as fuels (they cannot be used due to their physicochemical properties). The cosmetics manufacturer itself does not belong to the fuel industry at all.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Cosmetics producers bear the financial burden typical of fuel companies. They must pay for the service of creating and maintaining fuel stocks, the amount of which is determined by the scale of operations. In the case of aerosol propellants, the cosmetics manufacturer must maintain a stock of fuels suitable</p>

	for use as fuel. They cannot be the same aerosol propellants. Additionally, in addition to inventories, the manufacturer must also bear the costs of the reserve fee paid to the Government Agency of Strategic Reserves. It is also burdened with numerous reporting obligations.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	The obligation to create fuel reserves for LPG gases (including aerosol propellants) is also described on the website of the Government Agency for Strategic Reserves. Link: <a href="https://www.rars.gov.pl/nasze-zadania/zapasy-paliw/zapasy-obowiazkowe">https://www.rars.gov.pl/nasze-zadania/zapasy-paliw/zapasy-obowiazkowe</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Poland
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>The main legal act which creates the problem is the Polish Act on oil reserves (Act on oil reserves, oil and natural gas, as well as the rules of conduct in situations of danger of fuel safety of the state and disturbances on the oil market of 16 February 2007 (Journal Laws of 2023, item 1650).</p> <p>Detailed provisions defining the obligation towards gas are Art. 2 point 2 letter f, art. 5 and art. 21b above. Act.</p> <p>In the presented problem, the EU definition of "liquefied petroleum gases" set out in Annex A, Chapter 3 of Regulation (EC) No. 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics (OJ EU L 304) is also crucial. of November 14, 2008, page 1, as amended2).</p> <p>The EU definition does not distinguish between LPG gases typical for fuels and LPG gases used as aerosol propellants.</p>
c. Type of problem*	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</p> <p>Issues around authorisations/licences/permit requirements, or other document requirements</p> <p>Other: Placing a disproportionately high financial burden on entities conducting activities unrelated to the fuel sector.</p>
d. Relevant ecosystem*	Chemical and cosmetic industry
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The problem raised has already been presented to both national (Polish) public authorities. In this regard, there are disputes between cosmetics producers and the Government Agency for Strategic Reserves. As indicated above, a complaint in this regard was also filed with the European Commission, registered under number (CHAP(2022)00377).
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	The most effective solution to the problem will be an amendment to Regulation 1099/2008 regarding the definition of liquefied petroleum gases (LPG) or the Polish Stockpiles Act, so that raw



	materials used in the non-fuel sector will be excluded from the scope of these legal acts.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	POLSKI ZWIĄZEK PRZEMYSŁU KOSMETYCZNEGO
b. Contact details for follow-up purposes (in company or association)	Name: Katarzyna Knapkiewicz-Dubińska Position: Head of Finance and Controlling / Board Member Email: katarzyna.dubinska@colep-cp.com Phone or mobile number: +48 501354688
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	NO
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	NO

#### 1.4.1.7 Invest Europe

<b>BARRIER: Fragmented system of FDI mechanisms for investors</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	There are major inefficiencies resulting from the patchwork of distinct national FDI screening mechanisms that impose an increased workload on companies attempting to invest in Europe, such as the varying information requests and notification formats of each national authority. This fragmented regulatory landscape constitutes a significant hurdle for investors.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Such a lack of harmonisation creates an investment environment lacking in legal certainty and predictability. Each EU Member State has its own concept of sensitive activities, critical infrastructures, foreign investors (EU / non-EU), type of investments (acquisition of control, percentage of voting rights, etc.) and its own set of procedures (competent authorities, form of notice, timeframe, set of conditions, etc.).</p> <p>The key input from our members that would need to be weaved into all aspects of the Commission's review of the FDI regime is the need for a better streamlining of FDI procedures within the EU and between EU Member States.</p> <p>These recommendations align with our commitment to fostering a more cohesive and investor-friendly environment within the EU, ultimately contributing to the region's economic growth, security, and stability.</p> <p>A centralised screening system for FDI would be most effective for investments in entities with a Union interest or which are likely to affect security or public order in more than one Member State.</p>
c. Any extra evidence (e.g. links to publications or background materials, from	Invest Europe has put forward detailed comments in summer 2023 in response to the Commission's FDI consultations ( <a href="#">here</a>

your organisation or external sources).	<p>and <a href="#">here</a>). We have also included in these papers our suggested changes for the current review.</p> <p>As a practical example of the burden that investors face for multi-country transactions, please consider a foreign investor investing in 'Company X' via a fund domiciled in Luxembourg, which has 5 subsidiaries throughout Europe (France, Belgium, Italy, Spain and Malta). Even if the suggested changes in the Commission's proposal were to be incorporated, foreign investors would still potentially trigger investment screenings in six countries, as a result of one investment, leading to a massive regulatory burden.</p> <p>Of course, the firm would have to overcome the cumbersome task of satisfying all requirements under each screening mechanism; the firm would need to follow six different screening processes simultaneously. On top of the different screening requirements, there are also the practical roadblocks such as: varying documentation, languages, and potentially varying specific sectors of national interest. The issue of the multitude of requirements for investors must be a top priority for the review of the FDI framework.</p> <p>It would be more efficient for the Commission to explore options to simplify the procedures for screening inwards FDI that entail notifications in multiple Member States.</p> <p>For example, by introducing a "one-stop-shop" mechanism, where jurisdiction over an FDI transaction is allocated to a single impacted Member State on the basis of predefined criteria, such as the place of the European headquarters.</p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	The problem is spread throughout the entire EU27. The key to moving this forward and bringing about change is via more EU centralisation.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>- EU FDI Framework</li> <li>- In part via the Foreign Subsidies Regulation which also creates a considerable workload for private investors who wish to contribute to the European economy.</li> </ul>
c. Type of problem*	Diverging national rules, procedures
d. Relevant ecosystem*	Financial Services
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	This has been discussed in the review of the EU FDI framework.

3. Suggested solution / recommendation	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	More harmonisation of national FDI screening mechanisms and a centralisation of coordination at EU level.
4. Organisation info & contacts	
a. Organisation name	Invest Europe
b. Contact details for follow-up purposes (in company or association)	Name: Martin Bresson Position: Public Affairs Director Email: <a href="mailto:martin.bresson@investeurope.eu">martin.bresson@investeurope.eu</a> Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

## 1.4.2 Taxes, VAT, tariffs & fees

### 1.4.2.1 Accountancy Europe

BARRIER: Lack of harmonised VAT returns	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Companies doing business across borders in the Single Market currently have to submit VAT returns in different countries in wholly different formats. This constitutes a significant administrative burden and thus a potential disincentive for cross-border business – especially for smaller businesses. The different national VAT return formats can range from just a few datapoints to almost 100 datapoints depending on the EU Member State.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	The issue was acknowledged by the Commission already in 2013, through a proposal accompanied by an impact assessment. Please see here: <a href="https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2013)426&amp;lang=en">https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2013)426&amp;lang=en</a>
2. Barrier categorisation	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Technically all EU Member States – no uniform VAT return format.

b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	National legislation or technical requirements: different national VAT return formats EU rules, where applicable: lack of a common pan-EU VAT return format
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Across different sectors
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, there was an effort years ago to harmonise the EU VAT return but this did not materialise due to Member States not agreeing.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	There should be a standard pan-EU VAT return format which would considerably ease doing business across borders within the Single Market.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Accountancy Europe
b. Contact details for follow-up purposes (in company or association)	Name: Johan Barros Position: Head of Policy Email: <a href="mailto:johan@accountancyeurope.eu">johan@accountancyeurope.eu</a> Phone or mobile number: +32496 838 348
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Other: <b>professional association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

<b>BARRIER: Diverse tax reporting landscape – in particular VAT</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Tax reporting, including taxes related to employment, VAT and other indirect taxes and taxes on profits, is a substantial administrative burden but the cost of reporting such taxes increases substantially when businesses engage in cross-border trade. One example is Intrastat reporting for cross-border sales of goods (and services in some EU Member States). This reporting is a burden in itself, but this is amplified due to non-harmonised rules. There are differences in annual thresholds (which may also differ for imports and exports) and services are also included in some Member States. Businesses also have to deal with annual revisions of the Combined Nomenclature codes.

	<p>Whilst many of these may be difficult to address at the EU level given that taxation remains a national competence, in specific areas of tax with more EU-level harmonisation, like VAT, significant improvements could be feasible. Reporting for VAT purposes, especially when doing cross-border business, could be made less burdensome with pan-European solutions and digitalisation.</p> <p>In this respect, the failure to agree the Definitive Regime for VAT and delays in agreeing a common real-time reporting system for VAT mean that a form-based system introduced twenty years ago is still being used when far less burdensome real-time systems are technically feasible, and, indeed, used by an increasing number of Member States in a potentially uncoordinated manner.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Technically across all EU Member States.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>- National legislation or technical requirements (please specify and provide links where possible): lack of harmonised tax reporting</li> <li>- EU rules, where applicable (exact name of Regulation, Directive, Delegated Act, etc.): lack of harmonised tax reporting</li> </ul>
c. Type of problem*	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes</p> <p>Insufficient digitalisation of information or of procedures</p>
d. Relevant ecosystem*	Across different sectors
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The Commission issued proposals on VAT definitive regime (COM(2018) 329) as well as more recently VAT in the Digital Age (COM(2022) 701). Definitive regime has been all but abandoned due to lack of consensus among EU Member States, whilst VAT in the Digital Age is still being negotiated in the Council and may yet be approved.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	The adoption of the VAT definitive regime, or in the absence of it at least an ambitious framework for VAT in the Digital Age with digitalized reporting would alleviate the burdens significantly.

4. Organisation info & contacts	
a. Organisation name	Accountancy Europe
b. Contact details for follow-up purposes (in company or association)	Name: Johan Barros Position: Head of Policy Email: <a href="mailto:johan@accountancyeurope.eu">johan@accountancyeurope.eu</a> Phone or mobile number: +32496 838 348
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Other: <b>professional association</b>
5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

BARRIER: Lack of a coherent and common EU definition of “permanent establishment”	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	There is a lack of harmonisation amongst Member States of what constitutes a permanent establishment. The rules for defining what constitutes a permanent establishment for direct tax purposes and a fixed establishment for VAT purposes are not the same. Additionally, SMEs that wish to engage in cross-border trade must deal with the issue of different interpretations of what constitutes a fixed establishment for VAT purposes between Member States. This can cause considerable problems for all businesses, and for SMEs in particular.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
2. Barrier categorisation	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Technically across all EU Member States.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>- National legislation or technical requirements (please specify and provide links where possible): lack of harmonised permanent establishment definition</li> <li>- EU rules, where applicable (exact name of Regulation, Directive, Delegated Act, etc.): lack of harmonised permanent establishment definition</li> </ul>



c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Across different sectors
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	These problems have been recognised in respect of VAT and efforts have been made to alleviate them. For example in Council Directive (EU) 2020/485 of 18 February 2018, SMEs established in a Member State will, as from 1 January 2025, subject to conditions, be able to take advantage of an EU-wide VAT exemption threshold to reduce obligations to register for VAT in member states other than that of the business' establishment. The definition of 'establishment' for the purposes of this directive is to be determined by the rules as set down in EU Implementing Regulation 282/2011. However, the divergences of what constitutes a 'fixed establishment' and a 'permanent establishment' remain.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	It would be a considerable simplification especially for SMEs (with a commensurate reduction in administrative costs) for the EU to have a single definition of 'permanent establishment' that covers both direct and indirect taxes. Such a definition would, of course, have to be compatible with any international treaty obligations that the EU and Member States are subject to. Additionally, harmonising across the EU the statute of limitations and tax administrative processes would provide a major increase in tax certainty and business confidence when contemplating intra-EU cross-border trade.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Accountancy Europe
b. Contact details for follow-up purposes (in company or association)	Name: Johan Barros Position: Head of Policy Email: <a href="mailto:johan@accountancyeurope.eu">johan@accountancyeurope.eu</a> Phone or mobile number: +32496 838 348
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Other: <b>professional association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.4.2.2 Anonymous 1

<b>BARRIER: VAT for Donations</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	In many EU countries, retailers are facing incremental VAT costs when donating surplus (food & non-food) products to charities and other good causes helping people in need
b. Describe the negative impact on your company and	While European VAT legislation gives EU Member States the possibility to define VAT relief conditions for donations to

potentially your sector or the economy. Please provide facts & figures.	<p>charitable organisations, only a handful of countries make use of this VAT neutralisation option to support sustainability and circular economy goals.</p> <p>Meanwhile, many other EU countries continue to levy VAT on charitable donations or choose to introduce VAT reliefs in a very narrow scope with a lot of additional conditions to fulfil. This incentivises the transport of surplus to Member States where VAT conditions might be more advantageous. The VAT regulations in some Member States thus result in unnecessary administrative costs for donors and a detrimental environmental impact.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Several MS
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Due to the facts that (1) the current non-mandatory solutions are not applied in all EU Member States and (2) the conditions for a VAT relief on donations are heterogeneous across the EU, a more precise legislation at EU level should be discussed in the future. Introducing more detailed EU legislation in regard to VAT neutralisation for donations would allow EU countries to have more unified solutions and a universal. Nevertheless, until such legislative changes are pursued, the EU Commission should play a leading role in encouraging EU countries to leverage VAT neutralisation options to allow excess products to be supplied for free to recognised charitable organisations, without triggering an incremental VAT cost for the retailer or donor. This would contribute to the EU's sustainability and green/ circular economy agenda</p>

4. Organisation info & contacts	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	Yes - sensitive
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

BARRIER: Polish Act on Retail Sales Tax – entered into force on 1 January 2021	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	The Act imposes a discriminatory and disproportionate tax. The tax is discriminatory because it mainly affects large foreign retail chains and sets market players with large stores on a competitive disadvantage vis-à-vis retailers with smaller stores and online
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The tax might have a negative impact on economic growth and jobs.</p> <p>-The tax applies only to some off-line retailers, online sales are exempted.</p> <p>The Tax applies differently depending on the turnover of the retailers:</p> <p>-Monthly turnover of less than 17M Zloty is exempt from the tax</p> <p>-Monthly turnover of 17M to 170M Zloty is subject to a 0.8 % tax</p> <p>-Monthly turnover exceeding 170M Zloty is subject to a 1.4 % tax</p> <p>-The application of this discriminatory does not solve or respond any conjunctural or reasonable need so that tax does not aim to be temporary measure hence it is not subject to any expiry.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	On 16 May 2019 the General Court of the EU annulled the Commission decision that the tax constituted unlawful state aid. It considered the Commission assessment flawed, but did not assess whether the tax constituted unlawful state aid. The Commission has appealed, on 16 March 2021 the final ruling upheld the General Court's verdict
2. Barrier categorisation	
a. Country or countries where barrier occurs (feel free to refer to external	Poland

sources where the Member States are mentioned).	
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Act on Retail Sales Tax
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	The Polish government should ensure that the law is justified, proportionate and non-discriminatory. This will foster competition to the benefit of Polish consumers. The Commission should make sure the tax is not applied in a discriminatory way
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	Yes - sensitive
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: Retail sales tax and its amendments</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Originally designed as a temporary crisis measure, the tax has now been made permanent. Indeed, the tax rate has been progressively increased or amendment to a lump sum, affecting only international companies with relatively high turnover
b. Describe the negative impact on your company and potentially your sector or the	The tax brackets /initial rates are: -0% on net sales revenue falling in the range of HUF 0 - HUF 500 million (€1,4 million);

economy. Please provide facts & figures.	<p>-0.1% on the part of the net sales revenue which exceeds HUF 500 million up until HUF 30 billion (€85 million); from 2023, the rate is 0.15%;</p> <p>-0.4% on the part of the net sales revenue which exceeds 30 billion up until HUF 100 billion (€285 million); from 2023, the rate is 1% and</p> <p>The tax has been increased for 2022 from 2.5% to 2.7% on the part of the net sales revenue which exceeds HUF 100 billion; for 2023, this rate was raised again up to 4.1%.</p> <p>The new retail tax will also apply to retail sales made by companies outside of the country to Hungarian customers via ecommerce</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Hungary
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	The tax was amended on 4 June 2022 (Extra Profit legislations): (i) for 2022, the legislation introduced a one-time extra tax (which is 80% of the tax paid in the last business year) in addition to the retail tax; (ii) for 2023 the tax rates were increased again
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Originally designed as a temporary crisis measure, the tax has now been made permanent. Indeed, the tax rate has been progressively increased affecting only international companies with relatively high turnover. Despite the commitments made by the Hungarian government to Commission by not making the situation any worse and decreasing the tax, this has been dismissed by the Hungarian government and further increases have been introduced.</p> <p>Under the Recovery and Resilience Facility, Hungary committed to not extending the retail tax at 4.1% beyond 2023 or not worsening the situation by further increasing the tax. However, the Hungarian government proposed on 31 May a tax increase for the highest threshold that would go from 4.1% to 4.5%</p>

4. Organisation info & contacts	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	Yes - sensitive
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.4.2.3 Anonymous 3

BARRIER: Complexity at national level of obtaining exceptions for the excise duty for cosmetic ingredients	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<b>Excise duty</b> for cosmetic ingredients which have the same HS(CN) code as heating fuels. Raw materials which belong to hydrocarbons are treated as heating fuels despite their usage in different applications (cosmetic production). Heating fuels are subjects to excise duty taxation in Poland: 695,00 PLN/1000kg for CN 2901. But cosmetic ingredients, despite their chemical nature, are not used as heating fuels. Applying zero excise duty tax rate connected to goods purpose in Poland is much more complicated comparing to other EU countries (FR, BE). It means that practically in Poland we have to pay excise duty (which elevates product price on the market, means it is more expensive in Poland than in other countries) As far as we know from discussions with trading companies from FR and BE, companies in these countries don't pay excise duty tax. The reason for this is the final customers' statement (cosmetic producer states that an ingredient is used for cosmetic production). As result excise duty tax for CN2901 is not paid in some EU countries.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	We had to apply the excise duty procedure for Squalane (INCI: squalene, CN code: 29011000) and we pay annually ca 20 kEUR for the tax which is not relevant to the cosmetic business. The tax exemption procedure (in fact zero excise duty rate) was too complicated to implement and would affect on customers' tax payments. <u>In fact only in Poland excise duty is applied in such difficult conditions to cosmetic business.</u> To apply zero excise duty rate every company related to trading and consumption of goods have to be registered in EMCS and validate documents connected with goods movement. It refers also to final users (cosmetic producers which use CN2901 for cosmetic production). Implementation of EMCS is not easy, requires certified tax warehouse contract, state tax chamber monitoring and additional tax declarations. Many cosmetic producers are



	<p>small companies which are not able to follow such regulations and decide not to use products which are subjects to additional legal/tax procedures. As a supplier of cosmetic ingredients, we decide to pay excise duty which means that our customers are free from excise duty regulations but as result pay more (excise duty cost is included in the final price).</p>
<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	<p>The following EU acts concern the movement and taxation of goods falling within CN code CN 2901 10:</p> <ul style="list-style-type: none"> <li>• Council Directive 2008/118/EC   of 16 December 2008   concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1456138665149&amp;uri=CELEX:02008L0118-20140101">https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1456138665149&amp;uri=CELEX:02008L0118-20140101</a> ),</li> <li>• Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1562162476408&amp;uri=CELEX:32003L0096">https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1562162476408&amp;uri=CELEX:32003L0096</a> ),</li> <li>• Commission Regulation (EEC) No 3649/92 of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992R3649">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992R3649</a> ),</li> <li>• Commission Regulation (EC) No 684/2009 sets implementing provisions as regards the computerised procedures for the movement of excise goods under suspension of excise duty (<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1456139648403&amp;uri=CELEX:02009R0684-20140213">https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1456139648403&amp;uri=CELEX:02009R0684-20140213</a>).</li> </ul> <p>• <b>U S T A W A z dnia 6 grudnia 2008 r. o podatku akcyzowym Art.89</b></p>
<b>2. Barrier categorisation</b>	
<p>a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).</p>	<p>POLAND</p>
<p>b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)</p>	<p>Excise duty tax law: <b>U S T A W A z dnia 6 grudnia 2008 r. o podatku akcyzowym Art.89</b> &gt;article 89.1 contains the list of custom tariff codes and excise duty rates &gt;article 89.2 describes requirements which allows to apply zero tax rate.</p> <p><a href="https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20090030011/U/D20090011Lj.pdf">https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20090030011/U/D20090011Lj.pdf</a></p>

c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;
d. Relevant ecosystem*	OTHER – cosmetic goods production
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	No?
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Tax exemption without necessity to complete procedure (like EMCS which involves also customers=end users) for raw materials used in cosmetic production.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	Yes ; Confidentiality due to business risk

#### 1.4.2.4 Anonymous 5

<b>BARRIER: VAT simplification</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The current 1. EU VAT system presents a significant barrier to the Single Market's efficiency and cross-border trade, despite recent reforms through the VAT in the Digital Age (ViDA) initiative. While the VAT One Stop Shop (OSS) system has brought improvements, businesses still face substantial challenges with multiple VAT registrations across EU countries. This particularly impacts SMEs, which constitute 99% of EU businesses. The current OSS system's limitations, especially its inability to cover inventory movements across EU borders and sales from foreign distribution hubs, create a fragmented regulatory landscape that contradicts the Single Market's principles and impedes business growth, particularly in the context of modern omnichannel commerce requirements.</p> <p>2. The current EU VAT regulations create a significant environmental and social barrier by disincentivizing the donation of excess inventory, as businesses must pay VAT (averaging</p>

	<p>20%) on donated items while product destruction remains VAT-free. This misalignment of tax policy with sustainability goals leads to the unnecessary destruction of millions of perfectly usable products annually. While some EU member states (e.g. France, Belgium, Italy, Spain) offer limited VAT exemptions for donations, the fragmented regulatory landscape (relief is often limited to specific goods like food or clothing) and complex administrative requirements make these provisions practically unusable, especially for SMEs operating across borders. This is evidenced by the fact that 89% of SMEs across several EU countries believe VAT relief for charitable donations would support their growth. The current system not only prevents the implementation of scalable donation programs but also contradicts the EU's circular economy objectives and wastes valuable resources that could benefit communities in need.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<ol style="list-style-type: none"> <li>1. The requirement for multiple VAT registrations is costly, time consuming and comes with a heavy compliance burden, particularly for small and medium-sized businesses. Companies that sell goods online pay around €8,000 per year in VAT compliance cost for every country in which they store or sell. It requires on average 13 documents to complete one VAT registration process, and it takes on average 100 days to get a national VAT number. This high cost is a barrier to intra-EU trade and economic growth.</li> <li>2. The EU's Green Deal and Circular Economy agenda seeks to incentivise more sustainable outcomes for product disposals, making companies reporting on the disposal of products. However in many EU countries companies must pay VAT when donating excess inventory to charity. This incremental VAT cost makes it expensive for retailers to donate and economically unviable to donate at scale.</li> </ol>
<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	
<h2>2. Barrier categorisation</h2>	
<p>a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).</p>	<p>European Union and Member States</p>
<p>b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)</p>	<ul style="list-style-type: none"> <li>• To address VAT registration and compliance challenges, a comprehensive implementation strategy for the 2028 legislative changes should be developed, focusing on three key areas: First, establish pilot programs with key stakeholders to test and refine the new VAT rules in real-world scenarios before full implementation. Second, develop a streamlined, technology-driven system that integrates all cross-border transactions, including</li> </ul>

	<p>inventory movements and B2C sales, under a single VAT registration framework. Third, create a dedicated support infrastructure specifically for SMEs to assist with the transition to the new system. This approach would not only simplify VAT compliance but also drive increased trade, boost government revenues, and enhance market competitiveness while delivering better value to consumers through improved selection and pricing. Regular stakeholder consultation and feedback loops should be maintained throughout the implementation process to ensure the system meets its intended objectives of reducing administrative burdens and fostering cross-border trade within the EU.</p> <ul style="list-style-type: none"> <li>Regarding VAT on Donations, the solution requires a two-pronged approach at the EU level. In the long term, the European Commission should either amend the EU VAT Directive to explicitly permit Member States to implement a broad VAT zero-rate for donations of non-food products. In the immediate term, the Commission should issue comprehensive guidelines supporting a more inclusive interpretation of current VAT rules. Additionally, there should be a standardization of documentary requirements across Member States, with simplified procedures that can be managed by third parties to reduce administrative burden. This approach would align tax policies with environmental goals without causing VAT revenue losses, as some of these products are currently being destroyed rather than donated. The implementation should be supported by existing industry initiatives for better demand forecasting and product reuse, creating a sustainable framework that benefits the environment, businesses, and communities while advancing the EU's circular economy agenda.</li> <li></li> </ul>
c. Type of problem*	Insufficient digitalisation and harmonization of information or of procedures;
d. Relevant ecosystem*	Retail
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>To make VAT simpler, greener and to remove blocker for cross-border intra-EU trade we suggest:</p> <ul style="list-style-type: none"> <li>Timely implementation of July 2028 ViDA Reforms, in straight coordination with businesses and businesses representatives and Member States.</li> </ul>

	<ul style="list-style-type: none"> <li>Incentivize VAT free options for charitable donations of surplus products, aligning EU's VAT and circular economy policies, whilst maximizing donation capabilities and minimizing products going to landfill.</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> ).
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.4.2.5 European Banking Federation (EBF)

<b>BARRIER: VAT on Financial Services</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The current VAT system applicable for European banks creates distortion and legal uncertainty as VAT rules are interpreted and applied inconsistently by Member States, resulting in distorted competition within the EU.</p> <p>VAT has become a barrier to economic efficiency: The establishment of efficient business structures is frequently frustrated by the costs of an additional VAT burden. To ensure the competitiveness of European banks in global financial markets, these costs must be avoided by restoring the principles of VAT neutrality for financial services.</p> <p>Specifically, non-neutrality arises from the EU-wide VAT exemption regime that is applied to financial services. Exemption means that most services provided by Financial Institutions are not subject to VAT.</p> <p>VAT incurred on expenses by Financial Institutions is, however, only recoverable to the extent that the services supplied are in turn subject to VAT. This is dramatically different from the way that the VAT system was intended to operate and as it applies to other industries. Its impact produces knock-on effects that reverberate cross-border within the EU.</p> <p><b>Example: outsourcing of Payment Services</b></p> <p>Payment services are exempt from VAT. The CJEU tends to interpret VAT exemptions strictly, with the effect that outsourced</p>

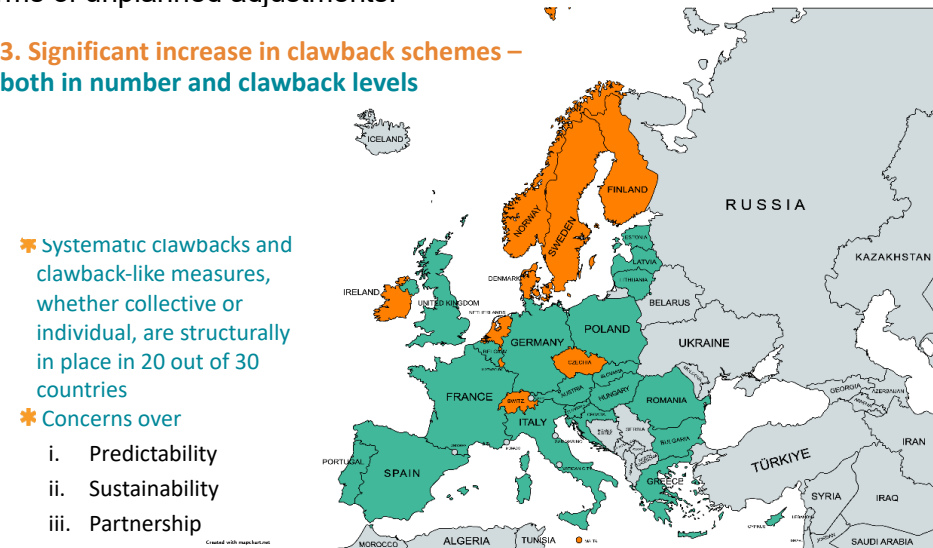
	<p>payment services are in most cases VAT liable. Outsourced payment services are being cut up with all operators providing indispensable crucial parts of an overall payment service. On their own the parts become subject to VAT when looked at in isolation because the individual part of the overall payment service is deemed to be a taxable electronic or technical service and not a VAT exempt payment service. The current development of applying VAT on individual parts of payment services, as they are provided by various market players, also by fintech, leads to cumulation of non-deductible VAT as cost for the banks.</p> <p>The lack of neutrality, which restricts banks' right to recover the VAT they have incurred on their own expenses, results in hidden VAT that constitutes a significant additional cost for banks and leads to cascading effects within the chain of supply. Therefore, VAT often thwarts attainment of economic advantages by implementing efficient business models. Any attempt to achieve synergies and to improve efficiency is blocked due to the cascading effect of VAT.</p> <p>This lack of neutrality results in an increasing loss of competitiveness for European banks in the global marketplace, as hidden VAT cost affects profit margins and prices, giving a significant competitive advantage to non-European providers.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>Financial Institutions across the EU continue to face very significant legal uncertainty in respect of the application of European VAT law. Since the adoption of the VAT Directive in 1977, which is the core legislation applicable in the EU, the VAT rules applicable to financial services have never been adapted to the massive developments in the financial services industry.</p> <p>The problems arising from the lack of legal certainty of the VAT treatment of financial services have been exacerbated by the rise of the digital economy and emerging actors such as fintech entering the financial market as well as increasing regulatory requirements for the financial industry. The result has been costly litigation for taxpayers and tax authorities alike, a cycle of uncertainty and a perception of an unlevel playing field which leads to distorted competition between different market players providing the same financial service.</p> <p>Due to outdated VAT rules applicable for financial services, there is a high level of legal uncertainty regarding how to treat new forms of financial services, as it is often unclear what the scope of the exemption is, in particular within an increased digitalized environment. Moreover, the rules are interpreted and applied inconsistently by Member States, resulting in distorted competition within the EU.</p>
<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	
<p><b>2. Barrier categorisation</b></p>	



a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	All member states
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<b>Sixth Council Directive 77/388/EEC of 17 May 1977 9and its subsequent revisions) on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment</b>
c. Type of problem*	<b>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</b>
d. Relevant ecosystem*	Banking and Finance
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes. The barrier has been reported multiple times and is well known by European and national administrations.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>VAT rules in the financial services sector that are uniform throughout the EU and that can be applied with legal certainty should be prioritised.</p> <p>The VAT treatment should follow the nature of the (financial) service. The way in which a service is rendered, whether undertaken manually or automatically via electronic processing, should not be decisive in determining the VAT treatment, and certainly not in the digital age.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	European Banking Federation
b. Contact details for follow-up purposes (in company or association)	Name: Burçak INEL Position: Director of Financing Sustainable Growth Email: <a href="mailto:b.inel@ebf.eu">b.inel@ebf.eu</a> Phone or mobile number: +32 496 34 47 88
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.4.2.6 EFPIA

BARRIER: Pricing & Reimbursement
1. Barrier description

<p>a. Please describe, as concretely as possible, the cross-border issue hampering operations.</p>	<p>Pricing and reimbursement rules and policies are an exclusive competence of Member States (Article 168 TFEU). Under EU law, Member States enjoy considerable freedom in adopting pricing and reimbursement measures designed to control public healthcare spending. Due to historical, political, legal and economic developments, Member States have developed and applied a large variety of pricing and reimbursement regulations. This is confusing and imposes a significant burden on business.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>In addition to their pricing and reimbursement regulations often delaying patient access to innovation, a number of Member States are increasingly relying on a range of tools that do not reflect a value-based approach to pharmaceutical expenditure including:</p> <ol style="list-style-type: none"> <li>1. aggressive clawbacks and paybacks (and in some instances managed entry agreements (MEAs)) that differentiate between companies depending on their location, size/activity, or portfolio;</li> <li>2. preferential pricing and reimbursement policies (and unwritten practices), including co-payments, applied to locally produced medicines; and</li> <li>3. preferential procurement terms favouring locally produced products.</li> </ol> <p>A broad range of systematic clawback-type mechanisms are in place in approximately 20 European countries, including mandatory price-cuts, rebates, reimbursement changes, managed entry agreements, and other forms of unplanned adjustments.</p> <p><b>3. Significant increase in clawback schemes – both in number and clawback levels</b></p>  <p>✳ Systematic clawbacks and clawback-like measures, whether collective or individual, are structurally in place in 20 out of 30 countries</p> <p>✳ Concerns over</p> <ol style="list-style-type: none"> <li>i. Predictability</li> <li>ii. Sustainability</li> <li>iii. Partnership</li> </ol> <p>They significantly impact profitability, calling into question Europe's global competitiveness. The Italian Medicines Agency's recent calculations estimate the 2022 clawback bill for the pharmaceutical sector at €1.26 billion. In 2020, clawbacks in Greece reached €1.36 billion, with hospital clawbacks as high as 70%. Mandatory payback mechanisms have exploded from 6% of pharmaceutical spend in 2012 to 46% in 2022, exceeding the State's contribution by at least €200 million. Levels are expected to rise to 58% by 2026 (Source: SfEE).</p> <p>Recognising that such measures make Europe less competitive, the German government's recent announcement of measures to be adopted under a new pharmaceutical strategy include a commitment not to increase compulsory rebates beyond 2024 levels.</p> <p>Industry regularly intervenes against the worst of such schemes to safeguard the EU internal market and indeed a global level playing field.</p>

	Respect for fundamental internal market principles remains a prerequisite to the EU's long-term competitiveness and economic resilience. It is also important that the EU upholds WTO law that underpins global open markets that both patients and the pharmaceutical sector benefit from and that are increasingly under threat.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	The delays and unavailability of innovative medicines are evidenced in a set of yearly EFPIA publications available <a href="#">here</a> on EFPIA website.
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>The Transparency Directive serves a useful purpose and has been critical in ensuring that most Member States endeavour to broadly respect its timelines. The specification of objective and verifiable criteria on which pricing and reimbursement decisions are based is an important principle of good administration as are the other due process provisions of the Directive. However, the wide variety of national pricing and reimbursement measures continues to be confusing. To give a few country-specific examples:</p> <ul style="list-style-type: none"> <li>• In Sweden, for example, the rules apply to prescription products but not hospital products which leads to delays and inefficiencies. Also, Sweden has a two-tier system involving lengthy negotiations with the regions, with no possibility to challenge a decision by the regions to recommend a product or not. Since 2014/15, the pricing authority (TLV) takes into account net price-agreements between companies and the regions that are concluded on a case-by-case basis which creates uncertainty and potentially undermines that creation of a level playing field.</li> <li>• In Belgium, there is a provision that requires every draft decision with a potential impact on the income or expenditure of the State to be approved by the Budget Minister and the Inspection of Finance. This applies to positive reimbursement decisions of the Minister of Social Affairs. If the Budget Ministry does not grant approval, the Social Affairs Ministry can only take a negative decision. This extra layer of approval is not compliant with the Transparency Directive to the extent there is a positive decision from the competent Ministry that is overridden by a process outside the Directive.</li> <li>• In Spain, the system means that it is effectively not possible to place a medicine on the private market before the manufacturer has applied for pricing and reimbursement approval.</li> <li>• In Bulgaria and Greece, new medicines must already be included in the reimbursement lists in a given number of other Member States as a precondition to domestic reimbursement negotiations. These measures deprive the 90-day deadline of any meaningful effect and hinder market access with no objective justification.</li> <li>• Similarly, in Greece, market entry and reimbursement are dependent on having a prior positive HTA in a number of other EU Member States. It is legitimate for competent authorities to take</li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	

	<p>into account the outcome of HTAs already performed in other Member States, but it is a breach of free movement principles and the Transparency Directive to mandatorily require such outcomes as a precondition to market access.</p> <ul style="list-style-type: none"> <li>• In Poland, medicines with the same INN (International Non Proprietary Name) or similar mechanism of action and therapeutic effect are in the same reference group for reimbursement purposes. Under the envisaged amendments, the Ministry of Health would be granted ex officio powers to change these groups with immediate effect which creates legal uncertainty and increases the risk of arbitrariness. Proposals to link incentives in the reimbursement process to manufacturing in Poland are also clearly problematic, as are amendments that would rule out the temporary suspension of reimbursement proceedings at the request of the applicant.</li> </ul>
c. Type of problem*	Insufficient enforcement of legislation by Member State or Commission
d. Relevant ecosystem*	Health
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>The delays and unavailability of innovative medicines are evidenced in a set of yearly EFPIA publications available <a href="#">here</a> on EFPIA website. The shortcomings in the implementation and enforcement of the Transparency Directive have been detailed in the EFPIA response to a survey organised by the EUHealthSupport consortium, in the context of a study launched by the Directorate General for Health and Food Safety (DG SANTE) of the European Commission in September 2023.</p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Pricing and reimbursement measures must comply with EU law. The rules of the EU Treaty<sup>12</sup> on the free movement of goods and the Transparency Directive<sup>13</sup> are the most pertinent provisions:</p> <ul style="list-style-type: none"> <li>• Pricing and reimbursement practices may breach EU law if they discriminate between foreign and domestic products, or between companies depending on whether they have invested in the local economy or not. In addition, recent case law has condemned measures that impede market access, even in the absence of discrimination.</li> <li>• National Pricing and reimbursement measures may breach the Transparency Directive if they are not based on objective and verifiable criteria or if they do not comply with the procedural requirements of the Transparency Directive, including the requirement to decide on applications within prescribed deadlines.<sup>14</sup></li> </ul>

<sup>12</sup> Consolidated version of the TFEU, available here: [http://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC\\_2&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_2&format=PDF).

<sup>13</sup> Council Directive 89/105/EEC of 21 December 1988 relating to the transparency of measures regulating the pricing of medicinal products for human use and their inclusion in the scope of national health insurance systems, 1989 OJ L 40/08.

<sup>14</sup> Clawbacks are mechanisms requiring manufacturers (and/or pharmacies) to return a part of their revenue generated from the sale of certain drugs to payors. They can take various forms such as an across the board rebate or a tax on any sales of specific products included in the reimbursement list that exceed a pre-determined volume threshold.

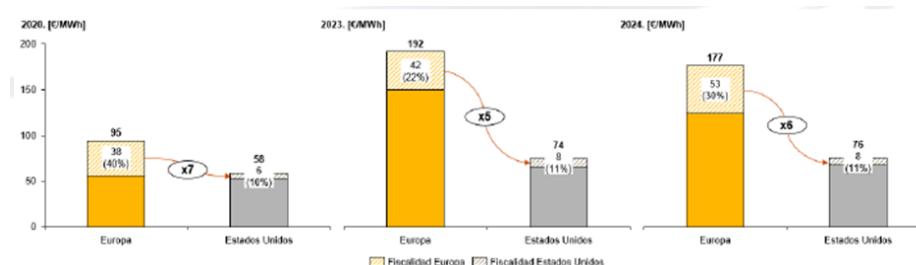
	<p>The Commission should prioritise proper enforcement of the Transparency Directive. It has not been sufficiently proactive in ensuring that the Transparency Directive is properly implemented at national level which is important if the delays in medicines availability are to be tackled in earnest (see <u>EFPIA's Patients WAIT 2023 Survey</u> and April 2023 CRA report on <u>the root cause of unavailability and delay to innovative medicines</u>).</p> <p>An important starting point would be to urgently require Member States to comply with their reporting obligations under Article 11 (of the Directive) in relation to current rules and likely future amendments to allow the Commission to systematically monitor the implementation of the Directive and identify specific issues that could be resolved pragmatically in bilateral discussions or in proceedings against Member States that fail to remedy a breach, or by way of clarificatory guidelines.</p> <p>The Commission should also work to understand and encourage the reduction in any delays between reimbursement decisions and the actual availability of the reimbursed product to patients in the market concerned. EFPIA's proposed portal would make a meaningful difference and should be considered (see April 2023 CRA report on <u>European Access Hurdles Portal</u>).</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	EFPIA
b. Contact details for follow-up purposes (in company or association)	Name: François Bouvy Position: Executive Director Economic & Social Affairs Email: francois.bouvy@efpia.eu Phone or mobile number: +-32.478.48.92.52
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	The information is public.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	The template can be made public.

**BARRIER: Divergent national implementation of the Energy Taxation Directive****1. Barrier description**

a. Please describe, as concretely as possible, the cross-border issue hampering operations.

The Energy Taxation Directive (ETD), that entered into force 20 years ago, has eroded over time and a complex patchwork of exemptions and reductions have proliferated across Member States, so that currently there is not a level playing field across the single market.

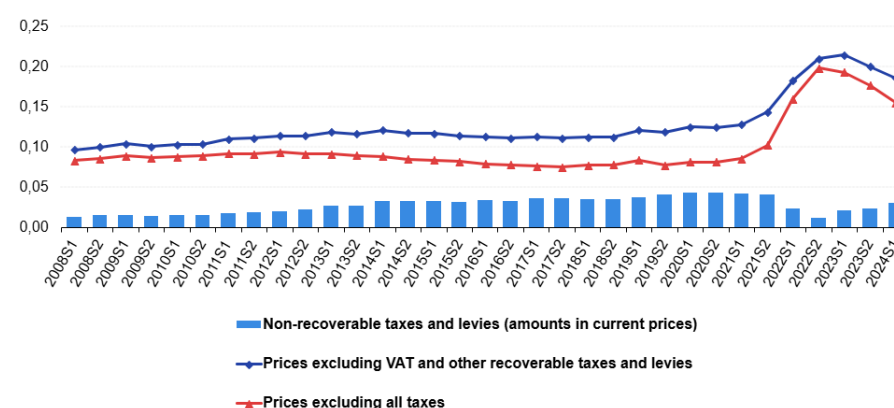
High electricity charges and taxes are a widespread problem in the EU and is structurally the main cause of the difference in the cost of electricity supply to industrial users compared to the US. Moreover, extra electricity costs in Europe are four times higher for industries than in China (Source: Wind Europe).



**Source:** Bruegel (EU) IEA(US) and PwC analysis. For the US 2024 values the wholesale market price has been updated maintaining the percentage of electricity fiscal charge of 2023.

The Commission's fourth report on energy prices and costs, published in October 2020, concludes that the share of taxes and levies has climbed steadily over the last 10 years. While energy prices have been on a downwards general trend, except for during the 2022 energy crisis, and network costs have remained stable, the extra taxes and levies have actually raised industrial power prices.

**Development of electricity prices for non-household consumers, EU, 2008-2024**  
(€ per kWh)



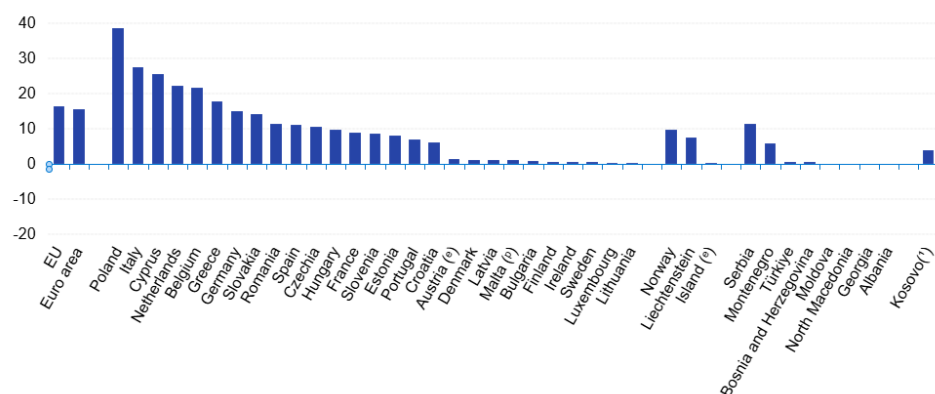
In several countries, additional "hidden" regulated charges (for example, applied to electricity generation) that are incorporated into electricity costs without appearing on end-user electricity bills. Levies are national tax measures where the revenues are hypothecated to fund specific programme spending. In some cases, electricity consumers subsidise social programmes where there is no direct justification, but by far the largest levies are used to fund energy transition subsidies, such as feed-in tariffs for renewables and carbon capture and storage (CCS) pilots. Also, many regions have designed diverging environmental taxes on renewables and nuclear that distort the EU electricity single market and ultimately



increase electricity prices. Exemptions process is very complex, especially for small industries.

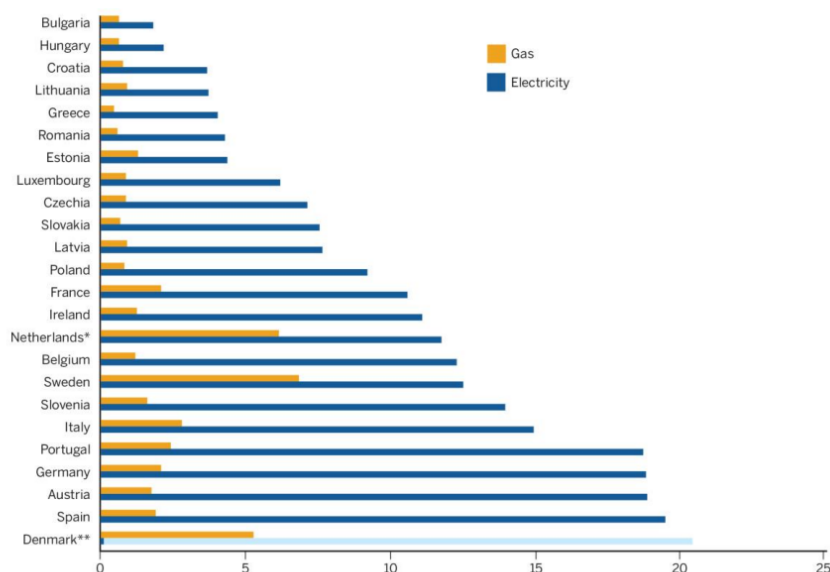
The gas crisis, caused by the invasion of Ukraine, has exacerbated the lack of level playing field in taxation across the single market. The divergence between national taxes and levies has contributed to a huge disparity in electricity prices across the EU.

**Share of taxes and levies paid by non-household consumers for electricity, first half 2024 (%)**



Also, as evidenced by figure 2, levies and taxes for electricity and several times higher than the ones for gas, discouraging the shift to clean electricity.

**Figure 2. Levies and taxes (including VAT) on residential gas and electricity (euro cents per kWh) in EU Member States, average in 2021**



\* The taxes and levies on electricity in the Netherlands do not include the lump sum rebate given to residential electricity consumers, as this is not directly related to electricity consumption.

\*\* The taxes and levies on residential electricity consumption over 4 000 kWh per year for residential consumers registered as using electricity for space heating in Denmark is the lowest in the EU. All other residential electricity consumption is subject to the highest rate in the EU.

b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.

The non-energy component of the industrial power price can be five times higher in some Member States than in others. This divergence between Member States hampers any attempt to set up a truly European electricity market that would allow the circulation of electricity from cheaper generation sites to other regions. Harmonization ensures a level playing field, fostering fair competition and supporting the integration of the EU energy market, a core pillar of the Energy Union.

Moreover, high taxes on electricity increase bills and the current structure of taxation is slowing down electrification and demand for low-cost homegrown

	energy. All this has also reduced the competitiveness of European industries against peers in other countries, like the United States, where those charges are lower and more reasonable for companies.
c. Any extra evidence (e.g., links to publications or background materials, from your organisation or external sources).	<ul style="list-style-type: none"> <li>• Source: <a href="#">Eurostat</a>: Share of taxes and levies paid by non-household consumers for electricity, second half 2022</li> <li>• Eurostat: <a href="#">Electricity price statistics</a></li> <li>• EU commission: FACTSHEET on energy taxation: <a href="#">gmv factsheet on taxes 0.pdf (europa.eu)</a></li> <li>• <a href="#">Levelling the playing field: Aligning heating energy taxes and levies in Europe with climate goals (raponline.org)</a></li> <li>• Bruegel: <a href="#">A grand bargain to steer through the European Union's energy crisis (bruegel.org)</a></li> <li>• Florence School of Regulation: <a href="#">Counteracting the energy crisis: new EU emergency measures (eui.eu)</a></li> <li>• ACER 2023 Market Monitoring Report: <a href="https://acer.europa.eu/Publications/2023_MMR_EmergencyMeasures.pdf">https://acer.europa.eu/Publications/2023_MMR_EmergencyMeasures.pdf</a></li> <li>• ACER has prepared an interactive dashboard for emergency measures, listing more than 400: <a href="#">Link</a>.</li> <li>• European Commission Report on the review of emergency interventions to address high energy prices: <a href="https://energy.ec.europa.eu/system/files/2023-06/COM_2023_302_1_EN_ACT_part1_v2.pdf">https://energy.ec.europa.eu/system/files/2023-06/COM_2023_302_1_EN_ACT_part1_v2.pdf</a></li> <li>• <a href="#">Wind Europe: Revamping electricity bills for a competitive and secure Europe</a></li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>Non exhaustive: Spain, Italy, Rumania, Greece, Hungary, Germany, Ireland, Poland, France, Portugal, Bulgaria.</p> <p>As an example, Poland and Lithuania are the two extremes of a divergent taxation in the EU for residential customers (see graph in the Barrier description section, based on 2024 data).</p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>There is a wide spectrum of legal interventionist measures, with increasing potential to distort the EU electricity single market, in most of EU Member States:</p> <ul style="list-style-type: none"> <li>• Energy Taxation Directive or <a href="#">ETD</a> (2003/96/EC)</li> <li>• National tax legislations</li> </ul>

c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures, and taxes.
d. Relevant ecosystem*	14. Renewables, grids and storage developments, urgently required for the energy transition.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The barrier has been extensively reported to the European Commission, to the EU Parliament and to Member States.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>We need not only to urgently revert the EU lack of harmonised approach to the current crisis but also set the foundations for a truly EU electricity single market and EU energy taxation.</p> <p>The EC proposed a revision of the ETD in July 2021 to contribute to greater convergence of effective national tax rates across Member States, reduce the harmful effects of energy tax competition, and give businesses more legal certainty. But the legislative file has not been approved yet as the EU Council has not been able to reach an agreement. A revision of the ETD will be key to align taxation with the EU energy and climate policies, and also to promote the competitiveness of our economy.</p> <p>In the Communication “Action Plan for Affordable Energy” published in February 2025, the EU Commission recalls that Member States may (i) lower national taxes and levies in the electricity bill towards the minimum excise duty rates provided for in the actual Energy Taxation Directive 2003/96/EC of EUR 0.5/MWh for businesses; (ii) eliminate levies that are not energy-related; and (iii) shift levies that finance energy policies to the general budget. The Commission will issue a recommendation to Member States on how to use such flexibilities and ensure across all sectors that electricity is taxed less than other energy sources while pursuing our long-term decarbonisation objective.</p> <p>While an agreement on the revision of the ETD would be the preferred way to address the barrier and reduce the harmful effects of energy tax competition, the fast implementation of the EU Commission recommendations by Member States can also be an effective way to address this barrier. Such recommendations should address not only ETD but the whole bulk of divergent energy prices EU consumers and industries are facing now.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Iberdrola
b. Contact details for follow-up purposes (in company or association)	Name: Miguel Garagorri Position : Global Coordination Email: mgaragorri@iberdrola.es Phone or mobile number: +34 618777566

c. Type of organisation (please select answer by highlighting in bold)	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential	No

#### 1.4.2.8 Telefonica

<b>BARRIER: Net operating losses deductible</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>There exist different rules for the amount of net operating losses that firms are allowed to deduct from profits in other fiscal years ("carryover provisions"). Loss carryover provisions allow businesses to either deduct current year losses against future profits (carryforwards) or current year losses against past profits (carrybacks).</p> <p>Carryback provisions are allowed only in a few countries, but not in all.</p> <p>Carry forward is generally allowed, although the number of years for which it is allowed varies.</p> <p>In some countries, the amount on Net Operating Losses that may be used in future/past years is capped to a certain share of the taxable base of the year. The cap varies widely amongst countries, from 25% (cap applicable in Spain for companies with gross income above 60 millions € per fiscal year) to no cap at all.</p> <p>Industries and operators in Member States with more strict conditions for the compensation of Net Operating Losses are in worse position to invest and thus compete, hindering the possibility of a Single Market.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Many companies have investment projects with different risk profiles and operate in industries that fluctuate greatly with the business cycle. Carryover provisions help businesses "smooth" their risk and income, making the tax code more neutral across investments and over time.</p>

	<p>For these industries, such possible “smoothing” is crucial when deciding their investments. It affects more to those industries which require heavy investment with long terms of mature.</p> <p>The cap on carryforward provisions rang from no cap at all, to 25% of taxable income in the case of Spain for firms with more than 60 millions Euro of gross income.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<a href="https://taxfoundation.org/data/all/global/net-operating-loss-tax-provisions-europe-2023/">https://taxfoundation.org/data/all/global/net-operating-loss-tax-provisions-europe-2023/</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>See table “Net Operating Loss (NOL) Deductions in EU Countries and European OECD Countries, as of August 2023” in report above.</p> <p>Note that for Spain two additional caps apply, not reflected in the table but of great relevance for medium and large enterprises. Cap is 50% for firms with Gross income above 20 millions Euro and it goes down to 25% for firms with Gross Income above 60 millions Euro.</p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>Ley 27/2014, del Impuesto sobre Sociedades.</p> <p>Ser Article 26.1, for the general limit.</p> <p>See Disposición adicional decimoquinta, for the specific limits for firms according to their revenues.</p>
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;
d. Relevant ecosystem*	All, specifically those requiring higher investments with long maturations (3, 4, 9, 13, 14)
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	No.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Homogenise the regime of NOL carryover across all MS.</p> <ol style="list-style-type: none"> <li>1) Make sure all MS have the same caps for carry forward provisions, or eliminate those caps altogether so that no divergences appear in the future.</li> <li>2) Make sure the maximum period of carryover is the same for all MS.</li> <li>3) Make sure all MS allow for the carryback of NOL deductions.</li> </ol>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Telefónica S.A.

b. Contact details for follow-up purposes (in company or association)	Name: Juan Luis Redondo Position: Director of Digital Public Policy Email: juanluis.redondomaillo@telefonica.com Phone or mobile number:
c. Type of organisation (please select answer by highlighting in bold)	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	NO
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.4.2.9 Transport Foretagen

<b>BARRIER: VAT in Coach tourism</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>There are several different systems for VAT in different member states when it comes to international transports by coach. All countries have different regulations and often is the information only available in the local language.</p> <p>Some examples: In Slovenia, you need to account every quarter, even if you have not made any trips during that time. In Croatia, you need to do it monthly if you drive there, otherwise not at all – but you need a local agent that costs. In Germany, you need to bring a proof of the VAT registration, a “bescheinigung” in the coach, on which the registration number of the vehicle is written – so one different per vehicle. These also need to be renewed yearly.</p> <p>The VAT is calculated based on the distance driven in each country, in relation to the total length of the trip. For example: if the trip is 1000 kilometers and 500 is in Germany, you need to pay 19% VAT on 50% of the price for the trip.</p> <p>Different VAT rates in different countries: Denmark 25%, Germany 19%, Belgium 6%, Austria 10%, Poland 8%, Slovenia 9,5% and Croatia 25%.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	The lack of harmonization between the member states and the need for separate VAT registration in each country create a lot of administration for the companies, which in high grade are SMEs. It forces most of the companies to use agents/middle hands when accounting the VAT, which is costly.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	On page 13 in this report, the problem is described more in detail: <a href="https://www.transportforetagen.se/globalassets/rapporter/buss/bussturism-2017_version_final.pdf?ts=8d8483b75d3a480">https://www.transportforetagen.se/globalassets/rapporter/buss/bussturism-2017_version_final.pdf?ts=8d8483b75d3a480</a>
<b>2. Barrier categorisation</b>	



a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Denmark, Germany, Belgium, Poland, Austria, Slovenia, Croatia (and more)
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Here is an overview of the different rules in the countries above, from one of the agents that offer the service to the Coach companies: <a href="https://bakob.dk/busmoms">https://bakob.dk/busmoms</a>
c. Type of problem*	Lack of or insufficient information; Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes; Restrictions on advertising/marketing; Insufficient cooperation or communication between national administrations; Insufficient digitalisation of information or of procedures.
d. Relevant ecosystem*	Mobility-Transport-Automotive
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, from time to time. We have no knowledge of the status, also in relation to that this is mostly national legislations.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	We have for long argued for a "One-Stop-Shop" for VAT registration and accounting, where you can make one registration that is valid in all member states (which is the case for some sectors). That would make the administration easier, but not solve the problem itself, which is that passenger transport by coach is required to register and account for VAT, which rail, sea and air transport don't have to do.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	The Swedish Bus and Coach Federation
b. Contact details for follow-up purposes (in company or association)	Name: Oscar Sundås Position: Head of Coach and Commercial line bus traffic Email: <a href="mailto:oscar.sundas@transportforetagen.se">oscar.sundas@transportforetagen.se</a> Phone or mobile number: +46722044521
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

## 1.5 Energy & mobility

### 1.5.1.1 Air Liquide

BARRIER: Energy Markets & International Competition	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The development of Electrolyser projects needs to be facilitated through swift and coordinated transposition of EU legislation. The lack of (consistent) implementation of REDIII is not only hampering the deployment of electrolyser projects, but also creates an unlevel playing field between member states.</p> <p>For example, the Netherlands plans to implement the 42% RFNBO target for industry of RED III as a company specific mandate. Neighbouring member states currently have no such plans. If the Netherlands implements its plans but other Member States do not, this would create an unlevel playing field in the Single Market.</p> <p>Similarly, biomethane from another Member States (transported by pipeline) is not accepted in the Netherlands system of Energy for Transport (implementing RED III), thereby fragmenting the market.</p> <p>Another example is the RED III refinery route, which says the RFNBO used to produce conventional and biofuels can also count towards the transport sector targets. As each Member State implements its own national scheme, this makes it impossible to export fuels produced with RFNBO (refinery route) to another Member State while being able to valorise the RFNBO-properties of the fuel in the receiving country.</p> <p>Different RED III schemes in each member state, but also different treatments of grid fees lead to policy competition where policy coordination is in order.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	In order to sign a final offtake contract, customers need visibility on the implementation of the RFNBO mandate (for example in the Netherlands and Belgium). This need for clarity applies to both direct use as well as the refinery route. The differences in implementation of RED III between member states fragment the market.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Netherlands, Belgium, Germany (e.g. regarding fuel exports and imports and grid fees; potential differences in the regulatory approach towards private pipelines; legal barriers hindering the connection of new renewable or low carbon production facilities to private hydrogen pipelines)
b. Legislation, legal instrument, standard or technical requirement causing	REDIII: DIRECTIVE (EU) 2023/2413

the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	
c. Type of problem*	Insufficient cooperation or communication between national administrations; Inconsistent implementation of EU legislation Insufficient enforcement of legislation by Member State or Commission;
d. Relevant ecosystem*	Energy- intensive industries; Energy renewables
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Unknown
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<u>REDIII</u> : In order to swiftly develop projects, we urgently need certainty regarding the EU wide regulatory framework for hydrogen (e.g. refinery route in REDIII RFNBO industry targets).
a. Organisation name	Air Liquide
b. Contact details for follow-up purposes (in company or association)	Name: David Berman Position: Head of EU Affairs Email: david.berman@airliquide.com Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.5.1.2 Amazon

<b>BARRIER: Charging infrastructure</b>	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	As our company (and other players in the logistics sector) seeks to decarbonise our transport network, we are investing and encouraging investments on the part of our partners and service providers in new technologies, specifically for vehicles, predominantly battery electric (and looking at hydrogen too).  While public charging infrastructure for electric cars & vans is developing, in most of the EU there is currently no such

	<p>infrastructure for heavy-duty vehicles. Hydrogen refueling stations are even more scarce. Some EU countries have developed national alternative fuels infrastructure plans (e.g. Germany, France), while others (specifically in CEE and Southern Europe) are still hesitant to make significant investments into a specific technological infrastructure. Without adequate investment in public alternative fuel infrastructure for heavy-duty vehicles across all EU member states, the decarbonization of transportation networks and linehaul fleets is unlikely to make significant progress in the short-to-medium term.</p> <p>Without an EU-wide smooth rollout of this infrastructure, non-fossil-fuel vehicles will not be able to operate in certain EU regions/countries.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Currently, almost 70% of all public chargers for electric vehicles in the EU are installed in just three countries: FR, DE, NL. Hydrogen refuelling infrastructure is even more scarce.</p> <p>Without adequate public charging /Hydrogen refuelling infrastructure for heavy-duty vehicles in all EU member states it will not be possible to operate at scale fleets of zero emission vehicles across the EU and it is likely that some member states might outstrip others. Industry, energy providers, network operators and policy makers need to collaborate to ensure the development of pan European infrastructure. Issues that need to be considered for the installation of an effective EU charging infrastructure include power network design and planning, power availability, and location of chargers.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p><a href="https://www.theparliamentmagazine.eu/news/article/parliament-is-at-a-cross-road-and-should-stand-for-ambitious-charging-infrastructure-targets">https://www.theparliamentmagazine.eu/news/article/parliament-is-at-a-cross-road-and-should-stand-for-ambitious-charging-infrastructure-targets</a></p> <p><a href="https://www.aboutamazon.eu/news/job-creation-and-investment/amazon-boosts-european-charging-infrastructure-planning-with-new-technology">https://www.aboutamazon.eu/news/job-creation-and-investment/amazon-boosts-european-charging-infrastructure-planning-with-new-technology</a></p> <p><a href="https://www.acea.auto/figure/interactive-map-truck-charging-points-needed-in-europe-by-2025-and-2030-per-country/">https://www.acea.auto/figure/interactive-map-truck-charging-points-needed-in-europe-by-2025-and-2030-per-country/</a></p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>For now all across EU. See map here.  <a href="https://www.acea.auto/figure/interactive-map-truck-charging-points-needed-in-europe-by-2025-and-2030-per-country/">https://www.acea.auto/figure/interactive-map-truck-charging-points-needed-in-europe-by-2025-and-2030-per-country/</a></p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a	<p>No specific blocker in terms of legislation, but there are certain elements, which are slowing down the roll-out of infrastructure:</p> <ul style="list-style-type: none"> <li>- Lack of investment in congested &amp; old electricity grids needed for powering electric charging infrastructure.</li> </ul>

specific EU or national law or rule)	
c. Type of problem*	<ul style="list-style-type: none"> <li>- Issues around authorisations/licences/permit requirements, or other document requirements</li> <li>- Insufficient cooperation or communication between national administrations;</li> </ul> <p>Other: lack of an EU wide power grid investment strategy and lack of EU wide legislation channeling investments in specific propulsion technologies (this is in the making however with CO2 standards).</p>
d. Relevant ecosystem*	Mobility-Transport-Automotive, Energy renewables
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>Yes, in context of Alternative Fuels Infrastructure Regulation (review foreseen during next mandate) and during current debates on CO2 standards for trucks.</p> <p>The Commission and member states are aware.</p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>The Commission should take ownership to establish collaboration and dialogue amongst stakeholders in the logistics, automotive &amp; energy industry to promote innovation and investment (private and public), secure regulatory enablers to address this challenge and enable accelerated rollout across all of the EU. This could be reached for example through:</p> <ul style="list-style-type: none"> <li>- An EU strategy for the rollout and investments in modern and digitalized, smart electricity grids, which also significantly reduces permitting times for such investments. Critically, this also needs to address the significantly different starting position on infrastructure in different EU member states.</li> <li>- An enabling policy framework which creates more investor confidence in investments in zero-emission vehicles and their infrastructure. This includes all sets of policies to make zero-emission vehicles more cost-efficient and equally operationally efficient compared to fossil alternatives.</li> <li>- An example of how private companies can support the rollout of infrastructure is the open-source <a href="#">CHALET tool</a>, which uses science and tech expertise to help operators identify promising locations for charging infrastructure across Europe.</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Amazon
b. Contact details for follow-up purposes (in company or association)	<p>Name: Helena Hånell McKelvey</p> <p>Position: Head of Public Policy, Nordics</p> <p>Email: <a href="mailto:hhanellm@amazon.com">hhanellm@amazon.com</a></p> <p>Phone or mobile number: +46738211198</p>
c. Type of organisation (please select answer by highlighting in bold)	
<b>5. Confidentiality &amp; public communication</b>	

a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.5.1.3 Anonymous 1

BARRIER: obstacles to road transportation	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>In order to maintain Europe's competitiveness and that of its companies, it is essential to create an effective single transport market, without disruptive national barriers that hinder or prevent cross-border trade and communication. Trade barriers hinder the entry of new operators and their products into the market, reduce competition, limit supply and harm both potential new operators and consumers.</p> <p>To give a few specific examples:</p> <p><b>1) Vehicle Weights and Dimensions (Regulatory Fragmentation).</b> Current regulation of cross-border road traffic (Directive 96/53/EC) limits the maximum international road transit to trucks of 40 tonnes and 18.75 meters, however, Member States are allowed to set their own regulations for national traffic. This situation has led some Member States to establish different maximum weights or dimensions for their internal traffic. This regulatory fragmentation has forced European hauliers to comply with different rules regarding the length and maximum weight of their vehicles, potentially requiring them to partially unload their vehicles to cross between two Member States, even though such transport is permitted at the national level.</p> <p><b>2) European transit of Duo/Giga trailers.</b> There is a disparity of regulations applicable to European Modular Systems (EMS). The circulation of these larger vehicles requires specific administrative authorizations and notifications in each country. Moreover, for cross-border traffic between EU Member States, specific agreements are necessary to allow transit even between neighboring countries. So far, only Spain, Sweden, and Finland have granted these authorizations, therefore it cannot be concluded that there is a "European transit" of these megatrucks, but only national circulation. Currently, the Netherlands is also evaluating their potential authorization, but always in isolation. In any event, until transit countries for various EU destinations authorise the circulation of these vehicles at the national level, it will remain limited.</p>
b. Describe the negative impact on your company and potentially your sector or the economy.	Trade barriers within the Single Market may involve regulations, technical standards and customs procedures that impede or hinder the free flow of goods and services between Member States. Overcoming these internal barriers is essential to improve competitiveness and efficiency. In the transport sector, these barriers may appear as specific requirements for vehicles, drivers, and transport companies, as well as restrictions on routes and schedules.



Please provide facts & figures.																																																																														
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<div>Fig.1. Differences in vehicle weights and dimensions</div> <table><tr><th>Country</th><th>Maximum Weight (5 axes)</th><th>Maximum Height</th><th>Maximum Length (articulated vehicles)</th><th>Maximum Width</th></tr><tr><td>Germany</td><td>40 t</td><td>4 m</td><td>16.50 m</td><td>2.55 m</td></tr><tr><td>Belgium</td><td>44 t</td><td>4 m</td><td>16.50 m</td><td>2.55 m</td></tr><tr><td>Denmark</td><td>44 t</td><td>4.1 m</td><td>16.50 m</td><td>2.55 m</td></tr><tr><td>Spain</td><td>40 t</td><td>4 m</td><td>16.50 m</td><td>2.55 m</td></tr><tr><td>Finland</td><td>44 t</td><td>4.4 m</td><td>23 m</td><td>2.6 m</td></tr><tr><td>France</td><td>44 t: Only France</td><td>4 m</td><td>16.50 m</td><td>2.55 m</td></tr><tr><td>Netherlands</td><td>50 t</td><td>4 m</td><td>16.50 m</td><td>2.55 m</td></tr><tr><td>Poland</td><td>40 t</td><td>4 m</td><td>16.50 m</td><td>2.55 m</td></tr><tr><td>Portugal</td><td>44 t</td><td>4 m</td><td>16.50 m</td><td>2.55 m</td></tr><tr><td>Sweden</td><td>44 t</td><td>4 m</td><td>24 m</td><td>2.55 ms</td></tr></table> <div>Fig. 2. Current state of play when it comes to specific national agreements necessary to allow transit even between neighboring countries.</div> <table><tr><th>Country</th><th>Euromodular Vehicles (Megatrucks)</th></tr><tr><td>Germany</td><td>Weight: Up to 44 t Height: 4 m Length: Up to 25.25 m Currently in testing phase for duotrailers</td></tr><tr><td>Belgium</td><td>Weight: Up to 60 t Height: 4 m Length: Up to 25.25 m Only under special conditions</td></tr><tr><td>Denmark</td><td>Weight: Up to 60 t Height: 4m Length: Up to 25.25 m Testing phase for duotrailers</td></tr><tr><td>Spain</td><td>Weight: Up to 72 t Height: 4 m Length: Up to 32 m</td></tr><tr><td>Finland</td><td>Weight: Up to 76 t Height: 4.4 m Length: Up to 34.5 m</td></tr><tr><td>France</td><td>Not allowed</td></tr><tr><td>The Netherlands</td><td>Weight: Up to 60 t Height: 4 m Length: Up to 25.25 m</td></tr><tr><td>Poland</td><td>Not allowed</td></tr><tr><td>Portugal</td><td>Weight: Up to 60 t Height: 4 m Length: Up to 25.25 m</td></tr><tr><td>Sweden</td><td>Weight: Up to 74 t Height: 4.5 m Length: Up to 34.5m</td></tr></table>	Country	Maximum Weight (5 axes)	Maximum Height	Maximum Length (articulated vehicles)	Maximum Width	Germany	40 t	4 m	16.50 m	2.55 m	Belgium	44 t	4 m	16.50 m	2.55 m	Denmark	44 t	4.1 m	16.50 m	2.55 m	Spain	40 t	4 m	16.50 m	2.55 m	Finland	44 t	4.4 m	23 m	2.6 m	France	44 t: Only France	4 m	16.50 m	2.55 m	Netherlands	50 t	4 m	16.50 m	2.55 m	Poland	40 t	4 m	16.50 m	2.55 m	Portugal	44 t	4 m	16.50 m	2.55 m	Sweden	44 t	4 m	24 m	2.55 ms	Country	Euromodular Vehicles (Megatrucks)	Germany	Weight: Up to 44 t Height: 4 m Length: Up to 25.25 m Currently in testing phase for duotrailers	Belgium	Weight: Up to 60 t Height: 4 m Length: Up to 25.25 m Only under special conditions	Denmark	Weight: Up to 60 t Height: 4m Length: Up to 25.25 m Testing phase for duotrailers	Spain	Weight: Up to 72 t Height: 4 m Length: Up to 32 m	Finland	Weight: Up to 76 t Height: 4.4 m Length: Up to 34.5 m	France	Not allowed	The Netherlands	Weight: Up to 60 t Height: 4 m Length: Up to 25.25 m	Poland	Not allowed	Portugal	Weight: Up to 60 t Height: 4 m Length: Up to 25.25 m	Sweden	Weight: Up to 74 t Height: 4.5 m Length: Up to 34.5m
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2. Barrier categorisation																																																																														

a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Regarding the European transit of Duo/Giga trailers, all EU countries with the exception of <b>Spain, Sweden, and Finland</b> have granted relevant authorisations.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Directive 96/53/EC (in one of the cases).
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes. Other: Obstacles arising from the absence of European legislation, where the establishment of a harmonized framework would be necessary.
d. Relevant ecosystem*	Mobility-Transport-Automotive
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<ol style="list-style-type: none"> <li>1. These regulatory differences make road transport less efficient and hinder the normal functioning of the Single Market. Urge that the r regulation on Dimensions and Weight of vehicles be completed at the earliest. Furthermore, for more sustainable and efficient road transport, it is necessary to standardize and increase the maximum limits on the dimensions and weights of goods trucks.</li> <li>2. It is necessary to allow the European circulation of these vehicles in a harmonized manner. This type of transport provides numerous economic and environmental advantages. EMS are: i) safe (increasing load capacity reduces the number of heavy vehicles on the roads, congestion and accidents), ii) efficient (immediate cost reduction and greater logistical</li> </ol>

	agility are achieved), and iii) sustainable (reduces CO2 emissions by 20% to 30%), while promoting multimodal transport by maximizing the use of infrastructures. The proposal to revise the "Weights and Dimensions" regulation seeks to flexibilise certain requirements for the transit of EMSs but keeps their circulation limited to cross-border traffic between neighboring countries previously authorized at the national level. Additionally, new administrative requirements (impact analysis, notifications to the EC by Member States) are proposed, potentially making their circulation further complex.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: Lack of interoperability of transport systems and technologies</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The lack of interoperability between transport systems and the technologies used constitutes a significant obstacle in the Single Market. It is essential to implement appropriate measures to advance towards the digital transition of the sector. Urges to digitize freight transport documentation throughout the European Union. To achieve efficient transit, without unnecessary bureaucratic procedures, agile and with lower operational and administrative costs, this must be a priority throughout the EU.</p> <p>To give a few examples:</p>

	<ol style="list-style-type: none"> <li>1) <b>E-FTI:</b> The implementation of the Regulation on Electronic Freight Transport Information (eFTI) is urgently needed. So far, Member States have delayed approving the necessary legislation and implementing appropriate and interoperable technological systems and infrastructures to effectively implement the eFTI Regulation, always guaranteeing data security.</li> <li>2) <b>E-CMR: Different levels of acceptance by Member States of the necessary documentation for international freight transport in digital format.</b> The E-CMR is the electronic version of the CMR (Convention on the Contract for the International Carriage of Goods by Road), a document used in international freight transport by road. This document digitizes the transport documentation process, allowing all relevant information to be managed and transmitted electronically instead of using paper documents. However, the implementation of the E-CMR has not been uniform across all countries. Despite more than 35 countries having adhered to an international convention called the E-CMR protocol, committing to its implementation, this has not been effectively carried out, even in European countries.</li> <li>3) For combined transport, a clear example of the need for system interoperability is the <b>review of the Ten-T Network, which proposes accelerating the implementation of the European Rail Traffic Management System (ERTMS)</b>. This system must be fully operational on all core network corridors by 2030. The ERTMS ensures the interoperability of trains across Europe, as it ensures the compatibility of signaling and communications between tracks and train equipment throughout the EU. However, as of April 2023, only 10% of the corridors that must have the ERTMS operational by 2030 have implemented it. The European competitiveness depending on a smooth transportation system, the Commission should provide support for the corridors to engage in this standardization process without the need to wait for more than five years.</li> </ol>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	2. Although the E-CMR should be mandatory for the countries that have signed the protocol, it seems that its complete implementation will not be achieved until the end of 2026. The main causes slowing down the implementation of the digital CMR are: i) the associated costs, and ii) the need to implement the

	technological solutions that allow it. Among the countries that have ratified the agreement but, in practice, are not applying it are Poland, Turkey, Bulgaria, Slovenia, and Slovakia, all of which are essential for cross-border land traffic in Europe. It is essential that the Commission provides sufficient funds and support for these countries to apply the standard, so the whole EU could benefit from more competitiveness.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Implementation of the E-FTI, ECMR, and European Rail Traffic Management System (ERTMS)
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes Other: delays / lack of implementation of EU legislation by individual member states
d. Relevant ecosystem*	Mobility-Transport-Automotive
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.5.1.4 Anonymous 5

<b>BARRIER: Cabotage restrictions – EU mobility package</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the	Additional cabotage restrictions implemented at the EU level in 2022 (within the framework of the 2020 EU Mobility Package)

<p>cross-border issue hampering operations.</p>	<p>introduced a requirement for road haulage operators to return all motor vehicles at least every eight weeks to an operational base in the Member State of establishment. Further, a four day cooling off period before another cabotage operation with the same vehicle and in the same Member state is required. These rules introduced disproportional and discriminatory operational and administrative barriers for stakeholders and are contrary to the liberalization of the transportation sector in the Single Market. While the Court of Justice of the European Union <a href="#">annulled</a> the rule on the return of the vehicle in October 2024, the other requirements persist. Moreover, there is a continuing lack of legal certainty as relevant regulations and European Court of Justice case law leave considerable margin for the interpretation of cabotage provisions to Member State authorities. Some Member State authorities (e.g., in Germany), avoid committing to a clear and public guidance on their interpretation of cabotage rules. An example is the CJEU decision of September 14, 2023 (ECLI:EU:C:2023:673) that has overruled an unpublished guidance of the German competent authority regarding the transport of empty containers in the context of combined transportation.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>The current cabotage rules hinder the free movement of goods and services in the EU Single Market, leading to unfair competition and administrative burdens for hauliers. While the Mobility Package aims to improve drivers' working conditions, its rules on posting of drivers, mandatory returns, and cabotage limits create barriers to efficient cross-border operations and increase costs for transport companies. These restrictions disrupt the fundamental principle of the free movement of goods by favouring national markets and adding layers of regulation beyond what's necessary for a true single market.</p> <p>In addition, the cabotage rules also have an environmental impact as the need to return the vehicle after the last allowed cabotage movement might require planning operations using more vehicles than would be required without cabotage restrictions (i.e., without cabotage restrictions the same vehicle could perform another run and there is no need to deploy a new vehicle).</p> <p>Vague and conflicting interpretations provided by the authorities of different Member States increase the compliance burden especially for small transport companies.</p>
<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	<ul style="list-style-type: none"> <li>- <a href="https://www.iru.org/news-resources/newsroom/some-progress-clarity-still-needed-mobility-package-1">https://www.iru.org/news-resources/newsroom/some-progress-clarity-still-needed-mobility-package-1</a></li> <li>- <a href="https://www.politico.eu/wp-content/uploads/2019/11/Mobility-Package-1-position-of-federations_final_.pdf">https://www.politico.eu/wp-content/uploads/2019/11/Mobility-Package-1-position-of-federations_final_.pdf</a></li> <li>- <a href="https://www.euractiv.com/section/transport/news/court-cases-over-mobility-package-pit-bulgaria-against-powerful-eu-countries/">https://www.euractiv.com/section/transport/news/court-cases-over-mobility-package-pit-bulgaria-against-powerful-eu-countries/</a></li> </ul>



	- <a href="https://www.iru.org/news-resources/newsroom/eus-highest-court-weighs-road-transport-mobility-package">https://www.iru.org/news-resources/newsroom/eus-highest-court-weighs-road-transport-mobility-package</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	. Every member state
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Regulation (EU) 2020/1055 Regulation (EU) 2020/1054 Directive (EU) 2020/1057
c. Type of problem*	Other; Restricted movement of goods by road
d. Relevant ecosystem*	Freight road transport
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	We are aware that Romania has filed an action for annulment before the CJEU regarding the relevant provisions implementing the vehicle return obligation and the four days cooling-off period. Romania is supported in this procedure by other Member States (Estonia, Latvia, Lithuania, Malta, Poland). CJEU <a href="#">annulled</a> the return to home of vehicle obligation in its decision in October 2024, while confirming the validity of all other contested provisions. Following this judgement, the only path available to reduce impact of cabotage rules is a change of the regulatory framework or a clarification of the interpretation of the rules by the EU and the Member States (e.g. offering a more flexible interpretation).
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	The recommended solution would be the complete removal of any restrictions hindering the free movement of goods by road, and at the very least the removal of the return-to-home obligation.  As a fall-back, the clarification of the rules and of their interpretation by the EU and/or Member States would remove some of the uncertainty and would reduce the (currently significant) costs of compliance which the transport operators have to bear (and which are particularly burdensome for small and medium sized hauliers).
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	

a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

BARRIER: Alpine passes & EU infrastructures quality improvement	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p><b>Alpine passes:</b> The Alpine passes are Italy's main gateway to Europe and simultaneously represent a fundamental asset and a challenge for its economy, as well as for Europe itself. The Italian and EU economies depend significantly on intra-EU trade and given the substantial share that moves through the Alps, efficient and effective management of these mountain passes (road and rail) should be strongly supported.</p> <p>The critical issues within the Alpine pass system are linked to the fragility of mostly outdated and overall inadequate infrastructure, ill-suited for the current volume of traffic. These infrastructures are increasingly prone to accidents and damaging events, resulting in continuous disruptions and limitations to both railway and road transit, even in recently opened or renovated facilities.</p> <p>In many EU countries the transport infrastructure is aged and was designed decades ago for much lower traffic volumes compared with the traffic loads of today. This leads to longer closure or capacity reductions because of major maintenance works. Furthermore, the condition of the infrastructure is often contributing to the probability of incidents.</p> <p>In addition to infrastructure fragility, temporary restrictions on heavy road traffic implemented by individual EU countries also impact on the efficiency of traffic flows and logistics road operations.</p> <p>Insufficient and uncoordinated maintenance works and political/technical restrictions to the mobility between the EU countries and through the Alpine passes became a large challenge to the mobility of goods within the European Single Market and the protection of the free movement of goods.</p> <p>The Alpine passes bordering Italy are the followings: ITALY-FRANCE i) Ventimiglia (road and rail); ii) Frejus-Moncenisio (road and rail); iii) Mont Blanc (road); ITALY-SWITZERLAND: i) Gran San Bernardo (road); ii) Sempione (road and rail); iii) San Gottard (road and rail); iv) San Bernardino (road); ITALY-AUSTRIA: i) Resia (road); ii) Brenner (road and rail).</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The quality of infrastructure is an important dimension of infrastructure provision in a country, as it improves the efficiency and effectiveness of logistics services. Infrastructure quality means, among other things, the possibility for business to get their goods and services in a secure and timely manner in the case of transport.</p> <p>Annually, approximately <b>3 million trucks transport 43 million tons of merchandise between France and Italy</b>. Of these, 1.45 million trucks (48%) utilize the tunnels, with Mont Blanc handling 42% and Frejus 58% of this traffic. The situation is critical considering that over</p>

	<p><b>60% of Italian exports involve European trade (mainly Germany and France)</b>, and 83% of goods travel through alpine passes. According to the Bank of Italy, import/export value through the Alps more than doubled from €268 billion in 2000 to €698.3 billion in 2023 (+151%). For example: i) <b>Mont Blanc Tunnel</b>: single-tube road tunnel requires maintenance closures (three months annually for 18 years). Impact: 9.8% GDP decline in Valle d'Aosta and 5.4% in the Northwest Italy, with an €11B impact over 18 years. <b>In terms of costs</b>: alternative routes will result in <b>increased transit times, higher fuel consumption, and additional driver overtime costs</b>. The poor quality of some EU roads and rails like the Alpine passes already contribute to lowering our network performances in terms of reliability, safety and punctuality. Both infrastructure breakdowns and phases of maintenance catchup cause disruptions in the transport network between Italy and France, Switzerland and Austria. It creates a bottleneck at the entrance of the tunnels as well as a re-routing and a delay in the road operations of our carriers with a negative impact on the times and quality of our logistic sites supply. The inefficiencies due to the poor quality of infrastructure and maintenance works also impact delivery times to the customers as well as the quality of the service and the customer obsession.</p> <p>Example: the 2022 commercial exchange between IT and FR is 111.2 billion, an increase of 20% compared to 2021. France is connected to Italy through the Frejus and Mont Blanc passes. The closure of one of the two tunnels (like the current case of Mont Blanc) causes a worsening of the operations of the other tunnel and therefore a disruption of commercial connections between Italy and France.</p> <p>For more details on the impact of this issue please refer to the <a href="#">study</a> conducted by Confindustria in October 2024:</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p><a href="#">OECD – Good practices for quality infrastructures investments</a>  <a href="#">TEN-T EU Strategy</a>  <a href="#">TEN-T Network – EC impact assessment</a>  <a href="#">Infrastructures-Growth EC</a>  <a href="#">TIER 1 media – Alpine passes</a>  <a href="#">TIER 1 transport media – Alpine passes</a>  <a href="#">IT GOV comms 1</a>  <a href="#">Mont Blanc closures - release</a>  <a href="#">World Bank's Logistics Performance index – data of quality infrastructures &amp; investments</a>  <a href="#">EU COMM Paper about Quality of Infrastructures</a>  <a href="#">EU Parliament Paper about Quality of Infrastructures</a>  <a href="#">Policy Paper about correlation between Quality of Infrastructures and Global Supply Chains</a></p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>IT, CH, FR, AT  <a href="#">Politico</a>  <a href="#">VP Tajani about Mont Blanc</a>  <a href="#">VP Tajani about Mont Blanc 2</a>  <a href="#">VP Tajani about Mont Blanc 3</a>  <a href="#">EUSALP Alpine EU Strategy</a>  <a href="#">EUSALP - Strategy</a></p>

b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<b>Technical requirements:</b> <a href="#">Mont Blanc – Tunnel closures</a> <a href="#">Frejus - limitations</a> <a href="#">Grand Saint Bernard - limitations</a> <a href="#">Ventimiglia (Colle di Tenda) - state of play and delays</a> <a href="#">Turin-Lion HS/HC - state of play</a> <a href="#">San Bernardino – night closures</a> <a href="#">Saint Gottard - closures</a> <a href="#">SS40 Resia - public works and limitations</a>
c. Type of problem*	Insufficient cooperation or communication between national administrations; Lack of mutual recognition; Insufficient enforcement of legislation by Member State or Commission.
d. Relevant ecosystem*	Transport; Operations
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status? *	<a href="#">June 2023 - Meeting IT Minister M. Salvini-DG MOVE Commissioner A. Vaelean</a> <a href="#">Barcelona Declaration - EU Spanish Presidency</a> <a href="#">G7 Partnership for Global Infrastructure and Investment</a> <a href="#">G20 Policy Agenda on Infrastructure Maintenance</a>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>The Alpine passes have become a complex problem that can no longer be underestimated or ignored. Coordination, planning, digitalization, and communication could represent a concrete starting point for managing commercial flows along the Alpine area, at least in addressing political or infrastructural challenges. Cross-border infrastructures, by increasing trade flows and competition, can have positive effects on growth.</p> <p>A single entity composed by stakeholders both private (infrastructure managers, service operators) and public (at national and local level) together with a more robust EUSALP framework and powers could improve the flow coordination of the Alpine passes. This entity should collect real-time traffic and accessibility data and have continually updated multimodal simulation models to make available to carriers and decision makers, both political and technical. This support should be available in the event of unforeseen emergencies and during the scheduling of regular and exceptional maintenance operations on road and rail infrastructures. From a communication standpoint, related to public and maintenance works and sessions, we suggest implementing a dedicated platform to inform all infrastructure users about real time and future planned events, and inform stakeholders about alternative routes and related data, such as transit times.</p> <p>From a standardization standpoint, the elimination of the requirement to have two drivers for each train (mandatory in Italy but not in other neighbour countries) would lead to a competitive improvement of the rail mode (around 15%) compared to the all-road ones. A strong political initiative is needed, and the European Commission should take responsibility to safeguard the free movement of goods, services and people. Promoting and supporting projects for the core Trans</p>

	European Transport networks (TEN-T) and the Alpine passes between Italy and France, Switzerland and Austria (i.e. the construction of a second tube of the Mont Blanc tunnel to be financed by the TEN-T programs of the new EU Commission 2024-2029) is crucial to ensure the free movement principle and to boost EU trade and EU competitiveness.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: Brenner transit limitations</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The Tyrolean provincial government (AT) has pursued a policy to limit transit traffic for several years and enacted numerous measures leading to large-scale obstructions in road freight traffic via the Brenner route. These measures include:</p> <ul style="list-style-type: none"> <li>• sectoral driving ban</li> <li>• night driving ban</li> <li>• double Brenner night toll</li> <li>• one-sided block clearances (i.e., only a certain number of trucks is allowed to pass the border) at the Kufstein border crossing, which are to take place on 41 days in 2023.</li> </ul> <p>While some road haulage operators might consider shifting to combined and rail freight services, we also note that there is a structural shortage of capacity and service offer in combined and rail freight transport along this corridor, as well.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>These measures hinder the free movement of goods within the Single Market. The driving restrictions have a significant impact on the capacity to deliver goods to customers and create a bottleneck at the entrance to the Brenner tunnel with a negative impact on transportation times and on drivers' work conditions.</p> <p>The Brenner bottleneck also has a negative environmental impact with thousands of trucks stopped while keeping their engines running for safety and conservation of goods reasons.</p>

	<p>Long motorway queues raise road safety concerns and increase the risk of accidents.</p> <p>In particular, the result of these limitations are regular truck tailbacks of up to 70 kilometres and a waiting time on the German side of the Inn Valley of up to ten hours. On 3<sup>rd</sup> October, a traffic jam was registered in Italy exceeding 100km because Austria had blocked access to the Brenner route for heavy-goods vehicles. Additionally, on 16<sup>th</sup> October Italy intends to start legal proceedings toward Austria before the Court of Justice of the European Union. In this situation, a political solution between Austria, Germany and Italy does not appear to be close, while recently talks between the three countries have been resumed. .</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p>News reports:</p> <ul style="list-style-type: none"> <li>- <a href="https://www.spiegel.de/wirtschaft/brenner-route-italien-verklagt-oesterreich-wegen-blockabfertigung-a-c44b9e44-6319-4f32-8277-3347e8117ab9">https://www.spiegel.de/wirtschaft/brenner-route-italien-verklagt-oesterreich-wegen-blockabfertigung-a-c44b9e44-6319-4f32-8277-3347e8117ab9</a></li> <li>- <a href="https://www.sueddeutsche.de/bayern/brenner-transit-tirol-soeder-bayern-suedtirol-blockabfertigung-1.5795133">https://www.sueddeutsche.de/bayern/brenner-transit-tirol-soeder-bayern-suedtirol-blockabfertigung-1.5795133</a></li> <li>- <a href="#">IT Trade Association – position 1</a></li> <li>- <a href="#">IT Trade Association – position 2</a></li> <li>- <a href="#">EU Transport Council Feb 23</a></li> <li>-</li> </ul> <p>Press releases:</p> <ul style="list-style-type: none"> <li>- <a href="#">Bavarian government 1</a></li> <li>- <a href="#">Bavarian government 2</a></li> <li>- <a href="#">Tyrol government 1</a></li> <li>- <a href="#">Tyrol government 2</a></li> <li>- <a href="#">IT Government press release</a></li> <li>- <a href="#">RAI – national TIER1</a></li> <li>- <a href="#">ANITA – Trade Association press release</a></li> <li>- <a href="#">AGEN PARL TIER 1</a></li> </ul> <p>Position papers:</p> <ul style="list-style-type: none"> <li>- IRU: <a href="https://www.iru.org/news-resources/newsroom/speed-brenner-negotiations-iru-says-european-commission-president">https://www.iru.org/news-resources/newsroom/speed-brenner-negotiations-iru-says-european-commission-president</a></li> <li>- <a href="#">IT Chamber of Commerce</a></li> <li>- <a href="#">IT Trade Association</a></li> <li>-</li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	The barrier occurs in Austria and affects the transport operators of every country that would use the Brenner route for (goods) transport through Austria. Germany and Italy are especially affected by traffic jams resulting from the (sometimes ad-hoc) measures imposed by the Tyrolean provincial authorities.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the	<p>See links included:</p> <p>Sectoral driving ban: <a href="#">Sektorales Fahrverbot-Verordnung</a></p> <p>Night driving ban: <a href="#">Nachtfahrverbot für Schwerfahrzeuge</a></p>



exact name and provision in a specific EU or national law or rule)	Brenner toll: (i) <a href="#">Bundesstraßen-Mautgesetz 2002</a> , (ii) <a href="#">Mauttarifverordnung 2022</a> , Block clearance: based on general competences of traffic police (§ 97 Abs 4 und 5 StVO).
c. Type of problem*	Other; Barrier to the free movement of goods
d. Relevant ecosystem*	Freight transport
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<ul style="list-style-type: none"> <li>• In December 2020, the EU Commissioners for Transport, Internal Market and Environment already internally recommended to urgently initiate an infringement procedure regarding the sectoral driving ban, the night driving ban and the double Brenner toll at night. Furthermore, Italy asked the Commission some months ago to initiate infringement proceedings against Austria.</li> <li>• Since April 2022, the Commission has held several discussions with the three Member States concerned to find an amicable solution to the problems in transalpine traffic.</li> <li>• On February 2023 the case of the Brenner tunnel restrictions were discussed at the European Informal Transport Council in Stockholm. A bilateral meeting of the IT-AT transport ministers (Salvini-Gewessler) was held in the same venue.</li> <li>• Despite numerous meetings of the states involved, so far no agreement has been found on how the free movement of goods can be ensured in conformity with EU law in the future. At the meeting of the Council of Transport Ministers in June 2023, numerous Member States, including Italy and Germany who are involved in the ongoing negotiations, expressed dissatisfaction with regard to the lack of progress in the negotiations and called on the Commission to finally act and find a solution to the Brenner problem.</li> <li>• On June 2023 the Brenner restrictions were discussed in a bilateral meeting between the Minister of Transport IT M. Salvini and the European Commissioner for Transport A. Valean in Rome.</li> <li>• In July 2023, President von der Leyen reported to the press, that Austria had so far rejected all proposals for a solution. The Commission would now offer the states involved "a final mediation meeting", which has not taken place so far.</li> <li>• There is an ongoing workstream between the provincial governments of Tyrol (AT), Bavaria (DE) and South Tyrol (IT) to implement a <a href="#">digital slot system</a>.</li> <li>• As Italy decided to bring Austria before the European Court of Justice, the Commission will start formal proceedings. The provisions regarding the procedure of the infringement proceedings stipulate that the Commission is supposed to issue a statement expressing its position. All the other Member State will be able to issue statements within the framework of the infringement</li> </ul>

	proceedings. The European Commission <a href="#">supports</a> the lawsuit against Austria's truck transit measures.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>A mutual solution should be pursued, that is acceptable to all Member States and parties involved (including the local residents) and which would allow the removal of any restrictions hindering the free movements of goods (in particular: the sectoral driving ban, the night driving ban, and the double Brenner night toll).</p> <p>The implementation of a digital slot system (i.e., intelligent traffic control through a slot booking for trucks) suggested by the regional governments of Tyrol (AT), Bavaria (DE) and Alto Adige - South Tyrol (IT) could offer a viable short-term solution, if the framework conditions will be suitable (e.g., if the digital slot system should ensure equal access to the slots, without entailing additional costs). However, such a solution should result in (and its outcome should be measured in light of) a real improvement and easing of the traffic situation at the Brenner Pass and should not simply amount to the introduction of an additional bureaucratic process.</p> <p>While the Commission is taking a clear stance in favour of free movement of goods, within the infringement proceedings the European Commission should also take steps to facilitate the communication and coordination between the Member States involved (AT/IT/DE) and make sure that the parties continue to negotiate and work toward an amicable solution also while the infringement proceedings are pending.</p> <p>Moreover, alternative intermodal operations that could reduce road traffic need to be made viable by increasing rail freight capacity and availability to private sector commercial operators. A long-term solution also includes investment in the road/tunnel infrastructure.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No need.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No need.

### 1.5.1.5 Engie

BARRIER: PPAs	
1. Barrier description	
a. Please describe, concretely, the cross-border issue hampering the Single Market.	<p>The principle of the Power Purchase Agreement (PPA) is to both support the long-term business developers of renewable projects and help industrial clients buy long-term renewable electricity contracts. It is a good tool, in principle.</p> <p>PPAs can be concluded across borders which is helpful to better connect European energy markets. However, as electricity prices in Europe are determined per country, there can be price differences that vary over time in unpredictable ways. For example, as a buyer, a steel company in Germany purchasing from a renewable producer in Spain would see price differentials vary between €3.5 and €19/MWh between 2015 and 2020. At an industrial level, that is a significant difference.</p> <p>This risk can be mitigated with the use of transmission rights to secure prices. But the owners of the transmission assets – the Transmission System Operators (TSO) – currently only sell transmission rights for the year ahead.</p>
b. Describe the negative impact on a company or the economy. Please provide facts & figures.	<p>This is an EU Single Market issue: cross-border activities are limited because they cannot be negotiated for longer than a single year. Because of these barriers, businesses cannot contemplate operations at EU scale. The rule discourages market participants, such as Engie, E.ON and others from developing cross-border PPAs. The result is that it slows investments in the energy transition to a low-carbon economy, jeopardising the EU's hopes of reaching its target of 40% of renewables in EU energy consumption by 2030.</p>
c. Any extra evidence (e.g. links to background materials, by your organisation or others).	<a href="#">Pinning down promise - ERT</a>
2. Barrier categorisation	
a. Country or countries where barrier occurs	EU
b. Legal instrument or technical requirement causing the barrier (refer to the exact name)	<p>Revision of existing technical guidelines</p> <p>Revision of electricity market design (Electricity Regulation, Art.9)</p>
c. Relevant ecosystem (please select answer by highlighting in <b>bold</b> )	<p>Choose between: Agri-food ; Health ; Digital ; Construction ; Retail ; Proximity, social economy, and civil security ; Tourism ; Cultural and creative industries ; Aerospace &amp; defence ; Textile ; Electronics ; Mobility-Transport-Automotive ; <b>Energy- intensive industries ; Energy renewables</b></p> <p><b>Other: Electricity markets</b></p>
d. Type of problem (please select answer by highlighting in <b>bold</b> )	<p>Please elaborate on: Lack of information; difference in rules; procedures; enforcement.</p> <p>Other:</p>
3. Suggested solution / recommendation	
Please indicate the type of change your suggested improvement would require. Please specify, where relevant.	<p>So, how can this be resolved? Urging the operators (the TSOs) to issue cross-border transmission rights for a duration longer than the year ahead would significantly mitigate the cross-border price risk, helping all parties. It would give the clients access to</p>

	<p>low-carbon electricity at optimal cost and help achieve the decarbonisation targets quicker. This change would also give TSOs a clear signal to invest in transmission grid reinforcement.</p> <p>The solution is actually very easy to enact. There is no need for the European Commission to issue any new piece of legislation. The Commission just needs to call out the issue and ask European TSOs to initiate a revision of the existing guidelines and to review their practices to reduce the financial risk currently incurred by cross-border PPAs. There would only be minor modifications of technical methodologies, and the relevant guidelines should be adapted and validated by relevant national and European regulatory authorities.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	ENGIE
b. Contact details for follow-up purposes (in company or association)	<p>Name: Hélène Robaye</p> <p>Position: Head of Power Regulation &amp; Market Design / ENGIE Global Energy Management &amp; Sales</p> <p>Email: <a href="mailto:helene.robaye@engie.com">helene.robaye@engie.com</a></p> <p>Phone or mobile number:</p>
c. Type of organisation ( <i>please select answer by highlighting in bold</i> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: Over-complexification of electricity market functioning rules</b>	
<b>1. Barrier description</b>	
a. Please describe, concretely, the cross-border issue hampering the Single Market.	This barrier is related to the over-complexification of market functioning rules, beyond harmonisation requirements. In the past, some regulatory decisions have been made based on theoretical concepts that might bring value in theory, but that had not been sufficiently tested prior to making the decision. While implementing these decisions, it has become clear that the implementation costs outweigh the theoretical benefits.
b. Describe the negative impact on a company or the economy. Please provide facts & figures.	
c. Any extra evidence (e.g. links to background materials, by your organisation or others).	<ul style="list-style-type: none"> <li>• In the Clean Energy Package, for example, it was decided that from 2025 onward the day-ahead market coupling should be organised in time segments of 15 minutes (Regulation (EU)2019/943, Art.8.2). This goes beyond the current, already integrated cross-border market coupling, organized at a one hour granularity. The aim of this measure is, among other things, to better optimise assets. However, such a change entails an enormous complexity in the processes and algorithms, which jeopardises the good operational functioning</li> </ul>

	<p>of the day-ahead process, which is already reaching its functional limits. The added complexity risks increasing the occurrence of fall-back solutions where the pan-European market is split again in national markets.</p> <ul style="list-style-type: none"> <li>• ACER's decision to add three pan-European auctions to the well-functioning continuous intraday market is another example. These auctions will make it necessary to suspend the already well-integrated European continuous market. This will be detrimental to the good functioning of the cross-border intraday market, whose objective is rapid intervention. These additional auctions have no added value compared to the continuous market but degrade a well-functioning and existing pan-European market.</li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs	EU
b. Legal instrument or technical requirement causing the barrier (refer to the exact name)	Electricity regulation and companion legislation (e.g. market functioning rules)
c. Relevant ecosystem ( <i>please select answer by highlighting in bold</i> )	<p>Choose between: Agri-food ; Health ; Digital ; Construction ; Retail ; Proximity, social economy, and civil security ; Tourism ; Cultural and creative industries ; Aerospace &amp; defence ; Textile ; Electronics ; Mobility-Transport-Automotive ; <b>Energy- intensive industries ; Energy renewables</b></p> <p>Other: <b>Electricity markets</b></p>
d. Type of problem ( <i>please select answer by highlighting in bold</i> )	<p>Please elaborate on: Lack of information; difference in rules; procedures; enforcement.</p> <p>Other:</p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change your suggested improvement would require. Please specify, where relevant.	
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	ENGIE
b. Contact details for follow-up purposes (in company or association)	<p>Name: Hélène Robaye</p> <p>Position: Head of Power Regulation &amp; Market Design / ENGIE Global Energy Management &amp; Sales</p> <p>Email: <a href="mailto:helene.robaye@engie.com">helene.robaye@engie.com</a></p> <p>Phone or mobile number:</p>
c. Type of organisation ( <i>please select answer by highlighting in bold</i> )	<p><b>Company</b></p> <p>Business association</p> <p>Other:</p>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.5.1.6 Iberdrola

BARRIER: Divergent RES permitting	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The deployment of renewables in the electricity sector experienced growing planning and permitting bottlenecks. Permitting is complex, divergent, and involve too many contact points. Also, investment in the power grid deployment is compromised by permitting, in turn creating barriers to renewables and the electrification of industrial demand. The level of investments needed in power grids can only be deployed if the projects are permitted quickly and if there is a business case for doing so.</p> <p>The Directive (EU) 2023/2413, “<b>Renewable Energy Directive III</b>” is a positive legislative development that includes the recognition of renewable energy projects as being of overriding public interest, setting of mandatory deadlines for permit-granting processes, inclusion of grid connection permits in the overall permitting deadlines, and the establishment of “renewable acceleration areas”.</p> <p>Also, the <b>European Wind Power Action Plan COM (2023) 669 proposed additional</b> positive measures to support Member States in the facilitation of permitting (via digitalization, training, launch of an online tool, guidelines, etc.).</p> <p>Acceleration of the deployment of grid technologies is explicitly mentioned in the <b>Net-Zero Industry Act (NZIA)</b>, and grids are considered a strategic net-zero technology. We further welcome that the latest <b>EU Action Plan for Grids</b> aims to address the issue of long permitting processes on the European level.</p> <p>On February 26, 2025, the European Commission published the <b>Clean Industrial Deal</b>, which emphasizes the need for substantial and timely expansion and reinforcement of power grids at all voltage levels. This follows the Letta and Draghi reports, which focused on various obstacles to competitiveness, including the insufficiency of networks and the permitting process. Proposals in the Deal include optimizing grid infrastructure build-out through integrated forward planning based on demand expectations. Further guidance to member states will be provided in the following announced documents:</p> <ul style="list-style-type: none"> <li>• Q2 25 Guidance anticipatory investments</li> <li>• Q3 25 Guidance on grid accelerating areas</li> <li>• Q1 26 Grids Package</li> </ul> <p>Moreover, the <b>Single Market Enforcement Taskforce (SMET)</b> (which includes representatives from the EU Commission and country authorities) is working on streamlining permitting procedures for wind and solar energy projects by removing administrative barriers.</p> <p>However, <b>these positive measures need to be transposed and implemented fast, effectively and in a harmonised way across all the Member States.</b></p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Many of the investments in the power sector are on hold or delayed due to permitting issues. Permitting delays are a significant bottleneck for renewable energy investments, impacting both the development of renewable projects and the necessary grid infrastructure.</p> <p>The electrification of demand relies heavily on the expansion and modernization of the grid. For a viable business model, renewable</p>



	<p>projects need not only access to the grid, but also that its industrial demand is granted with access to the grid. At such, grid infrastructure projects face their own set of permitting challenges: The permitting process can take 5 to 10 years due to bureaucracy, the complexity of the regulations and the need for multiple approvals, including environmental assessments and public consultations. In Spain, electricity distributors had to deny half of the requested access demand due to insufficient grid capacity, leaving 7.9 GW out of the 19.2 GW requested for building data centres and 10.7 GW out of the 18.6 GW claimed by the industry for connecting to the power grid. In turn, in 2024, the EU-27 built only 16.4 GW of new wind capacity, compared to the average of 23 GW per year needed to meet the EU's 2030 targets (source: WindEurope)</p> <p>Small and medium enterprises and start-ups are particularly affected by administrative burdens and complexity, especially when crossing borders, to conduct business within the single market.</p> <p>These divergence and complexity are limiting the potential of economies of scale offered by the single market, which is detrimental to the interests of consumers and businesses alike.</p> <p>From an economic point of view, the recent energy crisis has evidenced renewables are fundamental to achieve energy security from gas ("self-sufficiency"), but also to reduce electricity prices, and consequently to increase EU competitiveness and accelerate the twin transition.</p> <p>In essence, simplifying and harmonising permitting for renewables and grids drives the economic viability of the Energy Union ambitions. That is why it is more relevant and urgent than ever.</p>
<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	<p>WindEurope:</p> <ul style="list-style-type: none"> <li>- <a href="#">New permitting rules &amp; tools available for Governments to speed up renewables expansion   WindEurope</a></li> <li>- <a href="#">National Policy and Regulatory Developments   WindEurope</a></li> <li>- <a href="#">Europe must boost the competitiveness of its wind supply chain   WindEurope</a></li> <li>- <a href="#">Permitting   WindEurope</a></li> <li>- <a href="#">Europe invested €17bn in new wind in 2022, the lowest since 2009   WindEurope</a></li> <li>- <a href="#">Wind energy in Europe: 2024 Statistics and the outlook for 2025-2030   WindEurope</a></li> </ul> <p>European Commission, DG ENER: (RES simplify): <a href="#">Technical support for RES policy development and implementation - Publications Office of the EU (europa.eu)</a></p> <p>S&amp;P Global Intelligence: <a href="#">German grid operator decries slow permitting after 17-year approval for new line   (spglobal.com)</a></p> <p>EU Action plan on Grids: <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023DC0757&amp;qid=1744115522552">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023DC0757&amp;qid=1744115522552</a></p> <p>DSO Entity: Guidance on EU permitting-related provisions on grid and renewable energy projects: <a href="#">Guidance on EU permitting-related provisions on grid and renewable energy projects</a></p> <p>ERT: <a href="#">ERT-Strengthening-Europes-energy-infrastructure_March-2024.pdf</a></p>

2. Barrier categorisation	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p><b>The permitting barriers are present in all Member States.</b></p> <ul style="list-style-type: none"> <li>• Lengthy, complex, and non-harmonized administrative procedures at local, regional, and state level</li> <li>• Lack of digitalisation</li> <li>• Lack of predictability and transparency of permitting procedures</li> <li>• Complex spatial planning rules and processes</li> <li>• Insufficient staffing and lack of expertise of permit-granting authorities</li> <li>• Delays on grid connection permits due to lack of grid capacity and inadequate long-term grid planning</li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p><b>At an EU level:</b></p> <ul style="list-style-type: none"> <li>• The revised RED (Directive 2023/2413 amending Directive 2018/2001) entered into force in November 2023 and certain provisions had to be transposed into national law by 1 July 2024. (Renewable Energy Directive III), includes measures to simplify and accelerate permitting procedures both for renewable energy projects and for the necessary infrastructure project (include grid connection permit) and the environmental impact assessment.</li> </ul> <p><b>However, implementation of EU legislation aimed at facilitating and streamlining permitting in Member States is still the main barrier.</b></p> <p>The European Commission decided to open infringement procedures in September 2024 by sending a letter of formal notice to 26 Member States for failing to fully transpose into national law the provisions of the revised Renewable Energy Directive related to the simplification and acceleration of permitting procedures. At the time only Denmark has notified full transposition of these provisions by the legal deadline of 1 July 2024.</p> <p>In February 2025, the European Commission has launched legal action against eight EU member states for failing to transpose its revised renewable energy directive into national law. It has sent reasoned opinions to Cyprus, Italy, Slovakia, Spain and Sweden for failing to notify the transposition measures, alongside reasoned opinions to Bulgaria, France and the Netherlands for failing to provide sufficiently clear and precise information on how their transposition efforts reflect each of the directive's provisions.</p>
c. Type of problem*	<p>Problems range from:</p> <ol style="list-style-type: none"> <li>3. Insufficient staff, cooperation, or communication between national and local administrations.</li> <li>4. Insufficient digitalisation of information or of procedures.</li> <li>5. Insufficient enforcement of legislation by Member States or the European Commission.</li> </ol>

	6. Issues around authorisations/licences/permit requirements, or other document requirements  7. Speculative behaviour in grid access requests
d. Relevant ecosystem*	Renewable energy/electricity grids
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status? *	The <a href="#">Single Market Enforcement Taskforce</a> (SMET) (which includes representatives from the EU Commission and u country authorities) is working on streamlining permitting procedures for wind and solar energy projects by removing administrative barriers. They acknowledge that Member States are advancing in the implementation of good practices to tackle the challenges, but further effort is needed.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Actual EU legislation has a significant potential to streamline the consenting process. The Commission is responsible for monitoring whether EU laws are applied correctly and on time. We suggest that the EC continues to improve the already started actions, <ul style="list-style-type: none"> <li>• Increasing proactive approach of the Commission vis-à-vis Member States which includes guidelines and specific support.</li> <li>• Further monitoring and support from EU Commission of the effective implementation of the identified solutions.</li> <li>• Additional steps, including prompt legal actions, “name-and-shame” reports among other, if national authorities fail to implement EU laws.</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	IBERDROLA
b. Contact details for follow-up purposes (in company or association)	Name: Miguel Garagorri Position: Global Coordination Email: mgaragorri@iberdrola.es Phone or mobile number: +34 618777566
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.5.1.7 Mol

BARRIER: Divergent level of distribution power capacity tariffs (kW) to be paid by businesses	
1. Barrier description	
a. Please describe, as	With regard to the installation of EV charging stations MOL faces problems concerning the level of distribution power capacity tariffs (kW) to be paid as it is

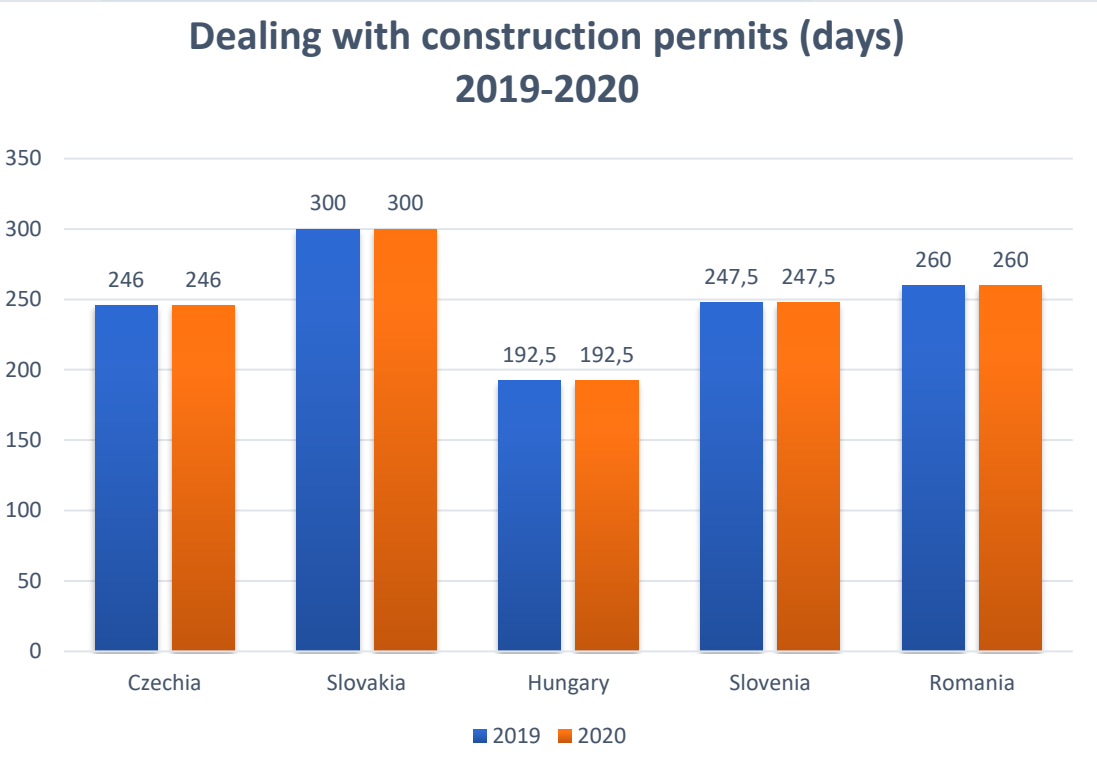
concretely as possible, the cross-border issue hampering operations.	<p>set at such a high level that it significantly impairs rates of return and is a barrier for a new business.</p> <p>To illustrate, below an overview of distribution power capacity tariffs in 2025:</p> <table><tr><th colspan="2"></th><th colspan="8">Fixed power capacity fees in 2025 (January-July) - €/kW/month*</th></tr><tr><th></th><th>Tariff type</th><th>Jan</th><th>Feb</th><th>Mar</th><th>Apr</th><th>May</th><th>Jun</th><th>July</th><th></th></tr><tr><td rowspan="2">CZ</td><td>Low voltage</td><td>1,45</td><td>1,45</td><td>1,45</td><td>1,45</td><td>1,45</td><td>1,45</td><td>1,45</td><td>1,45</td></tr><tr><td>High voltage</td><td>8,35</td><td>8,35</td><td>8,35</td><td>8,35</td><td>8,35</td><td>8,35</td><td>8,35</td><td>8,35</td></tr><tr><td rowspan="2">SK</td><td>Low voltage</td><td>1,20</td><td>1,20</td><td>1,20</td><td>1,20</td><td>1,20</td><td>1,20</td><td>1,20</td><td>1,20</td></tr><tr><td>High voltage</td><td>5,31</td><td>5,31</td><td>5,31</td><td>5,31</td><td>5,31</td><td>5,31</td><td>5,31</td><td>5,31</td></tr><tr><td>SL</td><td>Low voltage</td><td>4,05</td><td>4,05</td><td>1,86</td><td>1,86</td><td>1,86</td><td>1,86</td><td>1,86</td><td>1,86</td></tr><tr><td>RO</td><td>No fixed reserved power capacity fee</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td></tr><tr><td>CR</td><td>Low voltage</td><td>5,80</td><td>5,80</td><td>5,80</td><td>5,80</td><td>5,80</td><td>5,80</td><td>5,80</td><td>5,80</td></tr><tr><td rowspan="2">HU</td><td>Low voltage</td><td>2,79</td><td>2,79</td><td>2,79</td><td>2,79</td><td>2,79</td><td>2,79</td><td>2,79</td><td>2,79</td></tr><tr><td>Medium-Low voltage</td><td>3,50</td><td>3,50</td><td>3,50</td><td>3,50</td><td>3,50</td><td>3,50</td><td>3,50</td><td>3,50</td></tr></table> <p>*Fixed power capacity fees can differ by DSOs or locations in some countries exhibited. Showcased numbers are averages paid by MOL Group.</p>			Fixed power capacity fees in 2025 (January-July) - €/kW/month*									Tariff type	Jan	Feb	Mar	Apr	May	Jun	July		CZ	Low voltage	1,45	1,45	1,45	1,45	1,45	1,45	1,45	1,45	High voltage	8,35	8,35	8,35	8,35	8,35	8,35	8,35	8,35	SK	Low voltage	1,20	1,20	1,20	1,20	1,20	1,20	1,20	1,20	High voltage	5,31	5,31	5,31	5,31	5,31	5,31	5,31	5,31	SL	Low voltage	4,05	4,05	1,86	1,86	1,86	1,86	1,86	1,86	RO	No fixed reserved power capacity fee	-	-	-	-	-	-	-	-	CR	Low voltage	5,80	5,80	5,80	5,80	5,80	5,80	5,80	5,80	HU	Low voltage	2,79	2,79	2,79	2,79	2,79	2,79	2,79	2,79	Medium-Low voltage	3,50	3,50	3,50	3,50	3,50	3,50	3,50	3,50
		Fixed power capacity fees in 2025 (January-July) - €/kW/month*																																																																																																										
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CZ	Low voltage	1,45	1,45	1,45	1,45	1,45	1,45	1,45	1,45																																																																																																			
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	Medium-Low voltage	3,50	3,50	3,50	3,50	3,50	3,50	3,50	3,50																																																																																																			
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>It will be increasingly important for Member States to install chargers with higher power output in accordance with AFIR requirements, which focus on public EV charger installations with a minimum output power of 150 kW. In countries with low EV penetration the high level of power capacity tariffs may deter investors from installing high-powered chargers.</p> <p>As most of the Member States are aiming to comply with the AFIR TEN-T distance-based targets for EV charging, available subsidy programs require charge point operators like MOL to install min. 600 kW power output with the equivalent reserved capacity for light-duty vehicles on TEN-T core locations and min. 300 kW for TEN-T comprehensive locations. With the above 1.5-8 €/kW/month power capacity fee, the yearly costs for only the reserved power per location can reach € 5.400-57.600 (300 kW-600 kW) regardless how much the charger is used. This has hindered the opportunities for new charger installations, as financial returns became negative largely due to the above mentioned high fixed costs paired with the questionable demand and revenue potential. This challenge is particularly pronounced in the context of HDV charging infrastructure deployment. Under the AFIR requirement applicable from 31 December 2025, charge point operators must install – and consequently bear the cost of – a minimum contracted capacity of 1,400 kW per site. In CEE Member States with currently low electric HDV penetration, this obligation is expected to result predominantly in the installation of underutilized capacity. Furthermore, the prevailing capacity-based network tariffs, which are not adjusted for actual utilisation levels, significantly increase the economic burden. As a result, MOL has not commenced the deployment of HDV charging stations. With the above 1.5-8 €/kW/month power capacity fee and 1.400 kW reserved capacity per location, the yearly fees can reach € 25.200-134.400 just for the reserved capacity, which makes the business case of installing and operating EV chargers for HDV vehicles unsustainable in the early days of EV penetration.</p> <p>Overall, achieving national, or regional interoperability and covering white spots is significantly hampered by the fact that the utilization of the given charger is not taken into account, and the AFIR-based targets do not take into consideration the EV penetration for LDVs and HDVs in each country</p>																																																																																																											
c. Any extra evidence (e.g. links to publications or	<p><a href="#">High fixed capacity tariffs are a major problem and there are already countries where this problem has been solved by taking into account the charger's</a></p>																																																																																																											

background materials, from your organisation or external sources).	<a href="#">utilisation. For low-utilisation chargers, variable tariffs have been increased and fixed tariffs reduced.</a> <a href="#">ChargeUp+Europe+2023+State+of+the+Industry (squarespace.com)</a> (page 59)
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Czechia, Hungary, Slovenia, Croatia
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>National power distribution capacity tariffs are set by relevant authorities, organizations of each member state:</p> <p>-Czech Republic: <a href="#">Energy Regulatory Bulletin 15/2022   eru.cz</a></p> <p>-Hungary: <a href="#">Magyar Energetikai és Közmű-szabályozási Hivatal H 3808/2022. számú határozat B. melléklete</a></p> <p>-Slovenia: <a href="#">Contents of the Official Journal   Official Journal (uradni-list.si)</a></p> <p>-Croatia: <a href="#">Decision on the amount of tariff items for the distribution of electricity (nn.hr)</a></p> <p>Regulation (EU) 2023/1804) on the deployment of alternative fuel infrastructure, and repealing Directive 2014/94/EU). - AFIR regulation requires the installation of high capacity chargers in such countries also where the penetration of BEV and PHEV cars is not yet high enough to allow the use of these chargers at a rate that would allow them to operate profitably at high distribution power capacity tariffs. The combined effect of the high tariffs resulting from national regulation and the AFIR regulation therefore obliges Member States to make – at least until the scale-up of BEV and PHEV car fleet, which could be several years – unprofitable business investments, an obligation on Member States and a loss that can ultimately be passed on by the state to potential investors.</p>
c. Type of problem*	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</p> <p>Issues around authorisations/licences/permit requirements, or other document requirements; Other: Lack of EU legislation/guidance/intra-EU standards (e.g. EU-wide principles/calculation methods for tariffs/upper limit of tariffs (along the lines suggested below in point 3.)</p>
d. Relevant ecosystem*	Mobility-Transport-Automotive
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>Yes, the story was part of the ERT's 2021 flagship publication on the single market: <a href="https://ert.eu/single-market/stories/charging-ahead/">https://ert.eu/single-market/stories/charging-ahead/</a>. <b>No progress</b> has been made by policymakers in addressing the barrier.</p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is	In markets where electric vehicle penetration is still low – and EV charger utilisation remains limited – targeted interventions are needed to make the installation and operation of ultra-fast chargers financially sustainable.

required? Please specify, where relevant.	<p>One option is to introduce harmonised capacity tariffs that reflect actual charger utilisation based on reserved capacity (similar schemes are already in place in Slovakia and Poland).</p> <p>Alternatively, interim direct CAPEX support for DSOs to expand grid capacity for EV charging could help lower – or even eliminate – capacity fees linked to reserved electricity capacity. As a complementary measure until the EV market reaches maturity, a dedicated OPEX support scheme for charge point operators could also be considered, specifically to cover fixed power capacity charges.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	MOL Plc.
b. Contact details for follow-up purposes (in company or association)	Name: László Kohán Position: E-mobility Technical Lead – MOL Plugee Email: lkohan@mol.hu Phone or mobile number: +36-30-640-3270
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

<b>BARRIER: Barriers to the installation of EV charging stations due to differences in national regulations (permitting)</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>MOL experiences barriers to the installation of EV charging stations due to differences in national regulations. The issuance of construction permits still takes several months before the physical installation of EV charging stations can begin in some member states.</p> <p>Since MOL Group has not engaged in substantial regional charger installation activity in recent years, the issues outlined below refer exclusively to the problems experienced during the period of 2017-2021:</p> <p>In Romania, for example, the procedure 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).</p>
b. Describe the negative impact on your company and potentially your sector or the	<p>The fact that in some member states it takes an average of six to eight months for construction permits to be issued before the physical installation of EV charging stations can begin significantly hinders the implementation of charging station projects and creates an uneven playing field between EV infrastructure providers in the single market, not to mention that it leads to varying uptake of e-mobility (for which the availability of adequate charging infrastructure is a key aspect) from country to country.</p>



economy. Please provide facts & figures.	<p>According to the World Bank's Doing Business index (database) the duration of procedures for building permits (in 2019-2020) are as follows in the concerned EU countries: (source: <a href="https://databank.worldbank.org/source/doing-business">https://databank.worldbank.org/source/doing-business</a>)</p> <div><p><b>Dealing with construction permits (days)</b> <b>2019-2020</b></p><table><thead><tr><th>Country</th><th>2019 (days)</th><th>2020 (days)</th></tr></thead><tbody><tr><td>Czechia</td><td>246</td><td>246</td></tr><tr><td>Slovakia</td><td>300</td><td>300</td></tr><tr><td>Hungary</td><td>192,5</td><td>192,5</td></tr><tr><td>Slovenia</td><td>247,5</td><td>247,5</td></tr><tr><td>Romania</td><td>260</td><td>260</td></tr></tbody></table></div>	Country	2019 (days)	2020 (days)	Czechia	246	246	Slovakia	300	300	Hungary	192,5	192,5	Slovenia	247,5	247,5	Romania	260	260
Country	2019 (days)	2020 (days)																	
Czechia	246	246																	
Slovakia	300	300																	
Hungary	192,5	192,5																	
Slovenia	247,5	247,5																	
Romania	260	260																	
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).																			
2. Barrier categorisation																			
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Czechia, Slovakia, Hungary, Slovenia and Romania.																		
b. Legislation, legal instrument, standard or	The root cause of the permit issuance problem is not any EU specific legislation or technical requirement, rather the slow process of permit evaluation and issuance, which results in significant delays of physical installations.																		

technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes; Issues around authorisations/licences/permit requirements, or other document requirements; Other: Lack of EU legislation/guidance (e.g. EU-wide target or deadline for issuing construction permits (along the lines suggested below in point 3.)
d. Relevant ecosystem*	Mobility-Transport-Automotive
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, the story was part of the ERT's 2021 flagship publication on the single market: <a href="https://ert.eu/single-market/stories/charging-ahead/">https://ert.eu/single-market/stories/charging-ahead/</a> . <b>No progress</b> has been made by policymakers in addressing the barrier.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Harmonise or at least rationalise at EU level the deadlines for issuing construction permits for EV charging stations in case of projects using EU funds (e.g. special rules in order to take into account deadlines of grant agreements). Help to increase administrative capacity of competent national authorities (e.g. via consultations or country specific recommendations if applicable).
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	MOL Plc.
b. Contact details for follow-up purposes (in company or association)	Name: László Kohán Position: E-mobility Technical Lead – MOL Plugsee Email: lkohan@mol.hu Phone or mobile number: +36-30-640-3270
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	

a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No


#### 1.5.1.8 TLN

<b>BARRIER: Barriers to trans-border CO2 transport for CCS</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Every year across EU, more than 1,500 days are lost because freight transport is impeded and goods cannot be transported. Driving bans become borders within the EU and hamper cross-border operations, such as limitations to the free circulation of people, goods, and services.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	To describe the negative impact of driving bans in exact figures is difficult, however it is clear that driving bans lead to: <ul style="list-style-type: none"> <li>- more inefficiency in T&amp;L: higher fixed costs due to loss of transport capacity.</li> <li>- inefficient use of existing road infrastructure for HGV's; use of road network 5 days instead of 7 days a week, leading to more congestion on roads and less spreading of vehicles over the week.</li> <li>- detour kilometres and loss of time due to local, regional and national driving bans,</li> <li>- ecological damage due to poorer flow and distribution of freight traffic and detour kilometres,</li> <li>- social damage due to over standing drivers abroad.</li> </ul> parking space shortages in the EU force drivers to park on the hard shoulder
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	Driving bans have been a frequent topic of discussion in the EU. In 2010, the EC commissioned a study on the effects of driving bans: <a href="#">First Draft Final Report (europa.eu)</a> That did not lead to any changes. We are now over 13 years on and the problem of driving bans is only getting worse. Economies in the EU have grown, trade and transport have increased, but adapting infrastructure (safe and reliable parking spaces) and spreading traffic over more days of the week has so far been moot. This has to change.
<b>2. Barrier categorisation</b>	

a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Many EU member States have introduced driving bans for HGV 's: Germany, France, Greece, Hungary, Italy, Croatia, Luxembourg, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Spain, Czech Republic, Switzerland.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Legal entities, national, regional and local governments, impose driving bans based on national, regional and local legislation.
c. Type of problem*	lack of harmonization and coordination between member states
d. Relevant ecosystem*	Mobility-Transport-Automotive
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, please see 1.c . Status is that the file has been frozen but needs to be put on the agenda again. See also suggested solutions why.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Possible solutions to tackle the problem of driving bans:</p> <ul style="list-style-type: none"> <li>• Start harmonizing <u>time windows</u> of driving bans in EU member states</li> <li>• Start harmonizing <u>exemptions</u> from driving bans, i.e. for specific product groups</li> <li>• Start with a <u>pilot</u> that exempts HGV traffic returning home from driving bans, in order to avoid unnecessary staying over of drivers on congested parking places</li> </ul> <p>a) <u>Abolish</u> driving bans within the EU in stages in order to use 100% of the EU road network capacity.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	TLN
b. Contact details for follow-up purposes (in company or association)	<p>Name: Elmer de Bruin  Position: manager international affairs  Email: edbruin@tln.nl  Phone or mobile number: +31 88 4567224 mobile: +31 6 23364131</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association on Transport and Logistics</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.5.1.9 TotalEnergies

BARRIER: Barriers to trans-border CO2 transport for CCS	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Carbon Capture &amp; Storage Projects in Europe often require that CO2 volumes are transported from emitters located in one country to a CCS storage site located in another country. The transborder transportation of CO2 for CCS purposes is governed by article 6 of the London Protocol as amended in 2009. In a nutshell, it allows for CO<sub>2</sub> streams to be exported for disposal only where an <i>agreement</i> or an <i>arrangement</i> (MOU type) is entered into by the countries concerned. The agreement must allocate permitting responsibilities between the countries exporting and receiving the waste.</p> <p>The issue is that this amendment is not yet in force: it will only come into force once it is ratified by 36 States that are parties to the London Protocol. As of November 2022, 10 had done so (Belgium, Denmark, Estonia, Finland, Iran, Netherlands, Norway, South Korea, Sweden, UK).</p> <p>In 2019, a mechanism in the London Protocol was introduced at the initiative of Norway and the Netherlands to enable willing states (who have already ratified the amendment) to agree a Provisional amendment Application between them, on a bilateral basis, before it enters into force for all the contracting states. So far, only Belgium, Denmark, Norway, the Netherlands, South Korea, Sweden and UK filed provisional applications.</p> <p>Our understanding of the status of bilateral discussions/arrangements on CO<sub>2</sub> export for CCS purposes is that only two arrangements (Belgium/Denmark and Belgium/Netherlands) are fully finalized.</p> <p>This situation constitutes a major regulatory constraint for CCS projects that would for instance involve the transportation of CO2 emitters from France, Germany, UK to Denmark, Netherlands, Norway storage sites, or vice versa.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The Company's objective for 2030 is to store more than 10 Mt/y CO2 on an equity share basis. TotalEnergies has raised its CCS budget from 100 to 300 M\$/year in order to reach this objective. The Company has four major CCS projects in the North Sea:</p> <ul style="list-style-type: none"> <li>• in Norway (33% in Northern Lights) in August 2022, TotalEnergies and its partners signed with Yara, for its ammonia and fertilizer plant, the world's first commercial agreement for the transport and storage of CO2 captured on an industrial site in the Netherlands. As of 2025, 800 kt/y of CO2 should be captured, compressed, liquefied in the Netherlands, and transported to the Northern Lights site for permanent storage,</li> <li>• in Netherlands (60% in Aramis). This project – developed by TotalEnergies alongside Shell, Energie Beheer Nederland (EBN) and Gasunie – should offer large-scale, flexible carbon transportation services and open access to offshore carbon storage capacity as a decarbonization solution for industry situated in Netherlands, Belgium, France etc...</li> </ul>

	<ul style="list-style-type: none"> <li>• in Denmark (80% in Bifrost). Bifrost is a CCS project aiming at developing infrastructure to link European industrial hubs with offshore storage in the North Sea. In partnership with Denmark's state-owned Nordsøfonden, TotalEnergies obtained two licenses in early 2023 encompassing the Harald natural gas fields it operates and a saline aquifer, to explore the area's CO<sub>2</sub> storage potential. TotalEnergies will operate under those licenses and plans to develop a project totalling more than 5 Mt/y CO<sub>2</sub> by 2030, sourced from Denmark as well as Germany, Sweden and Poland.</li> <li>• In UK (10% in Northern Endurance Partnership: NEP). The Company is working with its partners BP and Equinor on the Northern Endurance Partnership transport and storage project, which aims to decarbonize the Teesside and Humberside industrial regions.</li> </ul> <p><b>CARBON STORAGE PROJECTS IN EUROPE</b></p>  <p>The fact that some EU States have not yet ratified the amendment and that not enough bilateral agreements are in place is a regulatory negative risk on those projects because it reduces the scope of customers that can be targeted.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<a href="https://globalccsinstitute.com/publications/ccs-legal-and-regulatory-indicator-2023-the-global-ccs-institute.pdf">CCS-Legal-and-Regulatory-Indicator-2023-The-Global-CCS-Institute.pdf (globalccsinstitute.com)</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>In particular:</p> <ul style="list-style-type: none"> <li>-France and Germany (because they have not yet ratified the amendment to article 6 to the London Protocol)</li> <li>- there needs to be an acceleration of the bilateral arrangements/agreements between France / Germany / Norway / Denmark / Netherlands.</li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific	<p>The relevant article is Article 6 of the 1996 London Protocol to the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the “<b>London Protocol</b>”). This is an international treaty, not an EU text. The barrier comes</p>



as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>from the insufficient number of countries that ratified it and/or that have put in place bilateral arrangements/agreements. The EU should encourage Member States to solve this issue at their national level.</p> <p>In September 2022, the EU Commission conducted a <a href="#">comparative analysis</a> of the requirements of the London Protocol and the EU legal framework in the European Economic Area (EEA) for CCS and CO2 cross-border transport contained in the CCS and the Emissions Trading Scheme (ETS) directives. It concludes that, since there is a substantive alignment between the two, the CCS/ETS Directives constitute <i>in themselves</i> a relevant 'arrangement' between the EU/EEA Member States for the purpose of Article 6 of the London Protocol, and that therefore Member States <u>are not required</u> to put in place any other bilateral arrangements between them. This is a very positive and encouraging position taken by the Commission. But this document is not binding on the EU/EEA Member States, and some States (such as Norway) take a different view that an agreement is still necessary. Lastly, the States must also follow the requirements of the London Protocol, so this EU Commission conclusion needs to be formally recognized by the International Maritime Organisation (that is the organization depositary of the instruments of ratification under the London Protocol). This is not the case yet.</p>
c. Type of problem*	Issues around permitting requirements for the cross-border transportation of CO2 for CCS purposes
d. Relevant ecosystem*	Energy Intensive Industries
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>b) The EU should encourage Member States with CCS potential (as emitters, transporters or storage operators) to ratify the amendment to article 6 to the London Protocol, sign the related provisional application and file it with the International Maritime Organisation (IMO);</p> <p>c) The EU should explore and put in place with the IMO legally enforceable solutions to make the recommendations contained in its report of 30 September 2022 legally binding on the Member States that have ratified the amendment to article 6.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	<b>TOTALENERGIES S.E.</b>
b. Contact details for follow-up purposes (in company or association)	<p>Name: Cyril Vock  Company: TotalEnergies  Position: Head of Low Carbon Regulatory Affairs  Email: cyril.vock@totalenergies.com  Phone or mobile number: + 33 1 41 35 24 67</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>

5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

BARRIER: Constraints to CO2 pipeline deployment for CCS across the EU	
1. Barrier description	
a. Please describe, as concretely as possible, the CO2 pipeline deployment barriers	<p>In order to deploy an efficient and large-scale system to decarbonize the heavy industries in Europe we need to connect emission intensive industrial hubs to storage sites, that will be likely developed offshore in geological formations at depth 1000 to 3000 m below the sea bed.</p> <p>A typical configuration would therefore be that large industrial hubs (for example the regions of Lyon, or Bilbao or Leipzig) being connected to ports such as the Havre, Rotterdam, from which the CO2 could be shipped to offshore site through special CO2 vessels.</p> <p>There are two non-mutually exclusive ways to create this necessary network: one is to re-use existing pipelines, and one is to build new pipelines. The existing pipeline candidates for re-use would be natural gas pipeline that are no longer in use because for example the fields that they were servicing have ceased its production life.</p> <p>Regarding the reuse of existing pipeline, there are a few technical points of attention mainly that need to be looked at by technical entities. It is necessary to make sure that the technical criteria remain consistent over the review across the various countries.</p> <ul style="list-style-type: none"> <li>-The design pressure of the existing pipeline may not be compatible with transporting CO2 in dense phase which requires pressure &gt; 80 bar. In that case, the transport will have to be in gas phase resulting in lower capacity.</li> <li>-The compatibility of existing pipeline material with CO2 is to be verified. A challenge is always to be able to retrieve the design and fabrication data of existing pipelines.</li> <li>-The main technical concern lies with the material toughness of existing pipelines. Toughness must be high enough to resist running ductile fracture risk at the given CO2 purity</li> <li>-The compatibility of all non-metallic material shall also be verified (gaskets, valves components, etc), which could be subject to fast degradation due to CO2.</li> <li>-The integrity (pipeline condition) of the existing pipeline has to be evaluated with an in-line pigging inspection. Pipelines may not always be designed for such inspection.</li> <li>-The life duration (extension if required) must be assessed from the current pipeline condition with the new CO2 operating conditions.</li> <li>-Some corrosion challenges must be investigated (water ingress risk leading to high corrosion, acid formation due to impurities in CO2).</li> </ul>

	<p>-International pipeline codes only cover limited type, diameter, and steel grade. Re-use of existing pipelines may therefore require additional advanced modelling and / or testing.</p> <p>-Depending on the country, priority of reusing existing infrastructure may be given to other product (such as H2 in the case of Germany).</p> <p>Regarding potential discrepancies in the regulatory framework, the following points of attention were identified as they may vary from one country to another, leading to delays or inconsistencies in the approach:</p> <ul style="list-style-type: none"> <li>-The permitting process listing the required permits to be obtained, the public hearings and the corresponding approval durations. The state agencies in charge in each country should also be identified.</li> <li>-The definition of a common CO2 quality for cross-border pipeline transport. This is fundamental to obtain the maximum flexibility along the value chain.</li> <li>-The policy regarding the right of expropriation that would facilitate and accelerate the CO2 pipeline construction.</li> <li>-The legal safety design requirements are not specified yet (for example: safety distance to inhabited areas, to other pipelines).</li> <li>-Some European countries have not yet ratified the amendment to Art. 6 of the London Protocol. (this has been identified as a barrier and was fully explained in another paper)</li> <li>-Public acceptance of CO2 pipeline construction (and CCS in general) remains critical.</li> </ul>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>The Company's objective for 2030 is to store more than 10 Mt/y CO2 on an equity share basis. TotalEnergies will progressively raise its CCS budget from 100 to 300 M\$/year in order to reach this objective.</p> <p>The Company has four major CCS projects in the North Sea:</p> <ul style="list-style-type: none"> <li>• in Norway (33% in Northern Lights)</li> <li>• in Netherlands (60% in Aramis).</li> <li>• in Denmark (80% in Bifrost).</li> <li>• In UK (10% in Northern Endurance Partnership: NEP)</li> </ul> <p>All these projects should offer large-scale, flexible carbon transportation services and open access to offshore carbon storage capacity as a decarbonization solution for industry situated in the Netherlands, Belgium, France, Germany, Sweden and Poland for example. To do so, a network of pipeline linking the various industry hubs to ports where the CO2 can be shipped through vessels to all the various storage sites is necessary. A lack of common regulation regarding the construction of pipelines, or the re-use of existing ones can only delay or hamper the access of some inland industrial sites to the shores, where access to the storage sites will be made possible through dedicated trunklines (like in Aramis, or Bifrost) or through the use of vessels (like in Northern Lights)</p>

	<p><b>CARBON STORAGE PROJECTS IN EUROPE</b></p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<a href="https://circabc.europa.eu/ui/group/75b4ad48-262d-455d-997a-7d5b1f4cf69c/library/435ae9cd-1cb6-49a9-9311-f77c21c64d82/details">https://circabc.europa.eu/ui/group/75b4ad48-262d-455d-997a-7d5b1f4cf69c/library/435ae9cd-1cb6-49a9-9311-f77c21c64d82/details</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	A review by TotalEnergies of the requirements to build a pipeline from Germany to Denmark to transport CO <sub>2</sub> to the Bifrost storage site evidenced that currently each country has its own permitting process and sometimes legal framework around pipe operations and construction. This results in uncertainty around costs and schedule. This finding is likely to have been the same given any two countries in the EU.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	There is generally a lack of a broad, EU wide regulatory framework for CO <sub>2</sub> transport infrastructure as the existing framework are generally country dependent. This implies permitting, safety regulations, operating standards.
c. Type of problem*	Lack of a unified framework for construction, operations, re use of CO <sub>2</sub> pipelines across the various regions of the EU.
d. Relevant ecosystem*	Infrastructure operators servicing heavy industries
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The CCS Forum brings together representatives of the EU, academia, business leaders. It has a working group on CO <sub>2</sub> infrastructure. The main conclusions of the report "TOWARDS A EUROPEAN CROSS-BORDER CO <sub>2</sub> TRANSPORT AND STORAGE INFRASTRUCTURE" have been shared with the EU.
<b>3. Suggested solution / recommendation</b>	

Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>d) The EU should develop a fit-for-purpose EU regulatory framework for CO2 transport infrastructure to complement the CO2 Storage (CCS) Directive.</p> <p>e) Interoperability is crucial for the development of the Europe-wide CO2 transport and storage infrastructure. Standards/network codes are needed for CO2 specifications, addressing the different technologies and segments of the CCUS value chain, and keeping in mind cost effectiveness considerations.</p> <p>f) The European Commission should develop a strategy and clear targets for a common European CO2 transport network; this entails developing a network code and standards for a multimodal CO2 transport network</p> <p>g) All relevant EU and national funding programs should be adapted to maximize their potential to fund CO2 infrastructure projects</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	<b>TOTALENERGIES S.E.</b>
b. Contact details for follow-up purposes (in company or association)	<p>Name: Pierre Germain  Company: TotalEnergies  Position: Head of CCS Business Development  Email: pierre.germain@totalenergies.com  Phone or mobile number: + 33 6 26 03 44 76</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.5.1.10 Umicore

<b>BARRIER: EU-wide green electricity claims</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>An increasing number of companies have an ambitious decarbonisation agenda, including on their scope 2 emissions by investing in on-site generation and renewable electricity sourcing via Power Purchase Agreements (PPAs). In doing so, corporates investing in renewable electricity often go beyond the ambitions of the member states in which they have operations. With more ambitious targets on renewable electricity in Europe, power production will also be optimised in the locations with the best renewable electricity potential (e.g. wind, solar, hydro).</p> <p>Multiple carbon footprint regulations/guidelines are being created: PECFR in Battery Regulation, Transensus project, etc. It is important that there is consistency across these calculation methodologies to avoid companies having to calculate their carbon footprints in a multitude of ways.</p>

<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>Companies that invest in renewable electricity sourcing via, but not limited to renewable Power Purchase Agreements want to valorise this also in the carbon footprint of the products they produce. Guarantees of Origin are currently the only contractual instruments that comply with the minimum reliability criteria in the European Union for this purpose. However, in different discussions regarding electricity modelling in carbon footprint calculations, this is often questioned.</p> <p>The location-based methodology, which is based on national electricity mixes and national CO<sub>2</sub>-factors of electricity mixes, is no longer suited to be used in CO<sub>2</sub> footprint calculations of products as they do not take into account individual efforts from companies (e.g. renewable Power Purchase Agreements) and do not facilitate cross-border energy projects and thus optimising the potential of renewable electricity in the EU.</p> <p>The market-based methodology, which is based on contractual instruments (Guarantees of Origin - GoOs) and the residual electricity mix, is based on the story of 'unique claim'. If you have GoOs for only part of your consumption, it is important to use the residual mix for the remaining part and not the national average. If you were to use the national average, you are left with double counting because the 'claimed GoOs' are not subtracted from the national average, but they are subtracted from the residual mix.</p>
<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	<p>When introducing product environment foot printing methods and Carbon Footprinting methodologies, policy-makers should consider aligning as much as possible with the Product Environmental Footprint Category Rules (PEFCR) and the methodology used in the Battery Regulation that is enhancing the use of EU-wide (and eventual cross-border) unique claims and Guarantees of Origin complying with the EU Renewable Energy Directive respecting minimum criteria and avoiding double counting of renewable electricity.</p> <p>More information on electricity modelling in the Battery Regulation: <a href="https://eplca.jrc.ec.europa.eu/GRB-CBF_CarbonFootprintRules-EV.pdf">https://eplca.jrc.ec.europa.eu/GRB-CBF_CarbonFootprintRules-EV.pdf</a></p>
<h2>2. Barrier categorisation</h2>	
<p>a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).</p>	
<p>b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)</p>	<ul style="list-style-type: none"> <li>- <b>EU rules, where applicable (exact name of Regulation, Directive, Delegated Act, etc.)</b> <ul style="list-style-type: none"> <li>o <b>EU renewable Energy Directive (RED)</b></li> <li>o <b>Carbon footprinting methodologies such as PECFR in Battery Regulation, Digital Product Passports (DPP)</b></li> </ul> </li> <li>- <b>Transensus project:</b>  <a href="https://cordis.europa.eu/project/id/101056715">https://cordis.europa.eu/project/id/101056715</a>.</li> </ul>
<p>c. Type of problem*</p>	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</p>



	Insufficient digitalisation of information or of procedures
d. Relevant ecosystem*	Energy- intensive industries ; Energy renewables
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	No
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>In product legislations where carbon footprinting plays a role such as the Battery Regulation, Eco-design for sustainable products (ESPR) and Digital Product passports (DPP) the use of EU-wide (and eventual cross-border) unique claims and Guarantees of Origin complying with the EU Renewable Energy Directive should be the basis to calculate the carbon emissions of electricity. Guarantees of Origin are widely used as part of corporate Power Purchase Agreement negotiations and are the <b>only credible instrument available to claim the green character of the electricity sourced</b> by companies while avoiding double counting. In the longer run, the reinforcement of Guarantees for Origin (GoOs) can also allow for more cross-border corporate projects to be valorised enabling the full potential of renewable electricity within the EU.</p> <p>The Association of Issuing Bodies (AIB) i.e., the organisation which governs the European Energy Certificate System is guaranteeing the compliance of minimal criteria of the Renewable Energy Directive and avoiding double counting. Not all member states are a <b>member of the AIB</b> and this should become mandatory to have a qualitative scheme of unique claims in every EU member state.</p> <p>A binding deadline should be set for the <b>establishment of a single cross-EU interoperable digital platform to support</b> and document the increasing production of renewable electricity in all EU member states via Guarantees of Origin (GoOs) while not allowing for double-counting.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Umicore
b. Contact details for follow-up purposes (in company or association)	Name: Ruth Lambrechts Position: Director Government Affairs Email: <a href="mailto:ruth.lambrechts@eu.umicore.com">ruth.lambrechts@eu.umicore.com</a> Phone or mobile number: +32 479 383760
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain <b>anonymous</b> ? If yes, why?	No

b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No
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## 1.6 Labour & posting of workers

### 1.6.1.1 Anonymous 5


<b>BARRIER: Language requirements for locomotive drivers</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	European legislation requires that locomotive drivers must speak the language of the country in which they drive trains at least at B1 level. Thus, instead of a common language requirement of at least one language (which could be English) to be mastered by drivers throughout the EU, local regional infrastructure managers can set different language requirements.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The requirement limits train drivers' ability to operate trains on cross-border routes. In case of an unforeseen diversion of a freight train, for example if a track is closed, there may be no train driver available with a B1 certification in another language to drive an alternative route through a different country, resulting in the cancellation of the train.</p> <p>Since increasing rail freight capacity plays a key role in meeting climate targets, the negative impact of differing language competency requirements concerns the whole of the EU economy and society. Moreover, these differing requirements are likely to exacerbate the current shortage of train drivers.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	Rail will help the EU to meet the Green Deal's goals: <a href="https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2528">https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2528</a> . AllRail calls for an EU language directive to improve cross-border services: <a href="https://www.railway-technology.com/news/allrail-calls-for-eu-language-directive-to-improve-cross-border-services/">https://www.railway-technology.com/news/allrail-calls-for-eu-language-directive-to-improve-cross-border-services/</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	EU-wide
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Article 12, Annex VI, Chapter 8 Directive 2007/59/EC
c. Type of problem*	Other; Outdated regulatory barrier
d. Relevant ecosystem*	Rail
e. Has the barrier already been reported to a relevant	The European Commission is currently reviewing Directive 2007/59/EC.

European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Similar to other industries (e.g. aviation), the acceptance of a single operational language (e.g. English) would present an important step towards an integrated Single European Railway Area.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.6.1.2 ASML

<b>BARRIER: Enforcement Directive administrative burden</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>ASML underwrites the purpose of the Posted Workers Directive (96/71/EG) to ensure a level-playing field on employment conditions and avoid "social dumping" in case of cross-border posting workers within the EU. But as ASML we struggle to understand how the Enforcement Directive (2014/66/EU) contributes to the purpose of the PWD.</p> <p>Based on the Posted Workers Directive 96/71/EG (hereinafter: PWD) and Enforcement Directive 2014/66/EU five requirements are indicated when posting workers within the EU:</p> <ol style="list-style-type: none"> <li>1. Minimum pay</li> <li>2. Assessment</li> <li>3. Notification</li> <li>4. Documentation</li> <li>5. Contact person</li> </ol> <p>Member states are obliged to implement the rules and regulations of a directive in the national local legislation. This results in different requirements per member states, which increases the complexity for service providers to comply to the legislation in the relevant member states.</p> <p>9 countries within the EU are currently relevant for ASML (this number will increase in the future), therefore we need to know</p>

	<p>the legislation of these 9 different countries (8 member states and Switzerland).</p> <p><b>1. Minimum pay</b>  According to the PWD, the minimum pay requirements in the host country should be met. The employer needs to compare the home country pay level with the host country minimum level. In case a CLA is applicable at the host company, the minimum requirements of this CLA should be met. If no CLA is applicable, the legal minimum requirements are relevant. ASML needs to compare the pay levels of the posted employees with the required pay levels in the member state where the employee is posted to. This is a cumbersome exercise as knowledge of the local minimum pay requirements is essential.</p> <p><b>2. Assessment</b>  As directives need to be implemented in local legislation, exemptions to the notification requirement differ per member state. Therefore an assessment needs to be done whether for a specific activity for a certain duration in a member state a notification needs to be filed. It might be that in member state A filing a notification is needed, while the same activity for the same period of time does not require a notification in member state B. Next to that, legislation might change in a member state, so ASML needs to keep a close eye on the legislative developments.</p> <p><b>3. Notification</b>  If the outcome of the assessment is that a notification is needed, data must be collected to complete the notification form. The Enforcement Directive 2014/67/EU states in article 9 that the member states may impose an mandatory <b>simple</b> declaration to the competent national authorities. Our experience is that member states have a different interpretation of simple. ASML indicated 250 unique data fields for the 8 EU member states involved and Switzerland for ASML. Some of these data fields are very hard to find for an individual traveller (e.g. host company VAT number). Next to that, ASML wonders whether all this data contributes to the purpose of the PWD.</p> <p>The way of notifying also differs per member state. Ireland requires an completed overview in Word that needs to be attached to an e-mail, where France for example, has an online notification system.</p> <p>Next to that, there are differences between member states in the period of time the notification should be filed before traveling.</p> <p>Another challenge is timely notifying in case of escalations, emergencies or unforeseen circumstances (e.g. illness of a traveller and replacement by another traveller).</p> <p><b>4. Documentation</b>  The Enforcement Directive 2014/67/EU also allows member states to require the service provider to keep copies of prementioned documents (e.g. employment contract, time</p>
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	<p>sheets, payslips and proof of payment) available during the posting. 14 unique documents are listed for the 9 countries relevant for ASML, including an A1 certificate. Most countries require a translation of these documents to the local language. There are countries which require to keep the documents available up to 2 years after the posting.</p> <p><b>5. Contact person</b></p> <p>The challenge concerning the contact person is the fact that some countries require a local contact person who in some member states even needs to be available after posting. It is important that the contact person has sufficient knowledge on this EU regulations.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	The administrative burden based on the Enforcement Directive 2014/67/EU for employers who are posting employees within the EU and meeting the minimum employment conditions according to the Posted Workers Directive 96/71/EG and the disturbance of business as employees cannot travel in a compliant manner without a timely notification.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	 <p>2022-11-25_Presentation PWD_EC final.</p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>All EU member states ASML is performing activities:</p> <ul style="list-style-type: none"> <li>- Austria</li> <li>- Belgium</li> <li>- Czech Republic</li> <li>- France</li> <li>- Ireland</li> <li>- Italy</li> <li>- Sweden</li> <li>- Switzerland, although not an EU member state</li> </ul> <p>No barrier occurs in Germany, as Germany <b>excluded ASML's industry from the notification requirement.</b></p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>The source of the rules and regulations on the notification is the <a href="#">Enforcement Directive 2014/67/EU</a>.</p> <p>This directive requires member states to implement the rules in local legislation. The national interpretation of this EU rule can be found via this website of the EU:  <a href="https://europa.eu/youreurope/citizens/work/work-abroad/posted-workers/index_en.htm#national-websites">https://europa.eu/youreurope/citizens/work/work-abroad/posted-workers/index_en.htm#national-websites</a>:</p> <ul style="list-style-type: none"> <li>- <a href="#">Austria</a></li> <li>- <a href="#">Belgium</a></li> <li>- <a href="#">Czech Republic</a></li> <li>- <a href="#">France</a></li> <li>- <a href="#">Ireland</a></li> <li>- <a href="#">Italy</a></li> <li>- <a href="#">Sweden</a></li> </ul>

	<p>Also <a href="#">Switzerland</a>, although not an EU member state, is relevant for ASML and has rules and regulations based on the EU directives.</p> <p><a href="#">Germany</a> has excluded ASML's industry from the notification obligation, but still requires to meet the minimum pay conditions.</p>
c. Type of problem*	<p>A disproportional administrative burden for employers/service providers to ensure compliance with the notification obligation, while meeting the minimum pay requirement.</p> <p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;  Every member state implemented the EU directives in its local legislation which results in a complex variety on rules and regulations. Although the EU collected the links to the EU member states' websites, the information is provided in different manners by the member states' and therefore cumbersome to read and understand.</p> <p>For the Netherlands in particular, there's also overlapping rules as the receiver of the service needs to check the notification of the service provider, which is in our opinion unnecessary, as the service providers needs to meet the requirements.</p>
d. Relevant ecosystem*	Electronics
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, during a meeting of 25 November 2022 chaired by DG Jorna, in the ERT Note on Single Market Barriers and during the EU Industry Days in Malaga.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Herewith our suggestion per requirement to minimize the administrative burden for service providers who meet the minimum pay requirement.</p> <p><b>1. Minimum pay</b>  ASML understands this is the purpose of the directive. Why not have an employer proofs that meets the minimum requirements and exclude this employer from notification?</p> <p><b>2. Assessment</b>  What would help is a so-called targeted approach where certain sectors / industries are excluded from notification. Also equal exemptions across member states and excluding short-term travel would contribute to ease the administrative burden to comply with the legislation.</p> <p><b>3. Notification</b>  To release the burden for the posting employer with regards to the notification, excluding short-term travel and alignment of exemptions would help. Next to that, a uniform notification form</p>



	<p>and allowing notifying after start date would contribute to ease the ability to comply with the legislation.</p> <p><b>4. Documentation</b></p> <p>To relief the administrative burden regarding the required documentation, ASML suggests:</p> <ul style="list-style-type: none"> <li>- allow collecting and delivering the documents at time of inspection;</li> <li>- accept the documents in every EU language; and</li> <li>- not require an A1 certificate to proof social security in home country.</li> </ul> <p><b>5. Contact person</b></p> <p>Allowing one central point of contact within the company, also outside the country where the activities are performed, would be a desired simplification for ASML..</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	ASML
b. Contact details for follow-up purposes (in company or association)	<p>Name: Wouter Baljon</p> <p>Position: Head of Government Affairs - Europe</p> <p>Email: wouter.baljon@asml.com</p> <p>Phone or mobile number: 0031 6 21 61 00 78</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.6.1.3 UIMM

<b>BARRIER: FREE MOVEMENT OF WORKERS – A1 form for short term postings</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>In addition to requesting A1 form, companies that post employees abroad must, in most cases, declare the posting to the authorities of the host country. Each member states has its own system for declaration (form to fulfil, dedicated portal, email to send, etc.). This is very complex for companies to find the right authority to contact and the modalities of declaration.</p> <p>For example :</p> <ul style="list-style-type: none"> <li>- in France : <a href="#">Bienvenue sur SIPSI   Sipsi - Détachement de travailleurs - Déclaration préalable de détachement</a></li> <li>- in Belgium : <a href="#">Limosa – Working in Belgium (socialsecurity.be)</a></li> <li>- in Italy : <a href="#">Ministero del Lavoro e delle Politiche Sociali</a></li> </ul>



	email address provided by the website. It was not the right service. So we had to send another email to someone else. We finally managed to get a reply and we have forwarded it to our member. We are used to work with foreign legislation but for some of our (smaller) members, it is impossible – i.e. costly and time-consuming - to do that kind of research.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	DIRECTIVE 2014/67/EU of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation
c. Type of problem*	Lack of or insufficient information + insufficient cooperation or communication between national administrations
d. Relevant ecosystem*	All companies posting workers in European countries
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>The European Commission has launched an initiative to create an eDeclaration in order to standardise and simplify the reporting obligations for postings within the European Union.</p> <p>Unfortunately not all member states are involved in it. To succeed with this initiative, we call on the Member States to become part of the project and start implementing the eDeclaration at national level.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	UIMM
b. Contact details for follow-up purposes (in company or association)	<p>Name: Uhring Lucile</p> <p>Position: Head of international and European affairs</p> <p>Email: <a href="mailto:luhring@uimm.com">luhring@uimm.com</a></p> <p>Phone or mobile number: 00 33 6 38 87 84 76</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

<b>BARRIER: FREE MOVEMENT OF WORKERS</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the	Companies which are posting workers abroad (e.g. to provide a service related to a good that they produce, to perform its maintenance, or in case of intra-corporate mobility) have to

<p>cross-border issue hampering operations.</p>	<p>comply with some provisions of labour law applicable in the host country. Among others, companies have to comply with legal provisions on remuneration. This includes statutory provisions but also provisions of universally binding collective agreements.</p> <p>It is not always possible for foreign companies to be aware of which collective agreements are applicable to the posted workers and companies in principle do not have the knowledge of the host Member State's applicable labour law system (are there sectoral collective agreements in the host country? If yes, are they universally binding or not? If there is an applicable collective agreement, what is the minimum wage scale? How are employees classified in the classification scale?). For example, in France, most of sectoral collective agreements are universally binding which is not the case in Germany or in Denmark.</p> <p>Each member state has its own national website providing information on posting of workers and national applicable conditions of employment but each website is different which makes it harder to find information.</p> <p>Examples of websites:</p> <p>Germany : <a href="http://zoll.de">Customs online – Foreign-domiciled employers (posting) (zoll.de)</a></p> <p>France : <a href="http://travail-emploi.gouv.fr">Posting of employees – Ministère du Travail, du Plein emploi et de l'Insertion (travail-emploi.gouv.fr)</a></p> <p>Greece : <a href="http://ypergasias.gov.gr">Posting of workers in the framework of the provision of services - Ministry of Labour and Social Affairs (ypergasias.gov.gr)</a></p> <p>Italy : <a href="http://lavoro.gov.it">Home Page   Distacco transnazionale (lavoro.gov.it)</a></p> <p>Etc.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>This is a source of legal uncertainty for companies. Companies may be subject to sanctions in the host country in case of control by the local administration. There is also a risk of litigation with the employee.</p> <p>Example of sanctions :</p> <p>In France : Possible fines up to €1500 for individuals and up to 7500 € to legal entities. Possibility for the labour inspection to suspend the service provision for up to 1 month in case of serious breach of French labour law rules on e.g. daily rest, weekly rest, maximum working time (daily and weekly), a total or partial non-payment of statutory or collectively agreed minimum wage etc... Joint liability in case of non-compliance with applicable minimum wage</p> <p>In Germany : fine up to 500 000 €</p> <p>Etc.</p>

c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	All EU countries are concerned, the case is not limited to Germany or France - each country has a different system, which means you have to do research for every posting.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Directive (EU) 2018/957 of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services
c. Type of problem*	Lack of or insufficient information + insufficient cooperation or communication between national administrations
d. Relevant ecosystem*	All companies posting workers in European countries
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	This point has been regularly reported to European and national institutions by UIMM and Ceemet
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Information regarding working conditions applicable to posted workers in the host country should be tailored to the needs of all workers and all employers in order to raise awareness and improve compliance.</p> <p>One way to achieve this is by using the same structure on each single national website providing information on posting, while outlining the specificities of each national system. This will enhance its user-friendliness and help both workers and employers. A client journey should be used to scrutinise the single national websites, starting by using and analysing the same template questionnaire for visitors of all single national websites.</p> <p>Wage calculators on the national websites could also be useful to calculate the local minimum remuneration.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	UIMM
b. Contact details for follow-up purposes (in company or association)	Name: Uhring Lucile Position: Head of international and European affairs Email: <a href="mailto:luhring@uimm.com">luhring@uimm.com</a> Phone or mobile number: 00 33 6 38 87 84 76
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>

5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

#### 1.6.1.4 VDMA

BARRIER: Posting of workers	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The EU Member States have implemented the Posting of Workers Directive and the corresponding Enforcement Directive in different ways.</p> <p>This has for example led to a patchwork of national reporting obligations. <b>In Greece one must declare for example information on the mother and father of the posted employee, whereas in Spain the reporting obligations vary from region to region. SMEs can only navigate this patchwork of national reporting obligations with the input of additional staff or by resorting to external service providers, incurring extra costs for the company.</b></p> <p>In addition, there is major confusion because activities that have to be reported are defined in various ways in the 27 EU Member States. Moreover, some Member States require a compulsory contact in the EU Member State concerned and many documents (e.g. pay slip and contract) have to be in the national language. At the same time, the principle “equal pay for equal work in the same place” means extensive research into wage policies in complex and local collective agreements that can be difficult to access and that are only available in the national language of the EU Member State. Finally, the application of the complete labour legislation of EU Member States to long-term postings leads to legal uncertainty.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>This leads to legal uncertainty, additional bureaucracy and extra costs for our sector that is dominated by SMEs. A particular cost consists in the external services of third parties.</p> <p>VDMA estimates the additional bureaucratic costs for EU postings of workers yearly at a minimum of EUR 31 million for the German mechanical engineering industry (based on 205,000 registered postings). However, the overall costs for the companies that post workers are much higher due to the excessive reporting obligations in many Member States. <b>Furthermore, there are often inspections.</b></p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p>Various VDMA papers and memos on concrete problems with the posting of workers in selected EU-Member States.</p>



2. Barrier categorisation	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>The 27 EU Member States. In addition, there are similar difficulties in Norway, Switzerland, Liechtenstein and the United Kingdom.</p> <p><b>The top 5 European countries with the most complicated reporting procedures are Luxembourg, Greece, Norway, Italy and Switzerland.</b></p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>• Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (as amended later)</li> <li>• Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation 1024/2012/EU on administrative cooperation through the Internal Market Information System</li> <li>• Corresponding national legislation</li> </ul>
c. Type of problem*	<ul style="list-style-type: none"> <li>• Lack of or insufficient information</li> <li>• Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes</li> <li>• Insufficient cooperation or communication between national administrations</li> <li>• Insufficient enforcement of legislation by Member State or Commission</li> <li>• Issues around certified translation requirements</li> <li>• Issues around authorisations/licences/permit requirements, or other document requirements</li> </ul>
d. Relevant ecosystem*	Other: machinery and equipment manufacturing industry
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>We have reached out to the EU-Commission and many national administrations, but there is no final solution for this barrier.</p> <p>We acknowledge the ongoing work of the EU-Commission, e.g the eDeclaration, Single Market Enforcement Task Force (SMET) and infringement proceedings.</p>
3. Suggested solution / recommendation	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>We suggest the following solutions:</p> <ul style="list-style-type: none"> <li>• Short-term exemption: Exemption period for the first 10 days of a posting.</li> <li>• Harmonized reporting obligation: The reporting obligations in the EU Member States need to be harmonized.</li> <li>• Exemptions: Limit the reporting obligations to postings for technical services only. Sales, meetings, trade fair activities etc. are excluded</li> <li>• Multiple languages: The reporting obligation can be done in multiple, uniform languages. Also in English</li> <li>• Contact persons: No compulsory contact person in the EU Member States.</li> <li>• Information: Transparent and binding labour law tools (e.g. standardised national wage calculators) that services</li> </ul>

	providers can use to obtain the necessary information on the requirements.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	VDMA
b. Contact details for follow-up purposes (in company or association)	Niels Karssen Advisor for the Foreign Trade Department and Legal Department niels.karssen@vdma.org 0032 2 7068207
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Business association
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	NO
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	NO

## 1.7 Finance & capital

### 1.7.1.1 Anonymous 5

<b>BARRIER: Payments - Strong Customer Authentication (SCA)</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	The fragmentation of payment systems across the EU continues to create operational friction for businesses operating in multiple markets. Technical issues in payment authentication persist, with around two in ten transactions at risk of failure due to timeouts, errors, and latency challenges. While Strong Customer Authentication (SCA) has played a positive role in reducing certain types of fraud, current SCA provisions can make it disproportionately difficult for customers to complete legitimate commercial transactions across the EU. The use of exemptions is currently poorly implemented (sometimes even ignored) and are therefore putting unnecessary challenges on legitimate customers without protecting them more. More work is needed to find the right balance between fraud management and customer experience.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	While regulatory initiatives have made retail payments more competitive, compliance requirements have added significant operational and financial burdens, especially challenging for smaller merchants.  This is particularly problematic for SMEs that operate on tight margins and high order fulfillment costs, and are not able to further invest in a tailored on-site experience to guide customers to enable these transactions which may also lead to revenue losses and reduce the chances of converting those customers in the future.

	While there has been significant progress and ongoing PSR/PSD3 negotiations show promising harmonization efforts, several challenges remain that require continued focus and collaboration between industry players and policymakers.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Member States with the highest level of failed transactions include Belgium, Italy, Spain and Portugal.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p><a href="#">Directive (EU) 2015/2366</a> of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (Text with EEA relevance).</p> <p><a href="#">Final draft RTS on SCA and CSC under PSD2 (EBA-RTS-2017-02)</a> (23 February 2017)</p> <p><a href="#">Proposal</a> for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on payment services in the internal market and amending Regulation (EU) No 1093/2010</p>
c. Type of problem*	Insufficient digitalisation of information or of procedures
d. Relevant ecosystem*	Other, Payments
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	No
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Regulatory frameworks would be more effective if they focused on more on outcomes and risk - such as setting specific fraud reduction targets and improved customer experience metrics - rather than imposing detailed technical requirements. This flexibility would allow the payments sector to adapt and innovate more readily. Enhanced cooperation between different industry players and better information exchange represents a crucial step in staying ahead of sophisticated fraud schemes. Additionally, regulations should also enable a level playing field between all payment methods. We welcome the Council proposal currently discussed in ongoing PSR/PSD3 negotiations to enable the consistent application of SCA and Transaction Risk Analysis exemptions across card and non-card payments. This should be complemented by the consistent application of exemptions across member states.
<b>4. Organisation info &amp; contacts</b>	

a. Organisation name	Contact details can be requested from the ERT Secretariat ( <a href="mailto:philippe.adriaenssens@ert.eu">philippe.adriaenssens@ert.eu</a> )
b. Contact details for follow-up purposes (in company or association)	
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.7.1.2 Deutsche Bank AG

<b>BARRIER: Differing legal status of collateral across member states for collateralized bank loans</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p><b>Issue:</b> Differing legal status of collateral across member states for collateralized bank loans</p> <p><b>An example</b> for this is mortgages, where ownership of the building is granted as additional security to the bank (the collateral) to minimize the risk of loss to the bank and therefore grant the most favourable conditions (pricing and loan amount) to the debtor. The ability to enforce the transfer of ownership of the pledged collateral and the rights of creditors and debtors are differing across member states. For example:</p> <ul style="list-style-type: none"> <li>• In Belgium and the Czech Republic, assigned company shares may be taken into the possession of the lender or sold without specifying the sales procedure.</li> <li>• In Germany, Austria and France, assigned company shares must be sold by public auction and may not become the property of the lender (in AT, the lender may participate in the auction).</li> </ul>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	Due to differing national civil laws, financial institutions require external legal advice when providing collateralized bank lending across member states. The cost of external legal advice (or alternatively of building up in-house legal advisory capacity) impacts the competitiveness of loan offers from banks outside of the home market of the company/person seeking the loan. This leads to widely differing costs of obtaining loans across member states not corresponding to the country risk or other objective factors of credit quality.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	Additional information on price differences of credit costs upon request.
<b>2. Barrier categorisation</b>	

a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	Across all member states.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	It is not possible to refer to all legislation causing the issue as the legal status of loans/ loan collateral is spread across different parts of private law (in civil law jurisdictions)
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes / Issues regarding differing national legal systems
d. Relevant ecosystem*	Other: financial services.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Not that we are aware of.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	As the issue is too much intertwined with existing national law, we recommend setting-up an "opt-in" law, standing next to existing national law, that can be used in loan/ collateral contracts as an EU-wide legal standard (an example where a system like this has been implemented is UN trade law that can be accepted by countries and specified as legal basis in contracts)
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Deutsche Bank AG
b. Contact details for follow-up purposes (in company or association)	Name: Malte Kilian Position: Head of Brussels Office Email: malte.kilian@db.com Phone or mobile number: +3225516017
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No.

#### 1.7.1.3 European Banking Federation (EBF)

<b>BARRIER: Lack of harmonised definition of "Shareholder" in the EU</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the	<b>Short Background</b>

<p>cross-border issue hampering operations.</p>	<p>Shareholder engagement is pivotal for listed companies to improve their sustainable corporate governance and consult their investors to create transparency, collect strategic information and strengthen their competitiveness, growth and long-term viability.</p> <p>In the EU, the Shareholder Rights Directive Two (SRD II) along with its implementing regulation, aims to achieve three main objectives: (i) enhance the exercise of rights by end investors in both general meetings and financial corporate actions, ensuring effective capability; (ii) provide issuers with the means to identify share owners; and (iii) establish common, pan-European operational processes for general meetings, financial corporate actions, and shareholder identification.</p> <p>While SRD II emphasizes the importance of the voting process and despite industry's efforts to develop and implement Market Standards, the European Commission highlighted, in its 2020 Capital Markets Union Action Plan, that the diverse implementations of SRD II across European Member States lead to complications in cross-border voting.</p> <p><b><i>The barrier: lack of minimum harmonisation</i></b></p> <p>While according to publicly available CSD data, the number of listed companies, especially SMEs, 'active' in the identification of their shareholders has increased considerably in recent years in the EU, the European Securities Markets Authority (ESMA) observed that differences among national jurisdictions as well as among practices of market players within the same MS create obstacles to the processing of shareholder identification requests in a timely and consistent manner across the EU, especially at the cross-border level.</p> <p>Key barriers include the absence of a standardized definition for "shareholder", and of consistent criteria for assigning entitlements, as well as differences in national regulations governing the exercise of rights, including the requirement for powers of attorney in certain member states. Additionally, divergent national transpositions have resulted in varying interpretations of securities covered by SRD II and discrepancies in specific requirements like confirmation and proof of entitlement (e.g., some MS have extended the scope of SRD II to securities other than listed shares).</p> <p>Effectively, the lack of minimum harmonisation in the areas above led to inconsistent processing and practices which create impediments to the smooth functioning of shareholder identification requests in the region. For instance, due to the specificity of requirements under each national regime of company law, the cross-border exercise of shareholders' rights at general meetings is still associated with complex manual processes and considerable legal risks.</p> <p><b>Example: National Power of Attorney ("POA") requirements</b></p>
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	<p>For instance, at least five European Union countries still require end investors to provide, in paper form, and in order to be able to exercise their votes, signed power of attorney documents. It should be noted that power of attorney documents create differences in operational processes, and act as a barrier to the exercise of votes. They are an operational burden both for end investors, and for intermediaries, and they create the risk that a voting instruction will be rejected (for example, if the power of attorney is out-of-date or incorrect, or if the name on the power of attorney is not the same name as the name received by an issuer following a shareholder identification request).</p> <p><b><i>The outcome: suboptimal cross-border shareholder engagement</i></b></p> <p>The result is that not all end cross-border investors are identified by their investees and therefore are able to participate in general meetings. The failure to establish common pan-European processes, along with legal mechanisms in SRD II, introduces legal risks and operational burdens for intermediaries in the custody chain. Instead of facilitating access to European capital markets, SRD II can act as a barrier for end investors.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>As shares of listed companies are often held through complex ownership structures encompassing many intermediaries, particularly in a cross-border context, effective engagement and exercise of shareholder rights depend to a large extent on the efficiency of the investment (“custody”) chain in channelling information between companies and shareholders. Specifically, the SRD II sets specific messaging requirements for issuer-to-shareholder communication up and down the custody chain (e.g., in ISO 20022 electronic format), which includes intermediaries such as banks offering custody and asset services (“custodians”).</p> <p>Custodians serve as crucial intermediaries that grant investors access to securities entitlements issued by companies. They also provide essential services for the realization of investors' rights in these securities, including settlement facilitation, voting rights, rights offerings, dividend payments, and tax reclaims. Additionally, securities custodians play a pivotal role in collateral arrangements, which have gained significance in capital markets post the financial crisis. Their clientele spans from retail and private clients to large institutional investors and supranational entities worldwide. The majority of services provided by securities custodians operate on a cross-border basis, forming a trusted custodial chain that enables investors in one jurisdiction to transact and manage securities in another. This facilitation of safe and efficient cross-border holdings aligns with the goals of the European Commission's Capital Markets Union agenda for the EU, supporting the development of markets and aiding companies in raising capital.</p> <p>Intermediaries aligned their processes with the requirements of SRD II and the implementing regulation at a very early stage -</p>

	<p>even before the new legal requirements came into force. The fact that this has been successful is due, among other things, to the uniform standards to which the intermediaries in Europe had already committed themselves well before SRD II.</p> <p>These include the Standards for Shareholder Identification and the Market Standards for Corporate Actions.</p> <p>Despite diligent preparations for implementation, however, due to persisting inefficiencies and harmonisation gaps created by different national transpositions, conflicts law and unclear legal definitions under national regimes, SRD II does not fully achieve its objectives from a cross-border perspective.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	All member states
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>• Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement (OJ L 132, 20.5.2017, pp. 1-25)</li> <li>• Commission Implementing Regulation (EU) 2018/1212.</li> </ul>
c. Type of problem*	<b>Obstacles to cross-border functioning of the EU's Capital Markets Union</b>
d. Relevant ecosystem*	Banking and Finance
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p><b>The EBF is of the view that a harmonised definition of “shareholder” would be helpful in reducing divergent practices and increasing alignment of processes and efficiency throughout the custody chain.</b></p> <p>Against this background, the impact of an EU-wide harmonisation of the shareholder definition might entail on national law (in particular securities law, company law and tax law), including the regulation on rights attached to the securities, as well as on market practices, needs to be thoroughly examined.</p>

4. Organisation info & contacts	
a. Organisation name	European Banking Federation
b. Contact details for follow-up purposes (in company or association)	Name: Burçak INEL Position: Director of Financing Sustainable Growth Email: <a href="mailto:b.inel@ebf.eu">b.inel@ebf.eu</a> Phone or mobile number: +32 496 34 47 88
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
5. Confidentiality & public communication	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

BARRIER: Enforceability of Collateral Security under SFD	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p><b>Short Background</b></p> <p>The Settlement Finality Directive (SFD) is a successful piece of EU legislation that has sound core principles, has contributed to systemic stability, and has delivered benefits to all market participants.</p> <p>In short, SFD provides extensive protection for financial institutions by stipulating that settlements which are processed through “designated” systems (i.e. infrastructures that respect certain SFD requirements) benefit from settlement finality – meaning they cannot be unwound during insolvency proceedings. By providing legal certainty and mitigating systemic risks, SFD allows market participants to better manage their risk exposures; reduce the size of the credit facilities granted to clients for settlement and payment services, and to contain the overall costs paid for by the end users.</p> <p>However, SFD dates back to 1998. The main part of its text was drafted and passed in a market, regulatory and technical environment that is very different from that of today. SFD does not reflect – therefore – developments related to the emergence of CCPs (and EMIR framework) as well as of cross-border securities settlement (and related CSDR and migration to TARGET2-Securities milestones).</p> <p>Moreover, SFD transposition into national law took place differently, leaving the actual determination and transposition of several concepts and rules under the SFD explicitly to the discretion of the member states.</p> <p><b>The barrier: lack of SFD protection for the enforceability of collateral securities in cross-border investment chains.</b></p>

	<p>EU Member States implemented their own unique interpretations of the SFD's provisions, which is especially problematic for cross-border transactions. Differences especially exist on the specific scope of the relevant protections, causing unnecessary legal uncertainties and obstacles for intra EU cross-border capital market transactions, including increased cost/burdens due to the need to assess and identify differences in the levels of protections separately for each EU jurisdiction.</p> <p>As a result, owing to the lack of harmonised implementation, the SFD regime has some glaring gaps in its protections, which need remedying, otherwise there could be scope for serious systemic risk and legal uncertainty</p> <p>For example:</p> <ul style="list-style-type: none"> <li>- SFD's insolvency safeguards only apply to transfer orders undertaken between two central securities depository (CSD) participants which meet the SFD's definition of 'participant.' Unfortunately, this definition is not only quite narrow, meaning that some holders of securities and cash accounts at CSDs may be inadvertently excluded, but has also been implemented differently by EU MS.</li> <li>- Moreover, while SFD allows indirect participants (primarily clients of CSD participants) to benefit from collateral security protections, the application of these provisions varies among EU members. This inconsistency results in uneven collateral security protections across the EU, placing lower-level intermediaries at a disadvantage. The rules also exhibit discrimination, where the same intermediary may benefit from SFD protections for securities held in a single account but not for securities managed by a sub-custodian in other markets. Addressing these issues is necessary for a more equitable regulatory framework.</li> </ul> <p>This uncertainty creates all sorts of problems, not least because it means that an insolvent financial institution and their settlement counterparties risk being subject to an eclectic mix of insolvency laws across the EU jurisdictions in which they operate, the outcome of which could potentially be quite unpredictable and unfair in some cases.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>With relation to settlement at a CSD, the SFD protection on enforceability of collateral security deal with the relationship between a CSD and its participants (as collateral takers), and between a CSD participant and its clients (as collateral givers).</p> <p>This SFD structure creates a twofold discrimination:</p> <ul style="list-style-type: none"> <li>(i) between intermediaries at the top of the chain (who can benefit from protections), and lower-level intermediaries (who can't);</li> </ul>

	<p>(ii) between different types of activity that an intermediary performs on behalf of the same client; for some securities held on a single securities account, the intermediary may be a direct participant in a CSD (and may benefit from SFD protections), while for other securities it may use a sub-custodian (and thus does not benefit from the SFD protections).</p> <p>Furthermore, SFD remains ambiguous on the enforceability of collateral security with respect to system participants and their clients when they receive collateral (i.e. as collateral takers). Again, this is due to the differences in national transposition laws.</p> <p>Thus, SFD protection should be extended to clients of all intermediaries that provide access services to all SFD-designated systems, no matter where those intermediaries are located in the chain of intermediaries. This protection should apply to all collateral that is linked to the activity at the system and that is held by the intermediary, including collateral placed by the client with the intermediary ("on stock"), as well as collateral that the intermediary receives in the system through the execution of the client's transfer orders ("on flow"). A high degree of harmonisation of SFD protections across all EU member states would have the benefit of legal certainty in all cross-border scenarios.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	All member states (difference in scope between member states).
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<b>Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems.</b>
c. Type of problem*	<b>Obstacles to cross-border functioning of the EU's Capital Markets Union</b>
d. Relevant ecosystem*	Banking and Finance
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	In principle yes: the SFD was subject of a consultation which, however, did not result in a general modernisation.
<b>3. Suggested solution / recommendation</b>	

Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>The harmonization of rules governing collateral enforceability should strive to provide the maximum level of protection.</p> <p>Illustratively, the Italian transposition of the SFD grants settlement agents an immediate right to sell securities they have settled for a client if the client becomes insolvent while a securities transfer order is pending. This right of sale can be executed without waiting for authorization from the insolvency liquidator, significantly mitigating risks for intermediaries between the commitment for settlement and the completion of the settlement process.</p> <p><b>General modernisation and expansion of scope to all relevant capital market transactions/products and capital market participants should be prioritised.</b></p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	European Banking Federation
b. Contact details for follow-up purposes (in company or association)	Name: Burçak INEL Position: Director of Financing Sustainable Growth Email: <a href="mailto:b.inel@ebf.eu">b.inel@ebf.eu</a> Phone or mobile number: +32 496 34 47 88
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.7.1.4 Invest Europe

<b>BARRIER: Restrictions in pension funds and insurance firms' investments</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>There remain significant restrictions at EU level and in many member states and, in particular in less mature EU financial markets, for long term investors (such as pension funds or insurers) to invest in certain types of long-term asset classes, such as private equity.</p> <p>These restrictions, <u>which diverge greatly from one member state to another</u>, making cross-border strategies difficult, include:</p> <ul style="list-style-type: none"> <li>- (narrow) limits to maximum investments that can be made in long-term assets</li> <li>- concentration limits for investments in single funds</li> <li>- cost structures that prevent investments in long-term equity</li> <li>- Minimum redemption rights that prevent investments in long-term assets overall</li> </ul>






	These restrictions, added to cultural factors and prudential requirements favouring short-term assets, have restricted the ability of national pension and insurance to commit capital to long-term assets.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Pension and insurance products are long-term vehicles and, as such, should be best used in financing long-term innovation and infrastructure. Yet, today most of this capital is only invested in stocks of established businesses or in bonds due to either flat out bans or technical restrictions that prevent these investors from committing capital into alternative assets.</p> <p>These days IORPs/pension funds invest less than 5% in EU long-term capital and insurers less than 2% (Forward, Invest Europe, 2024). These numbers also mask huge disparities. The majority of insurance capital in the EU effectively comes from a single country. In many EU countries, insurers and pension funds are virtually absent from the private equity funding mix. A number is particularly telling: last year around 60% of the capital allocated by pensions funds to EU private equity funds came from US and UK pension funds (Invest Europe Activity Data, 2024).</p> <p>This has consequences on the ability of these investors to have the choice to finance the real economy, in particular infrastructure and venture businesses whose growth is crucial to the EU climate and digital transition – as well as to the ability of these funds to bring sufficient returns to their trustees. See <a href="#">recent ECB Paper “Should we mind the gap?”</a>.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	Evidence of restriction has been compiled by the <a href="#">OECD</a> . Invest Europe will compile these restrictions in a document that will be published <a href="#">here</a> .
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	The problem is widespread and occurs in many European countries. Poland and Czech Republic are often cited examples, due to their size and otherwise growing financial markets. Italy and Spain also have significant restrictions.
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<ul style="list-style-type: none"> <li>- See above and below</li> <li>- The IORP Directive states that pension funds should not be prevented from investing in long-term asset classes but (a) does nothing to tackle technical barriers (as exemplified in the OECD rules) or generally red tape; (b) in fact encourages rules preventing these investments with a focus on a “prudent person principle” that encourages short-term assets (i.e.: asks IORPs to focus on public markets)</li> <li>-</li> </ul>
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;
d. Relevant ecosystem*	Financial Services

e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The issue has been discussed in the context of the review of IORP – and action is expected in the coming months.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	EU law should more clearly prohibit such restrictions, as it prevents the development of strong and performing EU capital markets.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Invest Europe
b. Contact details for follow-up purposes (in company or association)	Name: Martin Bresson Position: Public Affairs Director Email: <a href="mailto:martin.bresson@investeurope.eu">martin.bresson@investeurope.eu</a> Phone or mobile number:
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

#### 1.7.1.5 Investor AB

<b>BARRIER: Lack of a well-functioning European capital market</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>One difference between the EU and comparable markets is the size of pension assets. Low levels of pension assets in the EU are creating a dual problem: first, EU citizens face uncertain futures with inadequate retirement incomes; and second, EU capital markets miss out on a large potential supply of domestic capital that could be put to work and help finance innovation, jobs, and growth. Private savings channelled into equities, can create a large pool of capital for venture capital, IPO issuances or private equity.</p> <p>EU capital markets have shown some growth year over year since the launch for an EU Capital Markets Union (CMU) in 2015 and are moving in the right direction. But progress is slow, and the harmonised EU push is not there – not least due to the fragmentation of national capital markets which hinder integration on an EU level.</p> <p>There is still a large gap compared to the US market, which in terms of market capitalization of a company listed was three to four times larger than Europe in 2021 according to European Capital Markets Institute's calculations. This means that Europe</p>

	<p>is being hindered from unlocking its full potential to grow and to tackle the challenges ahead.</p> <p>Furthermore, the growth in early-stage investment has not been on par with comparable economies such as e.g. the US where the value of venture capital deals is 1% of the size of the total economy. Later in the funding journey, relatively few companies in the EU choose to list on stock exchanges in the EU.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The negative impacts of a poorly functioning European capital market cut across sectors. Because just as the Single Market is key to strengthen European competitiveness, well-functioning capital markets are key to strengthen – and implement – the European Single Market.</p> <p>Over-arching goals of the European Capital Markets Union:</p> <ul style="list-style-type: none"> <li>a) Improve European competitiveness,</li> <li>b) Improve access to finance for companies, in particular startups, scaleups and SMEs,</li> <li>c) Generate more long-term savings &amp; investment opportunities for European citizens,</li> <li>d) Massively develop equity markets – especially in Member States where these are less developed,</li> <li>e) Increase financial flow fluidity between EU financial marketplaces.</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">   Non-paper on creating an EU CMU.p </div> <div style="text-align: center;">   2023.09-EU-capital- markets-a-new-call-to </div> <div style="text-align: center;">   The Importance of capital markets for growth </div> </div> <p>Please find attached a non-paper to inspire further action on MS and EU level; an EU capital markets benchmarking report from New Financial; and a report from Nasdaq on the importance of capital markets for growth in society.</p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>Stronger local capital markets are a pre-condition for having a more EU-wide capital market, so for the CMU to work properly, action is needed both from Member States and from the EU institutions.</p> <p>National fragmentation is a problem. EU Capital market development among Member States is diverse, with a few countries in Northern Europe that have come quite far in strengthening their capital markets – and Southern, Central and Eastern European capital markets that have not advanced over the last 10 years.</p>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the	<p>No specific legislation or technical requirement, since the barrier to CMU rather is the lack thereof.</p>

exact name and provision in a specific EU or national law or rule)	
c. Type of problem*	<ol style="list-style-type: none"> <li>1. Lack of or insufficient information;</li> <li>2. Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;</li> <li>3. Insufficient cooperation or communication between national administrations;</li> <li>4. Insufficient digitalisation of information or of procedures;</li> <li>5. Lack of mutual recognition;</li> <li>6. Insufficient enforcement of legislation by Member State or Commission;</li> <li>7. Issues around authorisations/licences/permit requirements, or other document requirements</li> </ol>
d. Relevant ecosystem*	<p>1. Agri-food; 2. Health; 3. Digital; 4. Construction; 5. Retail; 6. Proximity, social economy, and civil security; 7. Tourism; 8. Cultural and creative industries; 9. Aerospace &amp; defence; 10. Textile; 11. Electronics; 12. Mobility-Transport-Automotive; 13. Energy- intensive industries; 14. Energy renewables</p> <p><b>Comment:</b> all ecosystems above are affected by the lack of a properly functioning EU CMU, as it is a cross-sector barrier that affects all parts of the functioning of the Single Market.</p>
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>The topic of an EU CMU has been on the table for 15 years, and its (mal)functioning has been on the agenda of EU institutions many times. In Sweden, we are highlighting the problem to the Ministry of Finance and other parts of the Government Offices.</p> <p>We have also noted that this topic increasingly gains attention on the EU arena – both from the European Commission and from Enrico Letta and Mario Draghi. Letta and Draghi have highlighted the need for better functioning capital markets and a possible materialisation of a CMU as a tool for the EU in financing the green transition, and in strengthening European competitiveness.</p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>The CMU needs to materialise so that SMEs can grow, companies and people can invest, citizens can cater to their financial needs, and investments can be carried out where they are needed the most. For that to happen, measures are needed on both national level and EU level.</p> <p><u>An EU CMU could advance if EU Member States:</u></p> <ol style="list-style-type: none"> <li>1. Incentivise citizens to invest in equity – through more risk prone capital, improved financial literacy and tax reforms to stimulate savings,</li> <li>2. Allow institutional investors and pension funds to invest in capital markets – and in particular SMEs,</li> <li>3. Use active public investment to inspire and kick-start private investment,</li> </ol>

	<p>4. Ensure that online brokers and banks are ready to service retail clients,</p> <p>5. Elaborate national capital market plans – and avoid gold plating.</p> <p><u>An EU CMU could advance if EU institutions:</u></p> <p>1. Simplify listing – make IPO rules proportionate and reduce regulations,</p> <p>2. Streamline and increase investor protection,</p> <p>3. Harmonise regulations – including tax rules and national insolvency regimes,</p> <p>4. Support the multiple vote share structures that already exist in the Nordics,</p> <p>5. Create a better functioning EU supervisory structure.</p> <p>Finally, the incoming European Commission should make it its mission to ensure that all EU Member States take measures to advance the CMU, by i) establishing a <i>CMU monitoring mechanism</i> to counter fragmentation and monitor progress, ii) agreeing upon updated <i>CMU KPIs</i> to measure our competitiveness, and iii) forming a <i>high-level expert group</i> to update the Commission on market developments and try to find solutions on controversial matters.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Wallenberg Office/Investor AB
b. Contact details for follow-up purposes (in company or association)	<p>Name: Minna Frydén Bonnier</p> <p>Position: Advisor</p> <p>Email: minna.frydenbonnier@wallenberginvestments.com</p> <p>Phone or mobile number:</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Family Office/company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

## 1.8 Standards

### 1.8.1.1 Holcim

BARRIER: Lack of a well-functioning harmonized standardization process	
1. Barrier description	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>The “lack” of a robust, well-functioning and harmonized standardization process is currently preventing market uptake of low-carbon construction products and solutions within the EU.</p> <p>The long process to unlock legal aspects of the current standardisation system in Europe, as well as the very divergent</p>

	<p>practices in local public procurement across the EU are serious obstacles that prevent companies from applying new low-carbon technologies at scale across the single market.</p> <p>More specifically, the Mandate M/114 concerning the standardisation work for cement is no longer up to date and the EU Commission has not been able to revise it in the last 8 years. As a result, the EU cement industry has supported the work of CEN/TC 51 'Cement and building limes' to shift through a non-harmonised route to speed up the way to have the new standards available for the placement of new low-carbon cements in the EU market - namely: EN 197-5 (Portland-composite cement CEM II/C-M and Composite cement CEM VI) and EN 197-6 (cement with recycled building materials).</p> <p>Since the implementation process varies from country to country, this has resulted in significant delays for the release on the market of new cements for low carbon concrete. For instance, France has already set the rules to use EN 197-5 cements in structural concrete while other countries are still performing tests.</p> <p>This non-harmonized approach has been followed as a temporary solution to allow placing on the market new products awaited by all stakeholders, in the absence of a solution to legal issues. Nevertheless, this pragmatic pathway hampers effectiveness, speed of deployment and cross-countries optimisation within the single market.</p> <p>The revision of the Construction Product Regulation (CPR), along with the CRP Acquis provide for an opportunity to solve the situation. However, despite claims from stakeholders for simplification, the standardisation process remains slow and very complex.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	The lack of a well-functioning harmonized standardisation process has prevented and/or delayed the placement on the EU single market of key low-carbon construction products.
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	EU-wide
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a	<p>Mandate M/114</p> <p>Construction Product Regulation (CPR) Acquis</p>

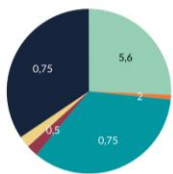
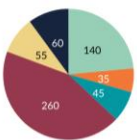


specific EU or national law or rule)	This is an illustration of one Mandate / Standardization Request at stake but it can be extended to all harmonized construction products.
c. Type of problem*	<p>With the adoption of the EU Green Deal, the need for new products with a reduced carbon footprint is a priority. Delivering on the single market CE products is the most appropriate route; it has demonstrated its efficiency for the two last decades concerning cements and other construction products. Unfortunately, it is not possible to revise or draft new EN standards to specify promising products as they are not already considered in the Mandate. <b>The absence of a flexible procedure to revise the Mandate / Standardization Request is the main cause of the current situation encountered.</b></p> <p>The current temporary solution of non-harmonized standards allows to market products but is not satisfying as EU-wide because each Member States needs to identify appropriate certification schemes whereas the current EU AVCP (Assessment and Verification of Constancy of Performance) system for harmonized standards is adapted.</p> <ul style="list-style-type: none"> <li>- Overlapping/diverging (EU/national) product requirements, rules, procedures</li> <li>- Lack of mutual recognition</li> </ul>
d. Relevant ecosystem*	Construction
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	<p>The problem has not been reported using EU tools but the industry position has been shared on several occasions within CPR surveys.</p> <p>DG GROW is also aware of the situation and the CPR Acquis process for sub-group “Cement, Hydraulic Binders and Building Limes” has started this year.</p>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Harmonized standards need to become the norm to respect the principle of a truly ‘single’ market that would enable companies to roll out the same innovative technique to all 27 EU Member States, without further delays. Also, the work of the scientific and technical community should not be impaired by legal complexity.</p> <p>With the kick-off of the CPR Acquis process for cement, we urge for the speedy elaboration of a new Standardisation Request to replace the M/114 and thus to:</p> <ul style="list-style-type: none"> <li>- “Reshape” the existing cement standards to the legal obligations of the CPR and the essential characteristics of the cements.</li> <li>- Keep the parts of the standards which have demonstrated their efficiency and introduce more flexibility for new products, always relying on uncompromising technical requirements.</li> <li>- Allow the harmonisation of the standards EN 197-5 and EN 197-6.</li> <li>- Develop new standards to place other low-carbon cements in the EU market.</li> </ul> <p>To speed up the standardization process of new products, a complementary mechanism at the Standardization Request level</p>

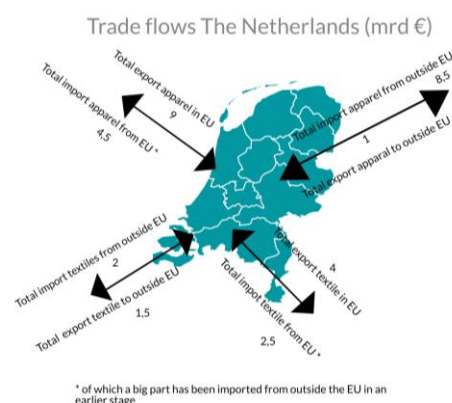
	itself (without waiting a revision of the SR) should also be elaborated.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Holcim
b. Contact details for follow-up purposes (in company or association)	Name: Mihai Florea Position: European Affairs Lead Email: mihai.florea@holcim.com Phone or mobile number: 00 32 471 20 45 51
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.8.1.2 Modint

<b>BARRIER: lack of harmonised and standardised requirements</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>Companies are facing more and more requirements, coming from legislation, customers, investors etc.</p> <p>Overall we can say it is becoming more complicated for companies to:</p> <ol style="list-style-type: none"> <li>1) Be informed on access to market requirements</li> <li>2) Comply with access to market requirements</li> <li>3) Cascaded requirements in the supply chain</li> </ol> <p>A few root causes can be identified for above mentioned issues.</p> <ol style="list-style-type: none"> <li>1) The amount and timeline of new legislation</li> <li>2) The quality of legislation</li> <li>3) The lack of uniformity in member states law.</li> <li>4) The lack of applicable harmonised standards</li> </ol> <p>The single market barriers that companies experience, are not a result of one isolated piece of legislation, but very much a combination of factors. On one hand companies are directly subject to rules and regulations, but they are also indirectly affected by requirements of their customers.</p> <p>We would like to draw attention to that gold plating is not only caused by the strictness or ambition level of the rules, but also by the timing of implementation and/or scope.</p> <p>Examples are:</p> <ul style="list-style-type: none"> <li>• EU EPR's. Not only packaging and markings which need to be compliant with every member state, but also international information requirements. These</li> </ul>

	<p>information requirements are not standardised in the EU, so companies face different formats and even different units (kgs vs pcs etc).</p> <ul style="list-style-type: none"> <li>• AGECE law in France: Expected Product Footprint communication to consumers, mandatory information requirements to be published on a designated webpage. This also includes a warning for textiles concerning microplastics. There is no harmonised test method at the moment in the EU.</li> <li>• CSDDD implementation in member states creates multiple timelines for requirements and variations in the scope of companies which are subject to the requirements. An example is the Lieferkettensorgfaltspflichtengesetz in Germany.</li> <li>• CSRD: Information requirements for SME's requested by larger companies which are in scope or sooner in scope.</li> <li>• Legislation is unclear and sometimes not of good quality. For example the determination of certain products being in scope of a regulation, finds itself in a FAQ document. <a href="https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_4602">https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_4602</a></li> </ul> <p>Next to the pace and amount of new regulation, we see instruments enabling implementation and enforcing, staying behind.</p> <p>The lack of standardised methods for requirements based on industry and EU consensus is a serious problem.</p> <p>This is caused by below factors:</p> <ol style="list-style-type: none"> <li>1) Developing or revising standards is too slow</li> <li>2) Standards, benchmarks, certification and industry best practices on the same topics, are developed on a variety of tables. This is the case for, for example, ESPR and Green Claims.</li> <li>3) Costs of participating in standardisation processes is becoming too high for SME's</li> </ol> <p>Our advice is to invest in fast tracks through European standardisation committees as facilitated by CEN. We would like to see European standardization become leading. Through national standardization committees, all stakeholders can contribute to the development of a standard that is established on the basis of consensus.</p> <p>We believe companies can focus on true impact on the ground with more harmonised and standardised requirements i/o allocating resources to be compliant with a patchwork of requirements which should serve the same goal in the end.</p>
b. Describe the negative impact on your company and potentially your	<p>Find below the figures which could be affected. <a href="https://modint.nl/?file=12153&amp;m=1698322875&amp;action=file.download">https://modint.nl/?file=12153&amp;m=1698322875&amp;action=file.download</a></p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;"> <p>Turnover apparel in The Netherlands in mrd € (consumers)</p>  <p>Men- and womenswear Womenswear</p> </div> <div style="text-align: center;"> <p>Number of companies &gt;10 employees</p>  <p>Textile industry Apparel industry</p> </div> </div>

sector or the economy. Please provide facts & figures.



c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).

### Packaging examples























Information examples

<https://www.laredoute.fr/ppdp/prod-554442576.aspx#shoppingtool=treestructureflyout&shoppingtool=treestructureflyout>

<https://www.laredoute.fr/tracabilite.aspx>

	<div><div>Détails produit</div><div><ul style="list-style-type: none"><li>• Mi-saison</li><li>• Fermeture pressonnée</li><li>• Capuche fixe</li><li>• Longueur : Court</li><li>• Doublé maille peluche</li><li>• Poches devant</li></ul></div><div><div>Composition et Entretien</div><div><ul style="list-style-type: none"><li>• Matière principale : 100% polyamide</li><li>• Doublure corps : 100% polyester</li><li>• Doublure manches : 100% polyester</li><li>• Garnissage : 100% polyester</li><li>• Température de lavage 30° cycle délicat</li><li>• Température de repassage faible / blanchiment interdit</li><li>• Ne pas sécher en tambour</li><li>• Pas de nettoyage à sec</li></ul></div></div><div><div>Fiche produit relative aux qualités et caractéristiques environnementales</div><div><ul style="list-style-type: none"><li>• Origine de fabrication (tissage, teinture, impression, confection) : Chine</li><li>• Rejette des microfibres plastiques dans l'environnement lors du lavage.</li></ul></div></div><div><div>Couleurs</div><div>Gris Anthracite</div></div><div><div>Tailles</div><div>1 mois, 3 mois, 6 mois, 9 mois, 12 mois, 18 mois, 2 ans</div></div><div><div>Caractéristiques environnementales de l'emballage</div><div><div> En savoir plus sur nos emballages</div></div></div><div><div><div>Photo retouchée</div><div><div></div><div>CONTENEUR ASSOCIATION</div><div>que faire de mes déchets.fr</div></div></div></div><div><table><tr><th>Titre</th><th>Code CN</th><th>Mention</th></tr><tr><td>Drap housse uni en polycoton, Scenario</td><td>AG5472</td><td><ul style="list-style-type: none"><li>• Origine de fabrication (tissage, teinture, impression, confection) : Bangladesh (coloris Bleu céladon, Canard, Caramel, Carbone, Curry, Gris anthracite, Kaki, Lin, Marine, Piment, Rose pêche, Sable, Terre de sienne, Vert émeraude, Vert forêt)</li><li>• Origine de fabrication (tissage, teinture, impression, confection) : Pakistan (coloris Bleu de prusse, Bleu grisé, Ecu, 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<h2>2. Barrier categorisation</h2>													
<p>a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).</p>	<p>For now, some countries are implementing directives faster than others, but when more countries start implementing, the problem will grow.</p>												
<p>b. Legislation, legal instrument, standard or technical requirement causing the</p>	<p><a href="https://www.legifrance.gouv.fr/loda/id/JORFTEXT000041553759">https://www.legifrance.gouv.fr/loda/id/JORFTEXT000041553759</a> <a href="https://www.boe.es/buscar/act.php?id=BOE-A-2022-22690">https://www.boe.es/buscar/act.php?id=BOE-A-2022-22690</a></p>												



barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	
c. Type of problem*	Lack of or insufficient information; Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes; Insufficient cooperation or communication between national administrations; Insufficient digitalisation of information or of procedures; Lack of mutual recognition; Issues around authorisations/licences/permit requirements, or other document requirements
d. Relevant ecosystem*	Consumer products Medical textiles Public and private procurement
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	( <a href="#">INFR(2022)4028</a> )  <a href="https://ec.europa.eu/commission/presscorner/detail/en/inf_23_525">https://ec.europa.eu/commission/presscorner/detail/en/inf_23_525</a>
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Our advice is to invest in fast tracks through European standardisation committees as facilitated by CEN. We would like to see European standardization become leading. Through national standardization committees, all stakeholders can contribute to the development of a standard that is established on the basis of consensus.  Priority should be given harmonisation of EU directives and a central approach to instruments like standardisation and certification.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Modint
b. Contact details for follow-up purposes (in company or association)	Name: Miriam Geelhoed Position: Senior Consultant Email: <a href="mailto:geelhoed@modint.nl">geelhoed@modint.nl</a> Phone or mobile number: 0031 612451379
c. Type of organisation (please select answer by	<b>Business association</b>

highlighting in bold)	
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	

### 1.8.1.3 Philips

<b>BARRIER: Lack of harmonised standards</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Harmonised European standards represent a consensus by stakeholders on how to meet market needs, while at the same time facilitating compliance with EU legislation and supporting the circulation of goods in the Single Market. Following case law from the CJEU, the Commission started to interpret their role in the system for harmonised standards in a more extensive manner. The result is a situation where standards are not available to the users, and manufacturers have to resort to alternative and often costly ways to demonstrate compliance with EU law. This prevents using the potential benefits of Single Market governance, as it unnecessarily complicates EU market access.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>Consequences for European medical devices industries:</p> <ul style="list-style-type: none"> <li>• An increased burden of demonstrating compliance with the Medical Devices Regulation (EU) 2017/745 in terms of human and financial resources</li> <li>• The risk of longer time to market for products that benefit EU citizens, lower innovation speed, and lower return on investment due to delayed sales</li> <li>• Legal uncertainty – products may be refused single market access at the time or even after their introduction. Potential results: lost sales, lost market share, lost brand reputation, recall cost, re-engineering and renewed compliance cost, unhappy customers.</li> </ul> <p>Other consequences:</p> <ul style="list-style-type: none"> <li>• Decreased access to medical devices for patients</li> <li>• Increased costs for EU healthcare systems</li> <li>• Negative impact on competitiveness of EU industry</li> </ul>

c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	EU
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	- Harmonised European standards
c. Type of problem*	European Commission's interpretation of EU standards as a law
d. Relevant ecosystem*	Health
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, at multiple occasions over the last 10 years.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p>Restoring a well-functioning system of harmonized standards as previously defined by the New Legislative Framework. To achieve this, we suggest the following points be considered.</p> <ul style="list-style-type: none"> <li>• Standards being market-driven tools developed on a voluntary, consensus basis, it is important to instore a shared priority setting system and to provide incentives for the industry players. The strongest, hence best incentive is a strong market opportunity combined with the top-down political steering.</li> <li>• Standardization is increasingly politicized, partly in relation to sovereignty and national leadership considerations. We acknowledge that the EU standardization system should not be driven by other global players and other governments. We also caution against measures that would risk splitting up the global standards setting into regional varieties.</li> </ul> <p>The economic and innovation consequences of mutually differing standards versus globally uniform ones would be tremendous. This is a delicate balance that requires a stronger political stand on standardization leadership in the EU. Attention points for such leadership will be:</p> <ul style="list-style-type: none"> <li>• Set a standardization and regulatory policy and align this with regions that are in alignment with European values.</li> <li>• Allow for a contribution to the standardization policies from the companies that are in alignment with European values for the benefit of EU citizens and consumers.</li> </ul>

	<ul style="list-style-type: none"> <li>• Create a transparency registry of affiliations of independent contributors to standardization policy.</li> <li>• Create a transparency registry of government dependency of other non-European players in standardization policy.</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Philips
b. Contact details for follow-up purposes (in company or association)	Name: Daphne Dernison Position: Head of Government and Public Affairs Europe Email: <a href="mailto:daphne.dernison@philips.com">daphne.dernison@philips.com</a>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	yes
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	yes

#### 1.8.1.4 Siemens

<b>BARRIER: Highly fragmented EPD landscape across European countries</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	The main cross-border issue is the <b>fragmentation of the Environmental Product Declaration (EPD) landscape across Europe</b> . Different countries and EPD programme operators have developed their own rules, Product Category Rules (PCRs), Product Specific Rules (PSRs), verification processes, databases, and requirements. As a result, manufacturers must create multiple EPDs for the same product to meet various national and market-specific requirements. This leads to <b>inconsistent and non-comparable results</b> , increased administrative burden, and trade barriers. The lack of harmonisation means that an EPD published by one programme operator is rarely accepted in other countries or sectors, forcing companies to duplicate efforts and resources.
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p><b>1. Significant additional effort and costs:</b> Companies are required to create multiple EPDs for the same product to meet different national and programme-specific requirements. This leads to a <b>substantial administrative burden</b> and <b>additional costs</b>, without generating any added value in terms of transparency or environmental improvements, undermining the planned <b>25% reduction in administrative burden</b>.</p> <p><b>2. Distorted competition and market access barriers:</b> Fragmentation results in an <b>uneven playing field</b> with national monopolies of EPD programme operators and varying</p>

	<p>standards making market access more difficult and triggering unfair competition risks.</p> <p><b>3. Lack of transparency and confusion:</b> Different EPDs for the same product - based on varying rules and standards - lead to <b>inconsistent and non-comparable results</b>. This creates confusion among customers and undermines the credibility of environmental information.</p> <p><b>4. Impact on the sector and the economy:</b> The fragmentation of the EPD landscape hampers the competitiveness of European industrial players (market obstacles and resource needs) and slows down investments in sustainable products.</p> <p><b>5. No economies of scale and innovation barriers:</b> The lack of harmonisation prevents <b>economies of scale</b> and makes the publication of EPDs slower and more resource-intensive, especially for SMEs. This hinders innovation and the spread of sustainable products.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<p>The barrier occurs <b>across the entire European Union</b>, but specific examples include:</p> <ul style="list-style-type: none"> <li>• <b>France:</b> The French RE2020 (Environmental Regulation 2020) requires EPDs (Type III) for new buildings, which must be registered and published in an approved national programme (currently only PEP Ecopassport) and translated into French for the INIES database.</li> <li>• <b>Denmark:</b> The Danish Building Regulation requires an EPD (type III) to calculate climate impacts to assess buildings' lifecycle. These EPDs need to be uploaded in a specific database. Besides a registration barrier, Denmark further diminishes the use of generic data by reducing the rating of these EPDs as less environmentally friendly.</li> <li>• <b>The Netherlands:</b> The Building Decree (2012) and Circular Construction (2023) law require EPDs to be reviewed by a recognized LCA expert. A list of specific experts is provided by the national authorities. Furthermore, a manufacturer is subject to additional fees to review and upload information to the national databases – reviews and uploads are mandatory.</li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a	<p>The barriers are caused by fragmented <b>national laws, with EU legislations, standards, and technical requirements currently not fully harmonizing the EPD market</b>, including:</p> <p><b>EU Level:</b></p>

specific EU or national law or rule)	<ul style="list-style-type: none"> <li>- <b>Product Environmental Footprint (PEF) Recommendation</b></li> <li>- <b>Ecodesign for Sustainable Products Regulation</b></li> <li>- <b>Construction Products Regulation</b></li> <li>- <b>Batteries Regulation</b></li> <li>- <b>Green Claims Proposal</b></li> <li>- <b>Empowering Consumers Directive</b></li> <li>- <b>ISO Standards:</b> ISO 14021 and ISO 14025 (provide general rules for EPDs, but further specification is fragmented)</li> </ul> <p>Each of these laws and standards sets requirements for environmental product declarations, but the lack of harmonisation and the existence of country-specific rules and databases create barriers to cross-border operations.</p> <p><b>National Level: see references above.</b></p>
c. Type of problem*	<ul style="list-style-type: none"> <li>- Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes.</li> <li>- Lack of mutual recognition.</li> </ul>
d. Relevant ecosystem*	<ul style="list-style-type: none"> <li>- Digital</li> <li>- Construction, building</li> <li>- Electronics</li> <li>- Mobility-Transport-Automotive</li> </ul>
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<p><b>A comprehensive, EU-wide harmonisation of Environmental Product Declaration (EPD) requirements and processes.</b></p> <ul style="list-style-type: none"> <li>• The European Commission should establish a single, harmonised EU-wide EPD framework.</li> <li>• This includes: <ol style="list-style-type: none"> <li>1. <b>Standardised Product Category Rules (PCRs) and Product Specific Rules (PSRs)</b> across the EU.</li> <li>2. <b>Harmonised EPD programme rules</b> and verification processes for all Member States.</li> <li>3. <b>Full mutual recognition</b> of EPD programme operators and EPDs across the EU.</li> </ol> </li> </ul> <p>This will reduce administrative burdens, eliminate trade barriers, ensure consistent and comparable EPDs, and support innovation and sustainability.</p>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Siemens
b. Contact details for follow-up purposes (in company or association)	Name: Carolina Vigo Position: Senior Director, EU Government Affairs Email: <a href="mailto:Carolina.vigo@siemens.com">Carolina.vigo@siemens.com</a>



	Phone or mobile number: +32 492 18 43 50
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

## 1.9 Security

### 1.9.1.1 Leonardo

<b>BARRIER: Fragmented security market</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>What we call "Security market" is in fact a wide sector, covering different needs, ranging from law enforcement agencies to border control, from critical infrastructures and industries to individual families and citizens. Market consolidation in some limited cases has until now been made possible by the fact that many technologies adopted in security are converging due to the typical effect of consumerization, where technologies developed for consumers are more performing and much less expensive.</p> <p>What is instead still driving market fragmentation is the tie existing between security and political, social and economic characteristics and priorities, that can greatly differ from one Member State to another because of cultural, historical and legal systems differences, all related to the basic concept that the use of legal force to preserve the communities' integrity and safety is a sovereign prerogative of each and every State.</p> <p>There's, in fact, a need for stating a shared, agreed upon, common platform similar to the agreements that have built a justice and law enforcement cooperation among Member States across the past decades.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The fragmentation of requirements limits, both in the public and in the private sector, the possibility of European industries to produce security solutions that are truly pan-European and that can have a scale and a volume suitable to become real global contestants in the field.</p> <p>The lack of such clear goals and requirements in the Security sector, hampers in fact the possibility to create a shared long-term capability planning that could lead research and development of common products and solutions. At the same time, the maverick purchase of off-the-shelf products, prioritizing costs vs. security and interoperability, distracts procurement funds that could contribute to better industrialization and competition of EU platforms.</p>
c. Any extra evidence (e.g. links to publications or	

background materials, from your organisation or external sources).	
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	All
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	Market fragmentation is caused by the complicated nexus between security and political, social and economic characteristics and priorities, that can greatly differ from one Member State to another because of cultural, historical and legal systems differences, all related to the basic concept that the use of legal force to preserve the communities' integrity and safety is a sovereign prerogative of each and every State. We cannot indicate specific legislation and rules of each Member State: they are all largely different because of the reasons above.
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes; Insufficient cooperation or communication between national administrations; Lack of mutual recognition;
d. Relevant ecosystem*	Proximity, social economy, and civil security (NOTICE: we have been advocating that security needs to be considered part of Aerospace & Defence ecosystem because players are largely the same in many areas and players are largely the same, at least for "core" security systems at institutional or Critical Infrastructures level)
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Reported in talks with DG HOME and SecGen of the EC. Addressed through the introduction of a Capability Development Approach (CDA) in the Action plan on synergies. CDA implementation still stopped at square zero. The issue has been flagged in the ERT's <a href="#">2021 flagship publication</a> on Single Market barriers. Since then, it is <b>being tackled but has not yet been solved</b> .
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Accelerate the implementation of CDA through engagement of a selected group of agencies / institutional bodies in MSs (i.e. a sort of "implementation flagship"). General application to all possible segments is probably unrealistic.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Leonardo
b. Contact details for follow-up purposes (in company or association)	Name: Giorgio Mosca Position: VP Strategic Intelligence and Analysis Email: <a href="mailto:giorgio.mosca@leonardo.com">giorgio.mosca@leonardo.com</a> Phone or mobile number: +39 06 3247 3761
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	

b. Should the example remain confidential (not be published in the public domain)? If yes, why?	
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### 1.9.1.2 Vodafone

<b>BARRIER: Technical Regulation – Network Security (Inconsistent, fragmented security landscape due to the choice of legal instrument &amp; non-alignment)</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	Security requirements are not harmonised throughout the EU. The Legal framework are Minimum Harmonisation <u>Directives</u> (Code, NIS2) that allow MS to add requirements where they deem it is necessary. Whilst requirements are often based on recognised international frameworks such as NIST and ISO, the scope, sequencing, time to implement requirements and reporting of effectiveness can often differ - meaning operators could be applying different sets of requirements, in different areas, at different times in different countries. Moreover, reporting and notification obligations and channels are not always fully aligned between different types of security legislations which exacerbates the fragmentation of security provisions across the EU. Example: Under the Draft Critical Resilience Act (CRA) currently in Trilogue negotiations it is suggested that reporting of incidents, vulnerabilities etc. should be done via ENISA, not via national CSIRTs as agreed under NIS2. There are deviations of what is regarded as “significant” incident (already defined under NIS2 or the Telecoms Code).
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	This incoherence leads to fragmentation of the legislative landscape with negative impact on operational costs, added compliance risk and negative impact on scaling security solutions. <ul style="list-style-type: none"> <li>• Unnecessary additional cost of security measures (reducing the size and effectiveness of security investments).</li> <li>• Disruption to advantages of scale and centralisation of security regimes.</li> <li>• Gaps in responsibility and liability in the supply chain which weakens the combined security posture.</li> <li>• Different levels of assessment for the similar services.</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	Example from the Code which could be replicated when transposing the NIS2 Directive: The type and nature of incidents requiring reporting varies across states that have implemented the Code. The Code requires member states to ensure that providers report security incidents, then sets out broad high level criteria (art. 40(2)) to determine when an incident is reportable, such as considering the number of users affected, duration of the incident etc. States then issue their own versions of this requirement, and while there are some ENISA Guidelines, states set differing reporting thresholds.
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<b>Localisation and sovereignty requirements:</b> Austria, Belgium, Croatia, Cyprus, Estonia and Sweden require mobile network operators to run NOCs and SOC's on premise, inside the country or the EU. Of these countries, Estonia, and Sweden require that NOCs and SOC's are located within their national territory.

	<a href="#">Assessment of EU Telecom Security Legislation — ENISA (europa.eu)</a>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	The use of minimum harmonisation Directives as legal instrument in security legislation. (For example NIS2 Directive, EUCC) and use of common standards based on international standards for all security legislation
c. Type of problem*	Legal instrument and competence issue (Single Market versus National Security)
d. Relevant ecosystem*	Telecommunications networks, systems and national critical infrastructure as defined under NIS2.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Being raised by ETNO and GSMA during public consultation of the NIS2 in 2021. The outcome was yet a minimum harmonisation Directive which is currently being transposed in EU (deadline 17 October 2024)
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	The regulatory framework should be a Regulation directly applicable in all MS or at least establishing the <u>maximum</u> common level of security, i.e. MS should not be allowed to add additional security requirements regarding reporting and notification timelines and vulnerability handling. Moreover, security legislation should make use of common standards that build on international standards.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Vodafone
b. Contact details for follow-up purposes (in company or association)	Daniel Gueorguiev
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Telecommunications
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

<b>BARRIER: Technical Regulation – Law Enforcement</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<b>Background to Law Enforcement, in particular legal intercept ('LI') challenges</b> LI requirements at a national level existed long before the single market and introduction of European legal frameworks. In addition, the complexities of emerging technologies, types of providers and an increase in the reliance of such requests to support evidential

	<p>proceedings had resulted in a fragmented and challenging situation across Europe.</p> <p>At a European level, there is no harmonised approach to lawful intercept:</p> <p>The Code harmonised the telecommunications regulatory framework across the EU, providing a range of legal obligations imposed upon telecommunications providers, including enabling LI by competent national authorities. However, no further details are given in the Code, providing Member States with discretionary powers to frame national rules on the implementation of LI capabilities, creating fragmentation across the EU. The Cybercrime Convention (2001) empowers Member States to compel service providers to collect, record or assist LEAs in collecting and recording traffic and content data in real time using their existing technical capabilities. The EU Council Resolution (1995) summarises the needs of LEAs to enable lawful interception, encouraging Member States to implement LI requirements into national law, but does not place specific obligations upon telecommunications providers. ETSI (an international standards body) has developed standards.</p> <p>In addition to the above, historically there isn't a "level" playing field between communications services provided over the top (such as WhatsApp) and network based personal communications services. Whilst the Code brought all types of interpersonal communication into scope, the practical enforcement of lawful intercept and disclosure obligations towards OTT players is lagging behind the technology evolution and overwhelming user adoption.</p> <p>The opportunity for harmonisation of LI across Europe in the short term is highly challenging for the following reasons:</p> <ol style="list-style-type: none"> <li>1. There is significant support from governments in respect of sovereignty issues especially when related to national security items</li> <li>2. The cost of implementing LI requirements is borne by the operator in the majority of cases - hence the burden on government is low</li> </ol>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The requirements, processes, systems, and personnel supporting mandatory LI obligations are national. In consequence, the operation of communications networks and the provision of communications services requires an independent and isolated set-up for each country. This leads to barriers to efficiencies such as centralisation, it creates challenges in regards to effective compliance policies and limits sharing of best practice.</p>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<p><a href="#">"Lawful interception – A market access barrier in the European Union"? - ScienceDirect</a></p>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer	All EU countries.

to external sources where the Member States are mentioned).	
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	See the summary above.
c. Type of problem*	
d. Relevant ecosystem*	Provision of communications networks and provision of communications services.
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	Consider options for legislative instruments that would lead to certain level of harmonisation across the member states, that would permit driving efficiencies whilst not compromising questions of national security e.g. ability to meet national security requirements whilst not having to remain within national borders for example e.g. technology being located in a different jurisdiction but with restricted access to only enable visibility of data. E-evidence is an example as to how instruments could be created, also to support cross-border investigations.
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Vodafone
b. Contact details for follow-up purposes (in company or association)	Name: Daniel Gueorguiev Position: Senior Advisor Government Relations and Policy Engagement Email: <a href="mailto:daniel.gueorguiev@vodafone.com">daniel.gueorguiev@vodafone.com</a> Phone: +32 492 14 28 19
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	Company
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	No
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

### 1.9.1.3 Telefonica

BARRIER: Cybersecurity	
1. Barrier description	



<p>a. Please describe, as concretely as possible, the cross-border issue hampering operations.</p>	<p>There are many areas where cybersecurity requirements and incident reporting obligations can be simplified across the EU evolving regulatory landscape. The regulation of security is currently fragmented across various EU regulations, creating confusion and inefficiencies. The scope of these regulations is often unclear, resulting in overlapping obligations. A more cohesive regulatory framework is needed to remove overlapping and redundant requirements, streamline compliance and reduce unnecessary complexity.</p> <p>To illustrate some of this complexity, while the NIS2 Directive primarily addresses providers of critical services, the CRA focuses on digital products; yet both impose requirements for cybersecurity risk-management measures, vulnerability or incident reporting, although with differing standards, platforms, and authorities (a situation also seen with DORA). There is a strong interplay between the supply chain requirements of critical infrastructure providers under NIS2 and the products they use, which are regulated under the RED Delegated Regulation and the CRA. Furthermore, DORA applies to telecom operators in their role as ICT third-party service providers to financial institutions. These differing regulations and approaches result in multiple regulators, each with their own requirements and approaches, leading to inefficiencies and increased time and cost burdens (for example on supply chain requirements, security management obligations or incident reporting).</p> <p>Regarding reporting obligations, multiple EU laws currently require telecommunications and digital service providers to report security incidents and vulnerabilities. However, inconsistent procedures, thresholds, and designated authorities across these frameworks lead to duplicated efforts. When revising the Cybersecurity Act and the whole security framework, the European Commission should aim to reduce administrative burdens, foster the use of common standards and enhance the efficiency of security incident management.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>Overall, reducing regulatory complexity in this area would allow for more resources to focus on incident resolution rather than compliance or on reporting. They will also improve awareness of incidents among relevant agencies and provide greater legal certainty for all parties involved through simpler and more consistent legislation.</p>
<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	
<p><b>2. Barrier categorisation</b></p>	
<p>a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).</p>	<p>All European countries</p>
<p>b. Legislation, legal instrument, standard or technical requirement causing the barrier</p>	<p>In the European Union, the NIS2 (<i>Network and Information Systems</i>) Directive significantly raises cybersecurity standards across 18 sectors—requiring risk management, incident response</p>

(please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	<p>and reporting, business continuity planning, tighter supply chain oversight, and greater board-level accountability.</p> <p>However, it operates within a <b>complex regulatory landscape</b>, overlapping with national or European frameworks such as DORA (<i>Digital Operational Resilience Act</i>), CRA (<i>Cyber-Resilience Act</i>), CSA (<i>Cybersecurity Act</i>-certification framework), CER (<i>Critical Entities Resilience</i>), telecoms sector regulations, GDPR (<i>General Data Protection Regulation</i>), the AI Act or the EU 5G Toolbox, alongside a growing number of security standards that organisations must comply with.</p> <p>Additionally, since security is a national competency, national practices and obligations often overlap with European ones.</p>
c. Type of problem*	<p>Proliferation of overlapping and inconsistent legislation and authorities, often with subtly different requirements, creates legal uncertainty and massive operational complexity. To truly boost prosperity and resilience, the EU must shift its focus from imposing new rules, often without a cost analysis and enough interaction with the industry, to withdrawing unnecessary ones and making existing ones work coherently and efficiently. This simplification drive must focus on two critical areas: regulatory scope and consistency and the efficiency of incident reporting.</p> <p>Certain principles have been overlooked or omitted:</p> <ul style="list-style-type: none"> <li>• <b>Avoid duplication and inconsistencies:</b> Sector-specific cybersecurity laws should be repealed or significantly streamlined where horizontal regulations, such as NIS2, already impose equivalent security requirements. The European Commission should ensure that national laws transposing legislation (e.g., NIS2, CER) effectively repeal existing sectoral provisions in national telecom laws, including those implementing Articles 40–41 of the EEC2 and any other national regulations on quality or resilience. The EU should provide formal guidance, request a cost-benefit analysis for any provisions proposed to be retained, and publish a roadmap with key timelines to achieve simplification.</li> <li>• <b>Principle of Sufficiency:</b> Where other legislation imposes similar security requirements on digital service providers (eg. DORA, RED), full compliance with the similar comprehensive relevant law (eg. NIS2) must be deemed sufficient to satisfy the obligations under all related acts, for example on audits or supply chain requirements.</li> <li>• <b>Principle of proportionality:</b> Ensure that all regulatory obligations are fact-based, risk-based, and that they are consistently accompanied by thorough cost-benefit analyses and clear funding strategies. Acknowledge and build on existing resilience and security models already implemented by operators, avoiding unnecessary administrative burdens,</li> </ul>

	<p>and explicitly identify gaps and associated costs before introducing any new obligations</p> <ul style="list-style-type: none"> <li>• <b>Harmonisation and simplification:</b> The framework must be flexible enough to accommodate compliance for organizations in an efficient way, ensuring a level playing field and prioritising alignment with international standards. ENISA must be empowered to conduct a comprehensive coherence and simplification analysis and a mapping exercise to EU requirements with international standards, making compliance predictable and consistent.</li> <li>• <b>Principles of transparency and certainty:</b> The jurisdiction and scope of obligations should be clearly defined to simplify the supervision of operators providing NIS2-regulated services (e.g., connectivity, but also managed services, DNS, or cloud), ideally through close dialogue with industry. Furthermore, the definition of 'main establishment' and its application to corporate groups operating in several Member States must be clarified, particularly in relation to reporting obligations.</li> </ul>
d. Relevant ecosystem*	Horizontal, but particularly affecting NIS2 or DORA sectors (telecom, digital, bank and other critical sectors)
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Reported on CSA legislation comments. The EU will open an Omnibus consultation to simplify the cybersecurity framework
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<ul style="list-style-type: none"> <li>• To support compliance efforts, ENISA should conduct a comprehensive analysis and mapping exercise, based on international standards, to identify which standards meet security requirements under various regulations, highlight gaps, identify where regulatory fragmentation exists, and recommend any additional measures to simplify and harmonise, using a risk-based approach. International standards should be the foundation for compliance, and the mapping exercise should clearly show the interplay between EU and international standards</li> <li>• ENISA should have a stronger role in the development of standards, and its mandate should be expanded to include active participation within the European and International Standardization Organizations. Harmonised standards should remain the preferred approach, while reliance on common specifications for compliance demonstration must be limited to narrowly defined and well-justified cases—such as when standardisation requests are rejected.</li> <li>• European cybersecurity certification schemes should be firmly grounded in international standards to maximise their relevance and acceptance in global markets, including those beyond the EU. Supporting voluntary EU wide cybersecurity certification schemes, as they have significant potential to demonstrate regulatory compliance within the evolving and increasingly complex regulatory landscape. They can also help establish presumptions of conformity with some requirements</li> </ul>



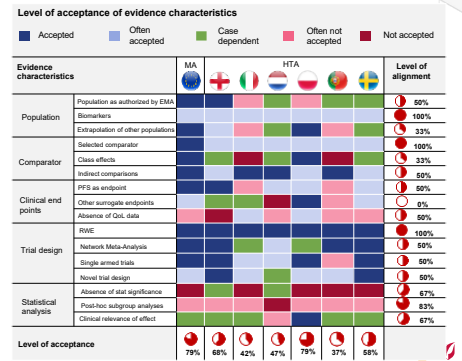
	<p>under EU cybersecurity regulations (e.g. the NIS2 Directive, DORA, the CRA, etc.). Harmonising cyber security requirements across markets and reducing administrative costs associated with market fragmentation, caused by differing national certification schemes and inconsistent regulatory obligations, is crucial, particularly for multi-country organisations. Europe-wide schemes could help achieve this objective. To incentivize the adoption of cybersecurity certifications without placing excessive financial burdens on companies, any Member State policy providing financial support for certification-related costs should be designed to minimise administrative and legal burdens.</p> <ul style="list-style-type: none"> <li>• To simplify processes in supply chain management a once-only principle should be applied to certification. For ICT products, services, or processes, which form part of a regulated ecosystem – for example digital infrastructure (regulated under NIS2) or services to financial entities (regulated under DORA) – if certified under a European certification scheme, no additional evidence or audits should be required for the same certified service/product/process in order to demonstrate compliance with legislation.</li> <li>• Reporting requirements should be simplified and harmonised across regulations, based on best practices, including definitions, what needs to be reported, timelines, thresholds, reporting authorities, and tools (platforms, reporting templates or other). Additionally, establishing a single-entry point for reporting would allow a one-time submission, automatically distributing the information to all relevant authorities. For cross-border incidents or those affecting multiple entities within a group, a single report via the single-entry point of the most relevant jurisdiction should suffice.</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	Telefónica S.A.
b. Contact details for follow-up purposes (in company or association)	Name: Juan Luis Redondo Position: Director of Digital Public Policy Email: juanluis.redondomaillo@telefonica.com
c. Type of organisation (please select answer by highlighting in bold)	<b>Company</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	NO
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	No

## 1.10 Health

### 1.10.1.1 EFPIA

BARRIER: Health Technology Assessment (HTA)
1. Barrier description

<p>a. Please describe, as concretely as possible, the cross-border issue hampering operations.</p>	<p>For medicines for which Health Technology Assessment (HTA) is conducted to support pricing and reimbursement decisions (usually for innovative medicines). The national HTA procedure is usually triggered by marketing authorisation holders launching a pricing and reimbursement application in the Member State concerned. The outcome of HTA is used to estimate relative effectiveness with the purpose to inform decisions concerning the allocation of budgetary resources in the field of health, for example in relation to establishing the pricing or reimbursement levels of health technologies.</p> <p>Health technology developers often face the difficulty of submitting the same type of information and evidence to different Member States, and also at various points in time. Samely, the HTA landscape is highly fragmented in terms of data, analysis, and methodologies that are required for in national submission. The duplication of submissions and consideration of different timings for submission across Member States constitute a significant administrative burden for health technology developers, in particular for smaller companies with limited resources, and contribute to impeding and distorting market access, leading to a lack of business predictability, higher costs and, in the long run, negative effects on innovation.</p>
<p>b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts &amp; figures.</p>	<p>Although aiming at performing the same assessment, HTA agencies often reach different conclusions on the medical impact (relative efficacy and/or relative effectiveness assessment) of new pharmaceuticals, even though the data studied is predominantly the same for all markets – such as safety and efficacy data from registration trials. This is because HTA agencies adopt different approaches when setting their information and methodological requirements, as well as when rating and interpreting this data and analysis. This might apply to trial design, relevant endpoints, appropriateness of defined patient subgroups and treatment comparators. Equally interesting is the fact that the views of HTA agencies may sometimes be out of step with the outcomes of the European Medicines Agency's (EMA's) review of a medicine.</p> <ul style="list-style-type: none"> <li>• For companies, this means duplicative administrative work.</li> <li>• For agencies, this means sometimes inability to conclude on the basis of the evidence provided, because the evidence was generated for other purposes and does not fit national requirements.</li> <li>• For patients, this means unnecessary trials, potential delays, and access restrictions because of methodological misalignment (rather than the intrinsic properties of products).</li> </ul>

	<p><b>Challenges remain - variation in evidence requirements is a barrier to patient access</b></p>   
<p>c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).</p>	<p><a href="#">A value-based approach to pricing</a>, <a href="#">Office of Health Economics, April 2023</a>  <a href="https://www.efpia.eu/about-medicines/use-of-medicines/hta-relative-efficacy-assessment/">https://www.efpia.eu/about-medicines/use-of-medicines/hta-relative-efficacy-assessment/</a></p>
<p><b>2. Barrier categorisation</b></p>	
<p>a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).</p>	<p>Country examples of changes in HTA criteria restricting patient access.</p> <ul style="list-style-type: none"> <li>In France stricter assessment criteria are limiting access to orphan treatments. For example, in the case of Advance Therapy Medicinal Products (ATMPs), it is very difficult to carry out comparative clinical trials due to the small patient population and the fact that it is often the patient's last treatment option. In most cases, ATMPs are made available to patients based on single arm phase II data. More stringent assessment by the French National Authority for Health (HAS) has meant that treatments with single arm trial data can only achieve ASMR V grade (equivalent to no improvement) and no additional benefit will be granted, impacting future patient access to such treatments. Following stakeholder feedback, HAS is now reconsidering its position to allow for indirect comparison studies.</li> <li>Similar to the changes introduced by HAS, a recent reform to the German Pharmaceutical Market Restructuring Act (AMNOG) has meant that no exception will be made for orphan treatments in regard to the comparative trial requirement. This undermines the ability of treatments without comparative trial data to demonstrate their additional benefit over existing therapies and the associated incentive for manufactures to carry out R&amp;D in these areas. The process also does not adequately account for the assessment of one-off treatments</li> </ul>
<p>b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a</p>	<ul style="list-style-type: none"> <li>The EU HTA Regulation itself still retains a considerable level of uncertainty (as a result of the political compromise at EU level) expected to be clarified during its implementation. This uncertainty drives EFPIA's engagement during the full implementation period of 3 years.</li> </ul>



specific EU or national law or rule)	<ul style="list-style-type: none"> <li>• There is persistent uncertainty about how joint clinical assessment reports will be used by Member States and about the level complementary clinical assessment activity in EU Member States (contingent on appropriate adaptation of national processes to accommodate EU level outputs)</li> <li>• Uncertainty about the actual content-wise scope and methodology that will apply to Joint Clinical Assessment Impact on national HTA/Pricing &amp; Reimbursement timelines from inadequate national implementation of Regulation</li> <li>• Uncertainty about how innovative medicines will be assessed in Europe for the purpose of HTA and P&amp;R, with Member States fragmentation and duplication lifted at EU level, creating potential added layer of complexity at market entry and across the block, and also delays in access decisions.</li> <li>• How the HTA Regulation will impact the timing of decisions is a key concern. It is key to avoid duplication of HTA assessments at national and even regional level. HTA proceedings for novel innovative medicines must take account the availability of clinical data and experience with the medicines concerned.</li> <li>• There are also concerns with whether manufacturers have adequate due process rights in HTA proceedings including in study design and the selection of endpoints and clinical evidence, as well as in relation to access to file (covering scientific evidence and expert reports relied on) and the rights to comment before decisions are made.</li> </ul>
c. Type of problem*	Duplication of same scientific/medical and administrative process, with overlapping/diverging (EU/national) product requirements, rules, procedures or taxes
d. Relevant ecosystem*	Health
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The industry concerns have been reported and evidenced in multiple reports (available <a href="#">here</a> ), press releases and consultations with the European Commission and Member States.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	The EU HTA Regulation <sup>15</sup> that entered into force on 11 January 2022 aims at addressing these shortcomings by providing for a mechanism that ensures that any information, data, analyses and other evidence required for the joint clinical assessment should be submitted only once at Union level by the health technology developer. The Regulation will start applying after a 3-year implementation period, i.e. as of 12 January 2025 and will apply to oncology & Advanced Therapy Medicinal Products (ATMPs), followed by Orphans (after 3 years) and all other Centrally Approved Medicines (after 5 years). In practice, this means that any pharmaceutical company developing NMEs in these two categories (oncology & ATMPs), expecting to submit an application for their approval by EMA after 12 January 2025, can prepare to have said NMEs and their subsequent line extensions

<sup>15</sup> REGULATION (EU) 2021/2282 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 December 2021 on health technology assessment and amending Directive 2011/24/EU

	<p>undertake an EU-joint clinical assessment (in Q2/Q3 2025), under the conditions of this Regulation.</p> <p>What industry needs:</p> <ul style="list-style-type: none"> <li>- A clear, workable &amp; predictable framework for manufacturers – fully functional by the time the first products are assessed;</li> <li>- EU HTA Regulation cannot become an additional, bureaucratic barrier to access;</li> <li>- Availability of implementing arrangements in very early 2024 – companies need to prepare now based on a framework that is fully predictable in early 2024;</li> <li>- Earliest availability of EU level HTA outputs to ensure acceleration of national processes and faster patient access.</li> </ul> <p>Key enablers to achieve these objectives (what needs to be put in place from the start):</p> <ul style="list-style-type: none"> <li>- The health technology developer (HTD) should, at the very least, be involved in the PICO development process (propose a first draft of the relevant European best case PICOs, discuss data availability and the range of appropriate methodological analyses, answer questions, discuss additional needs at national level etc.)</li> <li>- In addition, the HTD should be consulted throughout the remaining JCA process (pre-submission engagement, interaction with assessors etc.) and should be able to comment on the draft assessment (rely on experience from Joint Action 3)</li> <li>- Ensure a streamlined, well-integrated process, EU value-adding that improves patient access to innovation across all EU Member States</li> <li>- Focus on what is ‘common’ across Member States in the EU assessment rather than ‘amalgamate’ existing and diverging requirements at national level</li> <li>- JCAs should be conducted using state-of-the-art methodologies that provide for a high-quality output within the established timeline for the EU HTA process and enable the inclusion of all available evidence, reflecting specifics of the context of disease and medicine development, and adequately characterise residual uncertainty</li> <li>- The EU HTA process should follow the principle of strict separation between assessment and appraisal: the outcome of a JCA should not include an a-priori disqualification of evidence or methods based on value judgements</li> <li>- Distinction between the EU HTA and the EU regulatory approval process should be maintained – no undue influence from HTA bodies on regulatory decision</li> <li>- EU HTA processes have to be adequately resourced (both at EU and national levels) to ensure a clear, workable and predictable framework, delivering consistent high-quality outputs</li> <li>- National level adaptation of existing market access processes to seamlessly integrate the EU level outputs (submission dossier &amp; JCA report)</li> </ul>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	EFPIA

b. Contact details for follow-up purposes (in company or association)	Name: François Bouvy Position: Executive Director Economic & Social Affairs Email: francois.bouvy@efpia.eu Phone or mobile number: +32.478.48.92.52
c. Type of organisation (please select answer by highlighting in bold)	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	The information is public.
b. Should the example remain confidential (not be published in the public domain)? If yes, why?	The template can be made public.

<b>BARRIER: Regulatory divergence</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>This divergence refers to differences in regulatory requirements, standards, and procedures among the different Member States. Some key aspects include:</p> <ul style="list-style-type: none"> <li>• Approval of clinical trials with medicines containing Genetically Modified Organisms (GMOs) in addition to the approval of clinical trials by regulatory authorities</li> <li>• Member States are not implementing in an harmonised way the In Vitro Diagnostic Regulation (IVDR) &amp; Medical Device Regulation (MDR) in the context of clinical trials</li> <li>• Divergent access to information on clinical trials and the trials themselves. Although many patients would be interested in entering a clinical trial, only a small minority of patients could benefit from clinical trials (3-5%) due to several challenges.</li> </ul>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<p>The mentioned divergences in regulatory requirements among different Member States have the following impact in the healthcare industry:</p> <ul style="list-style-type: none"> <li>• Increased costs due to compliance in the different Member States</li> <li>• Delayed and reduced collaboration in R&amp;D due to divergences in clinical trials approvals for cross-border trials, as well as reduced attractiveness for international companies, leading to delays for patients to access clinical trials and innovative medicines in Europe, international pharma companies launching clinical trials outside of Europe</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	<ul style="list-style-type: none"> <li>• <a href="https://efgcp.eu/Press%20Release%20-%20EU-X-CT%20-%2018%20January%202023.pdf">https://efgcp.eu/Press%20Release%20-%20EU-X-CT%20-%2018%20January%202023.pdf</a></li> <li>• <a href="https://www.europabio.org/wp-content/uploads/2021/01/2020_11_H_PP_ARM-EuropaBio-EFPIA-Call-for-action-on-ATMP-GMO.pdf">https://www.europabio.org/wp-content/uploads/2021/01/2020_11_H_PP_ARM-EuropaBio-EFPIA-Call-for-action-on-ATMP-GMO.pdf</a></li> <li>• <a href="#">Examination of current status of cross-provincial border access for clinical trials for patients with cancer</a></li> <li>• <a href="#">Cross-Border Access to Clinical Trials in the EU: Exploratory Study on Needs and Reality</a></li> </ul>

	<ul style="list-style-type: none"> <li><a href="#">In vitro diagnostics Regulation designed to protect patients is delaying clinical trials for thousands of people with cancer and rare diseases</a></li> </ul>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	<ul style="list-style-type: none"> <li>Cross-border clinical trial: Directive 2011/24/EU on the application of patients' rights in cross-border healthcare. The Directive does not define the conditions to access clinical trials in other EU Member States. The above demonstrates the need for recommendations and best practices to improve cross-border access to clinical trials in Europe.</li> <li>IVD Regulation 2017/746 and MDR Regulation 2017/745 implemented by National Competent Authorities in the context of clinical trials (issues at the interface of IVDR/MDR/CTR)</li> </ul>
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	
c. Type of problem*	<p>Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes</p> <p>Insufficient cooperation or communication between national administrations - Non harmonised way to implement EU Regulations by National competent authorities (NCAs)</p>
d. Relevant ecosystem*	Health
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	The industry position has been reported several times to the European Commission, EMA and national regulatory authorities.
<b>3. Suggested solution / recommendation</b>	
Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.	<ol style="list-style-type: none"> <li>Harmonization of regulatory standards across Member States and facilitation of regular communication and collaboration across National Competent Authorities to ensure continuous harmonization.</li> <li>Harmonisation of implementation of IVDR &amp; MDR in Member States, creation of coordination process for NCAs and development of clarifying guidelines</li> <li>Enable cross-border access to trials for patients when there is no option for them to join a clinical trial in their own country.</li> </ol>
<b>4. Organisation info &amp; contacts</b>	
a. Organisation name	EFPIA
b. Contact details for follow-up purposes (in company or association)	<p>Name: François Bouvy</p> <p>Position: Executive Director Economic &amp; Social Affairs</p> <p>Email: francois.bouvy@efpia.eu</p> <p>Phone or mobile number: +-32.478.48.92.52</p>
c. Type of organisation (please select answer by highlighting in <b>bold</b> )	<b>Business association</b>
<b>5. Confidentiality &amp; public communication</b>	
a. Should the name of a company remain anonymous? If yes, why?	The information is public.
b. Should the example remain confidential (not be published)	The template can be made public.

in the public domain)? If yes, why?	
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### 1.10.1.2 F. Hoffman – La Roche

<b>BARRIER: Health Technology Assessments</b>	
<b>1. Barrier description</b>	
a. Please describe, as concretely as possible, the cross-border issue hampering operations.	<p>From January 2025, a new EU system started where one joint clinical report is meant to replace 27 separate national clinical assessments of how well a new medicine works. In practice, two problems have emerged:</p> <ul style="list-style-type: none"> <li>• Complex and heavy paperwork: Companies are asked to submit files running to thousands of pages, potentially covering every possible patient group (irrespective of the actual trial data) and that may include comparator therapies rarely used in Europe overall. Instead of a “harmonised” clinical assessment at the EU level, we see an “inflated” and “heavy” European dossier.</li> <li>• The IT tools are not yet smooth. This creates unnecessary work for both companies and authorities. Also, the exact timing of some important milestones is imprecise, which leads to uncertainty and lack of predictability for technology developers.</li> </ul> <p>So the barrier has shifted: instead of 27 different national processes, we now risk one EU process that is itself too heavy and not consistently used across Member States. The new, EU-level clinical dossier may in itself be larger than the combination of the previous 27 national clinical assessments.</p>
b. Describe the negative impact on your company and potentially your sector or the economy. Please provide facts & figures.	<ul style="list-style-type: none"> <li>• The lack of harmonization means many analyses will be requested, especially for subgroups or safety, though they may only be relevant to a single country, leading to hundreds of analysis requests that were not needed by most MS, ultimately compromising the overall workability, quality, and usability of the final Joint Clinical Assessment report within the tight timelines. [1, 2]</li> <li>• Member state guidelines differ markedly when it comes to indirect treatment comparisons, and the EU HTAR guidelines do not establish a harmonized standard. For example, the practical guideline on evidence synthesis specifies that both population-level and comparator-level evidence networks are needed, which leads to unnecessary duplication and is not in line with best practices of evidence based medicine. [3, 4]</li> <li>• Since January 2025, eight joint assessments have started, already showing practical issues with scope, milestones, and IT platforms.</li> </ul>

	<ul style="list-style-type: none"> <li>Companies currently have only 100 days to prepare dossiers; industry proposes 150 days to ensure quality and predictability.</li> <li>Without consistent use of the EU report at national level, companies face duplicated requests and patients face delays in access.</li> <li>The European Commission will review the system in 2028. By then, about 5–10 assessments should be completed, providing the evidence base for improvements.</li> <li>The scope will expand to rare disease medicines in 2028 and to all centrally approved products by 2030. Without fixes, today's complexity could become tomorrow's bottleneck.</li> <li>EFPIA is setting up a tracking tool by end-2025 to monitor timelines, scope, and national uptake.</li> </ul>
c. Any extra evidence (e.g. links to publications or background materials, from your organisation or external sources).	[1] <a href="https://doi.org/10.1016/j.jval.2024.07.024">https://doi.org/10.1016/j.jval.2024.07.024</a> [2] <a href="https://www.efpia.eu/news-events/the-efpia-view/blog-articles/efpia-response-to-guidance-on-outcomes-for-joint-clinical-assessments/">https://www.efpia.eu/news-events/the-efpia-view/blog-articles/efpia-response-to-guidance-on-outcomes-for-joint-clinical-assessments/</a> [3] <a href="https://doi.org/10.57264/cer-2024-0240">https://doi.org/10.57264/cer-2024-0240</a> [4] <a href="https://www.efpia.eu/news-events/the-efpia-view/blog-articles/around-the-world-of-evidence-synthesis-in-eighty-pages-the-methodological-and-practical-guidelines-from-the-hta-coordination-group-an-industry-perspective/">https://www.efpia.eu/news-events/the-efpia-view/blog-articles/around-the-world-of-evidence-synthesis-in-eighty-pages-the-methodological-and-practical-guidelines-from-the-hta-coordination-group-an-industry-perspective/</a>
<b>2. Barrier categorisation</b>	
a. Country or countries where barrier occurs (feel free to refer to external sources where the Member States are mentioned).	EU-wide
b. Legislation, legal instrument, standard or technical requirement causing the barrier (please be as specific as possible, and refer to the exact name and provision in a specific EU or national law or rule)	- EU HTA Regulation (operational since Jan 2025) and national add-ons.
c. Type of problem*	Overlapping/diverging (EU/national) product requirements, rules, procedures or taxes;
d. Relevant ecosystem*	Health Digital
e. Has the barrier already been reported to a relevant European and/or national administration? If yes, how, to whom and what is the status?*	Yes, in the ERT's 2021 flagship publication on the Single Market ( <a href="#">here</a> ). Since then, the issue is <b>being tackled but has not yet solved</b> by policymakers.
<b>3. Suggested solution / recommendation</b>	



<p>Please indicate the type of change you suggest. Which improvement is required? Please specify, where relevant.</p>	<p>Goal: Make the EU joint report the trusted clinical evidence base, so national bodies do not redo the work.</p> <p>Immediate fixes (no need to change the law):</p> <ul style="list-style-type: none"> <li>- Narrow the scope to what really matters, with clear rules on which treatments to compare (e.g. based on European clinical guidelines).</li> <li>- Make better use of pre-submission meetings to avoid surprises.</li> <li>- Clarify timelines and fix IT bottlenecks.</li> <li>- Protect confidential information with clear, consistent rules.</li> <li>- Ensure national authorities use the EU report where it overlaps with their scope; any extra requests should be minimal and time-limited.</li> <li>- Longer term: After 5–10 assessments and the 2028 review, consider whether bigger changes are needed.</li> <li>-</li> </ul>
<p><b>4. Organisation info &amp; contacts</b></p>	
<p>a. Organisation name</p>	<p>F. Hoffmann-La Roche Ltd</p>
<p>b. Contact details for follow-up purposes (in company or association)</p>	<p>Name: Rebecca Jungwirth          Position: Senior Government Affairs Manager          Email: <a href="mailto:rebecca.jungwirth@roche.com">rebecca.jungwirth@roche.com</a>          Phone or mobile number: +41 61 688 3612</p>
<p>c. Type of organisation (please select answer by highlighting in <b>bold</b>)</p>	<p><b>Company</b></p>
<p><b>5. Confidentiality &amp; public communication</b></p>	
<p>a. Should the name of a company remain anonymous? If yes, why?</p>	
<p>b. Should the example remain confidential (not be published in the public domain)? If yes, why?</p>	

## **2 Obstacles by associations and companies in other formats**

Several organisations develop useful papers on the Single Market, including descriptions of barriers or burdens, or have described obstacles in a different format than the standard template which was used for the case studies in the previous chapter.

It is important that the European Commission and EU Member States evaluate and follow-up on all input from the business community, regardless of the format.

### **2.1 European associations**

#### **2.1.1 Association for Financial Markets in Europe (AFME)**

AFME formulated several barriers related to capital and banking markets integration, together with a short description of the reforms needed.

Contact details for further information:

Name: Jacqueline Mills

Position: Head of Advocacy

Email: [Jacqueline.mills@afme.eu](mailto:Jacqueline.mills@afme.eu)

Phone or mobile number: +32 2 8835547 or +32 (0)471560153 (mobile)

See more info below:

*Capital markets (barriers description):*

#### **Civil liability regimes as an impediment to the listing of companies**

In some Member States, civil liability regimes may create litigation risks if the information provided by the issuer/company (which is inherently uncertain) proves to be inaccurate. Therefore, issuers may be reluctant to disclose this type of information.

However, investors find forward-looking information, such as profit forecasts, useful. While ensuring suitable investor protection is important, targeted change to these regime could be impactful.

One solution would be to modify the liability regime in the Prospectus Regulation, so the issuer would only be liable if they knew that the forecast was incorrect or intentionally misleading. The US currently follows this approach. In particular, this approach would help high-growth companies (which may not have a long track record) to tell their story to investors and thereby to raise capital.

#### **Fragmented insolvency rules**

The different insolvency regimes are not only an obstacle for intra EU capital flows. Non-EU investors are equally facing a fragmented insolvency regime when they intend to invest in the EU, which creates incentives for them to invest in larger national markets where they can realise scale effects. The fragmentation of insolvency systems disadvantages the catch up of smaller local capital markets.

#### **Complex withholding tax procedures discourage cross border investment**

Complex, costly and cumbersome refund procedures now exist for investors in case of cross border investment. The current state of play – investors have to deal with more than 450 different forms in the EU and often in national languages – is an obstacle to the achievement of a single market for capital.

This is a long-standing barrier that the first Giovannini report in 2001, the European Post Trade Forum Report in 2017, the Commission, the European Parliament and the ECB have all identified as a significant barriers to the capital markets integration.

The Commission has proposed a Directive for faster and safer relief of excess withholding taxes that is expected to bring significant expected benefits for investors and for EU companies raising capital. In particular, the introduction of a common digital tax residence certificate and common reporting obligations for financial intermediaries will significantly streamline withholding tax refund procedures and help to ensure fair taxation

### **Completing the single market for depositaries to promote participation in funds**

More can be done to complete the single market for capital, for instance to encourage the establishment of funds such as ELTIFs across the EU. The amount of capital invested via ELTIF products (estimated at around EUR 11bn at end 2022 by Scope Ratings) currently represents only a minor portion of the net asset value of all EU Alternative Investment Funds. Moreover, the ESMA ELTIF register shows that ELTIF products are domiciled in only four EU Member States (Luxembourg, 57; France, 21; Italy, 13; and Spain, 2).

This leads to the question of what is holding back the development of ELTIFs across the EU.

Part of the answer can be found in the European Directives. A fund manager authorised under AIFMD or UCITS is required to appoint a depositary for each alternative investment fund (AIF) or collective investment scheme (UCITS) it manages. This is entirely appropriate.

However, there is an additional localisation requirement that the depositary should be in the same location as the fund. The localisation requirement is holding back the development of ELTIFs because the local depositaries (for example, in the CEE region today) may not be capable of providing the services. Depositaries in other Member States have these capabilities.

The solution could be to allow depositaries from other Member States to passport their services across the EU.

### **Integration through centrally accessible market information – the example of the consolidated tapes**

In June 2023, the European Parliament and the Council reached on an agreement on the Markets in Financial Instruments (MiFIR) regulation covering the so-called consolidated tapes. Here, the idea is to provide investors with straightforward access to high-quality and comparable data, to enable them to evaluate investment and trading opportunities across the EU. One of the practical advantages of this approach is that it can leverage existing data and is not dependent on integration of the underlying (physical), and geographically fragmented market infrastructures.

Instead, technology is harnessed to provide an overall view of individual markets. Having EU-wide data for investing and trading is critical to maintaining and reinforcing a virtuous circle between primary and secondary markets. Well-functioning, diverse and competitive secondary market ecosystems provide deep pools of liquidity for investors and issuers and reduce the cost of primary funding for corporates. Liquid secondary markets play a role in asset valuations

(i.e. liquidity premia), influencing issuance in the primary market. Likewise, an active primary market is necessary to encourage the trading of a range of assets to satisfy investor demands for instruments with differing risk profiles.

The consolidated tapes will facilitate investors' access to EU markets with a comprehensive and standardised view of equity and fixed income trading environments. The clearer picture provided by the consolidated tapes will contribute to making EU markets more competitive and attractive to all investors (including retail investors) regardless of their resources, sophistication or location. With the EU's upcoming needs for private capital sources, this is a critical objective. These tapes will make cross-border investments easier through the creation of a truly (albeit virtually) integrated pan-European market, which will ultimately benefit corporates when raising capital and investors when allocating their savings.

This will contribute to the ultimate goal of increasing capital flows within the EU and defeating retail investors' existing home bias. Over time, setting up tapes could also facilitate the creation of pan-European indices, which would provide additional non-domestic investment opportunities.

**Despite the significant progress under this mandate with the adoption of the consolidated tapes, barriers remain** to create a single, worldwide window to the equity market in the European Union and to reduce the costs of market data, which has been a long-standing issue in assessing Europe's competitiveness. We therefore welcome the requirement for ESMA to assess the effectiveness of the consolidated tape for shares by no later than 30 June 2026, including the appropriateness of adding additional features to the pre-trade tape, which we would strongly support.

We specifically recommend that at an appropriate time the pre-trade tape is expanded to include five levels of depth of the order book. This is technically possible and would be the most valuable option for the future subscribers to the tape, providing them with a wide range of non-latency sensitive use cases. Importantly, this would also ensure the commercial viability of the consolidated tape provider.

#### Capital markets (recommendations):

##### **Encourage Member State initiatives to develop their markets and seek to integrate so that European capital markets can develop at scale**

- Promote the scale benefits of an integrated European capital market to Member States, corporates and citizens
- Encourage best practice sharing among Member States to develop domestic markets and investment, in areas where EU-level action cannot be as efficient, in particular in relation to the pensions challenge

##### **At EU level, focus efforts in areas where rapid progress on implementation could be transformational**

- Establish consolidated tapes and enhance the equity tape with additional levels of order book depth
- Implement the European Single Access Point
- Make targeted changes to civil liability to help issuers provide forward-looking information to investors
- Adopt changes to corporate insolvency rules
- Harmonise withholding tax procedures to support cross-border investment
- Complete the single market for depositaries to promote participation in funds

#### Banking market integration (barriers description):

Since the GFC a decade and a half ago, European banks have continued to strengthen their capital and liquidity and made major strides in improving their balance sheets, as is evidenced by the significant reduction in non-performing loans. They have demonstrated they are well positioned to weather a variety of shocks and support the economy through periods of stress. Yet, despite these advances, European banks continue to lag behind their international peers, with market valuations below those in other jurisdictions. But capital and liquidity continue to be trapped inside national boundaries within the EU banking market.

**Banks remain confronted by a number of barriers preventing from managing their capital and liquidity efficiently.** This is reflected in the absence of meaningful cross-border waivers, including within the Eurozone:

- **The ECB's ability to grant limited cross-border waivers from the LCR remains, to the best of our knowledge, unused some seven years after the formulation of its policy, with a similar situation with respect to the NSFR.** The issue is exacerbated by the persisting complex approach to large exposure exemptions, creating an unlevel playing field and, in some cases where limits are applied via national law, acting as a direct legal impediment to the cross-border flow of funds.
- **Internal MREL requirements also apply at the level of all subsidiaries and cannot be waived across Member States,** even if these entities are not material subgroups and are all within the scope of a single resolution authority, i.e. the SRB in the Banking Union. This EU application goes beyond the internationally agreed TLAC standard.
- **Finally, cross-border waivers for capital** (whether risk-based or under the leverage ratio) **are not available** and the recent agreement on the implementation of the final Basel 3 standard in the EU has compounded the situation by requiring the application of one of its key features, the so-called output floor, at the legal-entity level.

In addition to the minimum (so-called Pillar 1) requirements of the prudential framework, the design of the Pillar 2 requirements also represent significant barriers. **Banks operating across the EU are subject to a complex set of additional micro and macroprudential buffers** originating from different sources that partially target the same types of risk.

These include Pillar 2 requirements and guidance, set by microprudential authorities but in practice also used, in part, to address macroprudential risks. A combination of other buffers including a fixed capital conservation buffer (CCoB), a countercyclical buffer (CCyB) and various systemic buffers (including SyRB, G-SII and O-SII) are determined by the macroprudential authority of each Member State in which a bank operates. While the ECB can require additions to these national measures should it deem them insufficient, it lacks the symmetrical power to be able to loosen such requirements if they are duplicative. The relatively opaque and complex design of the macroprudential framework, combined with a lack of coordination between the various authorities, **contributes to overlapping requirements and capital accumulation within EU banks which in turn weighs on their ability to generate revenue and remain competitive with impacts on pricing.**

**In addition to barriers to preventing banks from managing their capital and liquidity efficiently, other types of obstacles exist for banks to finance companies across the continent:**

- The availability of ratings covering a large spectrum of corporates impedes banks' financing capacity. While transitional arrangements included in the EU banking package for unrated corporates in the Output Floor are welcome, it is important that longer term solutions are found. A potential solution could be to establish a platform for banks to pool their data, or for credit bureaus to be approved as external ECAs and develop a mechanism to map their assessments to risk weights.
- Since the UK's exit from the EU, international banks have significantly scaled up their EU presence. **In contrast to EU banks, international banks have taken advantage of European structures such as "branchification" and the EU company status**

**(societas europaea)**. However, they still face the complexity of having to operate across multiple jurisdictions, with the associated differences in regulatory frameworks including, and going beyond, prudential requirements. Differing domestic legal, taxation and AML requirements increase the cost bases of banks operating across the EU. Proposals are on the table to create a single rule book for AML/CFT and to address certain tax and legal obstacles. Negotiations in these areas are protracted, with uncertain outcomes. Yet, they are also essential to reducing the costs of pan-European banks and enhancing their competitiveness and scale, so should be urgently completed.

- Addressing the barriers to the banking union will also contribute to developing the EU capital markets by a better allocation of the capital and liquidity which in turn will optimise the financing conditions of EU corporates. Therefore, internal market's frictions for banking and capital markets require a more holistic approach to improve this situation.

Considering banking and capital markets development more holistically from a policymaking perspective can help improve this situation.

**Banking market integration (recommendations):**

**Enhance the competitiveness of EU banking markets, increasing their capacity to directly finance the economy:**

- Assess regulatory change in the context of the global competitiveness of EU banking and capital markets
- Consider the EU banking and capital markets more holistically – a fully functional and integrated banking market would help to achieve an integrated capital market
- Remove local capital and liquidity requirements for banking groups
- Streamline the macroprudential framework
- Ensure a level playing field when it comes to international standards, and in particular those which are relevant for capital market activities given their global nature (e.g. alignment of capital requirements for market risk with other jurisdictions)
- Ensure that long term solutions are developed to address 'unratedness' of corporates



## 2.1.2 AmCham EU

American companies remain the largest source of foreign investment in Europe, supporting over 4.6 million jobs. However, regulatory complexity and fragmentation remain persistent obstacles to the EU's continued attractiveness for investors. In the American Chamber of Commerce to the EU's (AmCham EU) 2025 [Transatlantic Business Climate Survey](#), **84% of members cited regulatory burden as a barrier to investment**, underscoring the importance of simplification and a fully functioning Single Market for competitiveness.

Below is a non-exhaustive list of significant Single Market barriers identified by AmCham EU members as well as proposed steps the EU can take to address them.

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### 1. **Regulatory complexity and duplication**

- Barrier: Overlapping and duplicative EU rules, fragmented national implementation and lack of enforcement before new legislation is adopted.
- Impact: Increased compliance costs and uncertainty as well as deterrents to cross-border activity.
- Recommendation: Apply AmCham EU's simplification principles to proposed legislation: avoid prescriptive rules, abolish overlaps, embed single-agency reporting and enforce existing rules first.

### 2. **Cybersecurity reporting and NIS2 fragmentation**

- Barrier: Divergent transposition of the Directive on measures for a high common level of cybersecurity across the Union (NIS2) and multiple overlapping cybersecurity reporting frameworks.
- Impact: Higher costs for pan-EU operators due to duplication of audits and incident reporting.
- Recommendation: Harmonise EU-level reporting under a single framework and enable mutual recognition of audits.

### 3. **Digital Single Market gaps**

- Barrier: Fragmented implementation of telecom rules in the European Electronic Communications Code (EECC) and inconsistent treatment of over-the-top media (OTT) services.
- Impact: Uneven rules for comparable services and obstacles to EU-wide scaling.
- Recommendation: Coordinate consistent EECC implementation and clarify treatment of OTT services.

### 4. **Data legislation overlaps**

- Barrier: Conflicts between the Data Act, the General Data Protection Regulation, the Digital Markets Act and sectoral rules as well as unclear supervisory responsibilities.

- Impact: Legal uncertainty, higher compliance costs and impediments to the free flow of data.
  - Recommendation: Implement a Data Union Strategy and create a one-stop supervisory mechanism.
5. **Artificial Intelligence (AI) Act implementation**
- Barrier: Risk of divergent national enforcement of the AI Act.
  - Impact: Fragmentation that undermines competitiveness and delays safe AI uptake.
  - Recommendation: Ensure harmonised, risk-based implementation coordinated by the AI Office.
6. **Customs and Union Customs Code (UCC)**
- Barrier: Fragmented customs enforcement and information technology (IT) rollout as well as inconsistent Import One-Stop Shop handling.
  - Impact: Double taxation risks, and delays and higher costs for compliant e-commerce.
  - Recommendation: Complete UCC IT systems by 2025, establish an EU Customs Data Hub and empower the EU Customs Authority for uniform interpretation.
7. **Tax complexity ('decluttering')**
- Barrier: Duplicative reporting requirements between Pillar 2, the Directive on Administrative Cooperation and the Anti-Tax Avoidance Directive, which risk becoming more complicated by legislative proposals such as Business in Europe: Framework for Income Taxation Directive.
  - Impact: High administrative burden and risk of double taxation.
  - Recommendation: Remove redundant provisions and simplify cooperation and reporting across different levels of tax policy.
8. **Litigation burden and third-party litigation funding**
- Barrier: Growth of mass litigation and unregulated litigation funding.
  - Impact: High legal costs and forum shopping as well as obstacles to investment.
  - Recommendation: Strengthen safeguards in the Representative Actions Directive and regulate third-party litigation funding.
9. **Capital markets fragmentation**
- Barrier: Fragmented settlement, clearing and issuance systems along with divergent licensing.
  - Impact: Higher costs and inefficiency compared to global peers.

- Recommendation: Advance a Single European Settlement, Issuance and Collateral Area, enhance Central Securities Depositories Regulation passporting and promote central counterparty interoperability.

#### **10. Supervisory divergence in financial services**

- Barrier: Divergent supervisory interpretations, multiple licensing requirements, and varying marketing and disclosure requirements across Member States.
- Impact: Impediments to cross-border scaling of investor products like undertakings for collective investment in transferable securities, alternative investment funds and other financial services, which could reduce optimal investor outcomes and hinder ease of business in Europe.
- Recommendation: Establish a streamlined EU framework that both national competent authorities and European supervisory authorities can use across borders.

#### **11. Withholding tax (WHT) and legal divergences**

- Barrier: Non-standardised WHT relief procedures, fragmented insolvency and company law.
- Impact: Friction in cross-border investment and legal uncertainty.
- Recommendation: Harmonise the implementation of the Faster and Safer Tax Relief of Excess Withholding Taxes Directive (FASTER), align minimum insolvency law and standardise legal definitions.

#### **12. Retail investor participation in the Savings and Investment Union**

- Barrier: Low retail investor engagement and risk of added complexity through the retail investment strategy (RIS) and the Financial Data Access Regulation (FiDA) frameworks.
- Impact: Under-utilisation of EU savings and limited cross-border retail products.
- Recommendation: Create simple, diversified, attractive, scalable and comparable product information for EU savings and investment accounts, streamline RIS and clarify FiDA's scope.

#### **13. Pensions and institutional investments**

- Barrier: Fragmented pensions (2nd/3rd pillar) and prudential frameworks (the Solvency II Directive and the Institutions for Occupational Retirement Provision Directive II) disincentivising equity/private markets.
- Impact: Limited mobilisation of institutional capital across Europe due to stricter capital requirements for financial institutions.
- Recommendation: Advance pension portability and recalibrate prudential rules to encourage long-term investment.

### 2.1.3 Business Europe

Business Europe recently published the following barriers in a new paper: “EXAMPLES OF BARRIERS IN THE SINGLE MARKET” (Annex I of [“Priorities for the Single Market Beyond 2024: Reigniting the Engine of Europe’s Global Economic Leadership”](#), November 2023).

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The following examples showcase tangible cases of barriers faced by businesses and citizens in the Single Market, which are key to understand remaining bottlenecks and facilitate informed decision-making.

1. Harmonised European standards: The absence of harmonised standards prevents using the potential benefits of Single Market governance, as it unnecessarily complicates EU market access. ([Link](#))
2. Weights and dimensions for road freight vehicles: Divergences at national level regarding the permissibility of cross-border freight traffic with different weights and dimensions for vehicles and vehicle combinations, as well as the interpretation and transposition of the respective EU legislation have rendered road transport less efficient and hindered the functioning of the Single Market. ([Link](#))
3. Corporate due diligence: As a minimum (standards) harmonisation directive, the proposed Directive on Corporate Sustainability Due Diligence allows Member States discretion in the implementation of the Directive, thus contradicting one of its main justifications, namely, to fight legal fragmentation to guarantee one of the EU fundamental freedoms (right of establishment) and ensure fair competition. ([Link](#))
4. Posting of workers: Companies continue to face an increasing number of barriers when posting workers in the EU, due to different legal and document requirements, practices, and notification systems at national level. There is a growing focus at EU level on achieving greater digitalisation within the processes of social security coordination and posting of workers. ([Link](#))
5. Waste shipment: Current EU rules hinder the creation of a functioning market for secondary raw materials by making the transport of waste across Member States difficult and expensive, causing inefficiencies in international waste management and challenges for smaller Member States. ([Link](#))
6. European public procurement: Companies continue experiencing difficulties when competing for public tenders, which limits the benefits of the Single Market for business and citizens and results in less efficient spending of public money. ([Link](#))
7. Single-use plastics: In the current form of the SUP Directive, the ‘placing on the market’ of certain products would be restricted to the territory of a Member State, rather than the Union Market, creating pre-conditions for market fragmentation. ([Link](#))
8. Transport infrastructure and systems: Businesses experience that Europe is not yet fully connected. In many places, cross-border transport connections are inadequate (insufficient capacity) or completely missing, and national digital systems or physical requirements are often not compatible. ([Link](#))
9. Packaging and packaging waste: Unilateral national packaging, labelling and information requirements are being introduced by Member States alongside unilateral bans on packaging formats. Additionally, the lack of harmonised EU measures or their delayed adoption is eroding the integrity of the single market. ([Link](#))
10. Points of Single Contact in the Single Market: Companies intending to export goods and services often face difficulties trying to obtain information about which rules to comply with

at national and EU level, which procedures to follow and which public authorities to contact in those Member States they wish to export to. ([Link](#))

## 2.1.4 DigitalEurope

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Digital Europe's new 2024 publication delves into 10 major obstacles – from connectivity to cumbersome AI compliance, disparate data laws and inconsistent procurement rules – and proposes solutions and a roadmap to fix some of the longstanding structural issues that have plagued the EU's single market for years. See : [The Single Market Love Story: 10 digital actions to save the 30-year marriage](#).

A previous paper from Digital Europe on barriers can be found here: [Single Market barriers continue limiting the EU's potential for the twin transition: examples in key sectors](#) (3 March 2022).

Executive summary:

The Single Market is the beating heart of EU integration. 56 million jobs in the EU depend on it. Yet, it remains a work in progress and a critical element to make the EU more resilient and sustainable. Removing Single Market barriers in goods and services could amount to €713 billion by 2029. At the height of the COVID crisis, the Commission made strengthening the Single Market in digital products and services one of its top 3 priorities to relaunch Europe.

Unfortunately, there are three worrying trends that threaten digital trade across the EU:

- 1) Derogations or largely divergent interpretations of EU laws, effectively creating fragmentation in areas where the EU supposedly brought harmonisation;
- 2) Unilateral legislative actions at national level in areas where the EU already has existing provisions, or is creating relevant ones;
- 3) Substantial regulatory compliance costs for SMEs, even when EU rules intend to facilitate cross-border trade.

Unfettered access to the Single Market is vital to achieve the Digital Compass targets that address climate change, societal, health and economic challenges of our time. It is also about European start-ups and SMEs capable to generate economies of scale and commercialise technology in Europe, not outside of it.

DigitalEurope offers examples of **concrete Single Market barriers** in a variety of key areas, including healthcare and the environment. The goal of the paper was to feed into the work of the Industrial Forum and inspire the vision of the next Annual Single Market reports of the Commission.



### 2.1.5 Eurochambres

Eurochambres' conducted a comprehensive survey with the support of national chambers of commerce and industry between 4 September and 20 November 2023, which captures the insights and perspectives of 1004 business owners and entrepreneurs across all EU member states on barriers they face on the Single Market. Similar surveys were conducted by Eurochambres in 2015 and 2019. The full report can be found [here](#).

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In the pursuit of a better functioning single market, business owners and entrepreneurs advocate for practical solutions. First, the reinforcement of centralised online portals that offer comprehensive and easy-to-obtain information for trading in the single market followed closely by streamlining bureaucratic processes, cutting red tape and mitigating reporting obligations. The report also underscores the importance of recognising and accommodating the unique challenges faced by SMEs. Finally, the report validates the fundamental role of European chambers of commerce and industry have in advising companies, making them more informed and strategic.

### 2.1.6 EuroCommerce

30+ barriers are described in the following publication: “Main problems that the retail and wholesale sector still faces” (from [“Single Market Barrier Overview”](#), 28 November 2023). It has a detailed list of barriers per each EU Member State.

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Short summary:

- Flawed implementation and application of the Services Directive that hinders the freedom of establishment, the free movement of services and the freedom to provide a service;
- National trade laws that hinder business in the way they do business. Often these laws hamper competitiveness of the sector, are protectionist and undermine business models that are genuine and legal business models in other Member States. Particularly concerning are developments in Central and Eastern Europe;
- National requirements that hinder the free movement of goods. Member States do not notify new national technical requirements according to the procedure laid down in Directive (EU) 2015/1535, do not apply the principle of mutual recognition in non-harmonised areas, gold-plate directives, etc.

### 2.1.7 EuropeanIssuers

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EuropeanIssuers' Compendium is the result of its members contributions on both barriers to the single market and reporting burdens. To maintain confidentiality, EuropeanIssuers has chosen not to disclose the specific companies providing information. Instead, the country of origin is identified. Some examples are applicable across Member States, while others are constrained by specific Member States. Considering the interconnected nature of the Commission's exercise to reduce the reporting burden by 25% and the follow-up exercise of collecting Single Market barriers, it is worth being highlighted separately.

Download EuropeanIssuers members contributions:

<https://www.europeanissuers.eu/docs/view/65cf2ab1af385-en>

## 2.1.8 European Automobile Manufacturers' Association (ACEA)

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The barriers in the automotive sector are amongst others the following:

1.	Weights and dimensions: European Modular System: cross border use is complicated by diverging national legislation (requirements) applying to these vehicles
2.	Charging for the use of road infrastructure (Eurovignette): The European legislation provides too much flexibility to Member States (opt outs, alternatives) in the implementation, risk that this creates market fragmentation
3.	Driving Licences (i.e.: possibility to use AFVs over 3.5t with a driving licence B) Current directive allows Member States to decide whether for transport of goods, AVFs over 3,5t, can be driven with a licence B or not. This has created a patchwork of national regulations that complicate cross-border use of these vehicles, impacting their market uptake
4.	Urban Vehicle Access Regulations (UVARs) are measures that restrict or regulate the access of certain vehicles to urban areas, such as low emission zones, congestion charging, pedestrian areas. However, UVARs can also create problems for the single market, especially for cross-border mobility and transport. One of the main problems is the lack of harmonisation and interoperability of UVARs across the EU. Different cities have different rules, requirements, standards, fees and enforcement methods for UVARs, which can create confusion, uncertainty and administrative burden for road users, especially for foreign vehicles and drivers. For example, a driver who travels from one city to another may need to obtain different stickers, permits or registrations, pay different fees, or comply with different emission standards or access restrictions. This can discourage cross border travel and trade, and affect the competitiveness and cohesion of the EU single market.
5.	Registration Directive
6.	PTI / Roadworthiness
7.	ADS Vehicle deployment
8.	Fragmented implementation of the enabling conditions for road transport's transition to climate neutrality: <ul style="list-style-type: none"><li>- Charging/ refilling infrastructure ramp-up (AFIR...)</li></ul> Carbon pricing measures (eg support and incentive schemes for commercial transport operators; implementation of CO2-differentiated road user charges (Eurovignette) etc.)

## 2.1.9 European Banking Federation

EBF formulated barriers briefly as a whole, together with a short description of the reforms needed.

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Description of barriers:

- **Existing operational challenges in collecting withholding taxes and in processing Double Tax Treaty refunds** (including a clear and common definition of “beneficial owner”). E.g., Support the digitalization of related processes, such as the issuance of digital tax residence certificates for financial instruments that are not publicly traded (i.e., beyond the EU Commission’s FASTER proposal).
- **Inconsistencies in insolvency law.** We recommend further selected harmonization with a focus on financial sector counterparties and key market infrastructures which will need to include a modernization of the financial collateral and settlement finality directives (both being key building blocks of the existing EU framework for the capital markets) with a view to safeguard the safeguarding of the viability of payment, clearing and settlement systems and of their (direct and indirect) participants.
- **Need to reach comprehensive regulatory streamlining**, focusing on high standards instead of high volumes of rules, including, for example a new Listing Act to alleviate the administrative burden for companies of all sizes to better access public funding by listing on stock exchanges.
- **Need to reach an EU-wide harmonised definition of shareholder**, to remove regulatory barriers and local discrepancies leading to higher costs, regulatory risks and operational inefficiencies along the cross-border financial custody chain on the distribution of information to shareholders, the enactment of shareholder rights and general meetings, as well as the processing of corporate actions. This is key to ensure the targeted harmonisation of processes underpinning issuer/investor relations cross-border.
- **Targeted supervisory convergence** to ensure that cross-border issuers and investors have a seamless experience accessing markets.
- **Review of the securitization framework** (Contrary to the US securitization market, the securitization market in the EU never fully recovered from the GFC and remains a fraction of its 2008 peak; in 2021, US issuance (including agency MBS) was EUR 3,891bn (equivalent), whilst the EU stood at only EUR 233bn (both placed and retained). Issues currently hampering the growth of the EU securitization market are predominantly “demand” related, with multiple regulatory amendments in the EU in recent years having led to a significant decrease in the investor base for the product.) This is also [important](#) in the context of the investments needed to finance the green transition (to free banks’ balance sheets for further investments).
- **Reassessing the prudential framework** with the goal of making it more efficient
- **VAT on financial services (review):** The establishment of efficient business structures is frequently frustrated by the costs of an additional VAT burden. To ensure the competitiveness of European banks in global financial markets, these costs must be avoided.

**Europe needs more capital markets financing than ever before.** From the aging population to the need to finance entrepreneurship sustainability (yearly financing needs of 1 trillion in the EU alone, for which neither public finance, nor banks' balance sheets are sufficient) and innovation (technological innovation needed for green transition) key mechanisms for savings and investments needed by citizens require a well-functioning, deep, resilient capital market that reaches every corner of Europe while being globally competitive.

**The job is not yet complete in terms of removing cross-border obstacles to integrated markets.** While most of the CMU actions will have been adopted by the end of the cycle, a number of reforms still remain to be launched and/or completed, making it important to build consensus around a prioritization of the next-generation reforms.

EBF believe that, to grow our capital markets, we need three things:

- 1) Efficient and competitive markets infrastructures;
- 2) Efficient and enabling rules and regulations; and
- 3) Greater supply and demand for capital markets.

The barriers described above make it difficult for the supply and demand of the markets to grow because they fragment the market. As a result, companies do not face a deeper pool of capital and investors do not benefit from a broader set of investment possibilities.

A few key points consider:

- Despite the ambition of having a single market, EU markets remain fragmented, complex and at very different stages of development in the equities market, as a result of varying local and supervisory approaches. This has hampered their attractiveness, depth, and liquidity.
- Data reveal that the EU is still far behind other key markets in terms of being competitive and attractive.
- Despite having a similar number of listed companies in 2021, 5,902 in Europe (doubling 1993's numbers) vs 6,203 in the US (dropping 17% since 1993), the US stock market is 3.5x the size of the European markets (EUR 41 trillion versus EUR 12 trillion) and almost 3x as deep relative to GDP (227% versus 81%).
- On average, the market capitalization of a company listed in the US is three to four times larger than a company listed in Europe
- Looking deeper at debt securities, the European sector is about half the size of that in the US in 2021 (EUR 22 trillion vs EUR 44 trillion)
- An important difference between the two markets seems to be the fact that in Europe debt securities account for about two thirds of the capital markets, while the US market is balanced between debt and equity when looking across regions.



## 2.1.10 FoodDrink Europe

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Non-exhaustive list of EU policy issues which hamper/could foster the functioning of the EU Single Market for food and drinks:

### **EU legislation already in place or upcoming EU legislation:**

<b>Actions</b>	<b>Topics</b>	<b>Legal basis / EU legislation</b>	<b>Description</b>	<b>Proposed solutions*</b>
Prevent re-nationalisation of EU legislation / prevent the misuse of EU legislation for protectionist purposes	<b>Mandatory country of origin labelling of foods</b>	Regulation (EU) 1169/2011 on the provision of food information to consumers	<p>National measures on mandatory country of origin labelling for foods are allowed under Regulation 1169/2011, provided that certain requirements are met (e.g. evidence has to be provided on the link between certain qualities of the food and its origin).</p> <p>Over the past years, several Member States (e.g. France, Finland, Greece, Italy, Poland, Portugal, Romania) have adopted national measures on mandatory origin labelling for certain foods. The European Commission (EC) has not objected to many of these measures, while a decision on some is still pending. Such national initiatives compromise the smooth functioning of the Single Market and harm the competitiveness of the EU food and drink sector by adding complexity in food manufacturers' daily operations and significant costs: frequent adaptation of the labels; decreased sourcing flexibility; need to have separate storage facilities, production lines and transport operations.</p> <p>While we welcome the EC's intention to address the fragmentation of national measures on the EU Single Market through the revision of the Food Information to Consumers Regulation, the obligation to indicate the origin/provenance of food, even when harmonised at EU level, may still lead to national segregation of markets, operations and production lines (e.g. separate logistic flows, additional cleaning procedures, etc.), with the negative consequences it may bring – not only for businesses, but also for consumers and the environment.</p>	European Commission (EC) to legally scrutinize individual national measures on mandatory country of origin labelling and their impact on the Single Market.

	<b>Warning statements</b>	Regulation (EU) 1169/2011 on the provision of food information to consumers	<p>Similarly to mandatory country of origin labelling, Member States have lately developed more and more measures regarding warning statements. Those measures have been notified to the EC which has not objected to them, or for some the decisions are still pending.</p> <p>Such national initiatives compromise the smooth functioning of the Single Market and harm the competitiveness of the EU food and drink sector by adding complexity in food manufacturers' daily operations.</p> <p>Case studies:</p> <ul style="list-style-type: none"> <li>• The Irish Public Health (Alcohol) Act 2018 ("PHAA"), complemented by Public Health (Alcohol) (Labelling) Regulations 2022 notified by Ireland to the EC on 22 June 2022, introduced new labelling requirements for alcohol product containers.</li> <li>• Romanian order requiring economic operators to provide consumers with clear and complete information on foods that are or contain species of any insect authorized to be placed on the market as novel foods (2023).</li> <li>• Hungarian Minister of Agriculture (AM) Decree amending Ministry of Agriculture (FM) Decree No 36/2014 of 17 December 2014 on food information introducing a mandatory label for foodstuff containing insect proteins.</li> </ul>	EC to legally scrutinize individual national measures on labelling, especially warning statements and their impact on the Single Market, and ensure the proper implementation of EU law.
Ensure proper harmonised application and enforcement of all EU legislation, including secondary legislation, at national level	<b>Health claims</b>	Regulation (EU) 1924/2006 on the provision of food information to consumers	<p>Almost ten years after its entry into force, Regulation 1924/2006 continues to give rise to divergent interpretations and implementation practices across the EU, for instance as regards the wording to be used when making a health claim.</p> <p>Furthermore, recently adopted EU implementing rules (e.g. on generic descriptors) or the approach taken at EU level on some controversial issues (e.g. on probiotics) have led to the adoption of country-based solutions, running against the Single Market. As a result, different rules apply to the same claim depending on the Member State where this is marketed. This affects the free movement of foods, creates complexity for operators, impact the food and drink industry's competitiveness and does not ensure</p>	<p>An effort to clarify at EU level the existing interpretation issues is needed.</p> <p>Similarly, EU-wide solutions should be preferred when setting implementing rules/when implementing the existing provisions.</p>

			the same level of information to consumers across the EU.	
	<b>Allergen labelling</b>	Regulation (EU) 1169/2011 on the provision of food information to consumers	Divergent interpretations of labelling of allergen ingredients by the national authorities exist, which leads to uncertainty and confusion for food business operators and can also hinder the Single Market through different interpretations of the same rules (e.g. Spain).	Ensure a harmonised implementation throughout the Member States.
	<b>Packaging</b>	Directive 1994/62/EC on packaging and packaging waste (PPWD)	<p>The internal market legal base (Article 114 TFEU) of the PPWD allows to maintain a harmonised approach to the measures and environmental laws related to packaging and packaging waste.</p> <p>However, some EU Member States do not correctly implement harmonised EU legislation in their national laws and abstain from notifying them to the Commission. For example, in recent years, some EU Member States (e.g. Romania, Lithuania, etc.) have foreseen in their national legislation an obligation to use the EU packaging material symbols, although the use of the respective packaging material identification system is regulated in a voluntary way by harmonised EU legislation.</p> <p>Although the current revision aims to turn the Directive into a Regulation, Member States still push for flexibility. For this reason, the Council is likely to adopt a common approach of the so called "dual legal basis" that allows certain articles to be based on Article 114 TFEU, and others on Article 192 TFEU, as environmental protection. Such modification would provide Member States increased leeway to introduce possibly diverging measures and more prescriptive environmental laws related to packaging and packaging waste.</p>	<p>Ensure a harmonized implementation throughout the EU Member States of the PPWD.</p> <p>Retain Single Market Treaty legal base for the PPWD in the ongoing legislative review of the Directive.</p>
	<b>Littering costs for Single Use Plastic Products</b>	Single Use Plastics Directive (EU) 2019/904	Article 8 of the Single Use Plastics (SUP) Directive on littering costs is implemented very differently in terms of time and content/scope in the various Member States. Germany provides for a price of €876 per tonne of SUP for flexible packaging and wrappers, whereas Austria €116 per tonne and the Netherlands €2.30 per 1.000 pieces. The problem lies also in the scope. Member States can extend the scope to other type of products and creating disruptions to the internal market where	Ensure a harmonized implementation across EU Member States of Article 8 of the SUP Directive

			<p>a product is banned in one Member States but not in other Member States.</p> <p>The EC had announced a guideline for standardised implementation, but did not present it. As a result, companies that sell goods throughout the EU are faced with administrative burdens and unpredictably high costs. There are many TRIS notification also on labelling for Extended Producers Responsibility schemes and many infringement procedures due to severe threats to the internal market. For instance, starting 1 January 2022, new labelling rules are in effect for products placed on the French market where - as part of the Extended Producer Responsibility (EPR) scheme - producers must use the Triman and Info-Tri logos to inform consumers how their products and packaging can be recycled or responsibly disposed of. The EC has started an infringement procedure against France.</p>	
	<b>Waste management systems</b>	Waste Framework Directive 2008/98/EC	<p>The waste management systems within the EU are very different and are at different stages of development. Some Member States have advanced their investment and sorting infrastructures in Europe, while many others still use landfill and incineration as waste management solutions.</p> <p>A level playing field within the EU at the highest possible standard is necessary for a successful circular economy and Member States should be obliged to help setting up comprehensive sorting and collection systems.</p>	Harmonization of waste management systems within the EU.
	<b>Food Contact Materials (FCM)</b>	Regulation (EU) 1935/2004 on materials intended to come into contact with food	<p>We note here the increasing delays in the revision of the Regulation for food contact materials which will not be finished under the current Commission's term. The work towards a legislative proposal, on the basis of the preferred policy options, will only start in 2025.</p> <p>The FCM regulatory framework needs to be revised to guarantee effective functioning of the Single Market and promote sustainability, innovation, and circularity. Specific provisions on exchange of information that would enable more transparency within the supply chain and ensure consistency with PPWD, are needed. Whether from virgin or recycled sources, future food contact materials should support the vision of the EU Green Deal.</p>	<p>Rather than vertical measures, a horizontal approach would be more efficient to achieve harmonization.</p> <p>This approach could include horizontal elements for (1) Food Contact Substances; (2) Final Articles and Migration testing; and (3) recycled Food Contact Materials.</p>

				To be done under the umbrella of Regulation 1935/2004 and the overarching principles of the GMP Regulation 2023/2006.
	<b>B2B Unfair Trading Practices (UTP)</b>	Directive (EU) 2019/633 on Unfair Trading Practices in B2B	<p>The UTP Directive is transposed and enforced into national law. It provides for a minimum level of harmonisation by establishing a list of prohibited UTPs between buyers and suppliers in the agri-food chain. It also lays down minimum rules on the enforcement authorities and coordination among them. Member States may adopt or maintain national rules that go beyond the UTPs listed in the Directive provided that such national rules are compatible with the functioning of the Single Market.</p> <p>The process of the evaluation of Directive 2019/633 has started. According to legal obligations, the EC must present a report on its main findings by 1 November 2025.</p>	<p>The EC to ensure that the Directive is correctly transposed and effectively implemented across the EU.</p> <p>The evaluation of the Directive will provide the opportunity to ensure fairness for all in the agri-food and drink chain, i.e. an extension of the protection to all suppliers (removal of the €350 million threshold).</p>
	<b>Rapid Alert System for Food and Feed (RASFF)</b>	<p>Regulation (EC) 178/2002 (General Food Law)</p> <p>Commission Implementing Regulation (EU) 2019/1715 laying down rules for the functioning of the information management system for official controls and its system components ('the IMSOC Regulation')</p>	<p>The Rapid Alert System is a network involving Member States, the EC and, where necessary, the European Food Safety Authority (EFSA). The RASFF is operated by the EC (DG SANTE). The RASFF focuses on the principle of traceability and on the timely exchange of information on direct or indirect risks to human health from food or feed. In the context of the Single Market and the free movement of products, including re-export, the traceability aspect is of fundamental importance to identify problems quickly and mitigate risks. The exchange of information should ultimately lead to appropriate risk management measures being taken by Member States.</p> <p>However, there are still inconsistencies across the EU on actions taken at Member State level as a follow-up to RASFF alerts. Based on the General Food Law, foods that are not marketable due to a non-compliance with existing regulations, should not automatically be considered as injurious to health and require withdrawal and recall from the market, but should be subject to a case-by-case assessment to determine the actual risk they pose to consumers.</p>	<p>FoodDrinkEurope remains concerned of the inconsistencies of the approaches/risk assessments undertaken across the EU. In order to ensure that this system can achieve its objectives, the food business operator concerned by a particular risk should be involved at the earliest possible stage with the necessary information, to properly handle the incident.</p> <p>Each incident needs to be dealt with on a case-by-case basis to check compliance with the applicable regulatory provisions and to</p>

				assess safety according to the General Food Law.
	<b>Due diligence and human rights</b>	Corporate Social Responsibility Directive (CSDDD) (EU) 2019/1937	<p>Member States (Germany, Netherlands, France) have different legislation regarding due diligence. Due diligence requirements in EU Deforestation Regulation (EUDR) are not equal to due diligence requirements in the draft of the CSDDD. Given that corporate sustainability due diligence will not be governed by an EU Regulation but by a Directive, unlike the proposed new rules governing products made with forced labour, it is critical that the European Parliament and Member States adopt maximum harmonisation provisions to ensure legislative consistency and avoid market fragmentation.</p> <p>Divergent national legal regimes on due diligence would not only be costly and burdensome for companies of all sizes but, more importantly, risk undermining the achievement of the goals of the legislation in an efficient and effective manner.</p>	Ensure a harmonised framework for due diligence to avoid further internal market fragmentation. Due diligence reporting should be aligned with European Sustainability Reporting Standards (ESRS).

#### **No EU legislation: Harmonisation and Mutual recognition (MR):**

<b>Actions</b>	<b>Topics</b>	<b>Legal basis / (Related) EU legislation</b>	<b>Description</b>	<b>Proposed solution</b>
<ul style="list-style-type: none"> <li>Accelerate pending harmonisation</li> <li>Support an improved functioning of the MR principle in non-harmonised areas, in the context of the upcoming Action Plan and revision of the MR Regulation 764/2008</li> </ul>	<b>Addition of nutrients to food (fortification)</b>	Regulation (EC) 1925/2006 on the addition of nutrients to food and food supplements	<p>As legally required by Regulation 1925/2006, which harmonises the addition of nutrients to food and food supplements, the EC has not yet laid down maximum amounts of vitamins and minerals.</p> <p>Meanwhile, Member States may continue to apply existing national restrictions or bans on trade in foods to which certain vitamins and minerals are added. In particular, Member States have introduced different kind of pre-approvals or pre-requirements.</p> <p>Case studies:</p> <ul style="list-style-type: none"> <li>Fortified food banned in Denmark;</li> </ul>	Application of the principle of MR to prevent different interpretation of Regulation 764/2008

			<ul style="list-style-type: none"> <li>Chocolate products produced in Spain and fortified with magnesium lactate cannot be exported to Germany;</li> <li>Cereal bars fortified with iron are marketed in more than 20 EU Member States;</li> <li>The use of iodized salt is mandatory in some Member States, whereas it is not permitted or banned by others.</li> </ul>	
	<b>Precautionary allergen labelling</b>  <b>Vegetarian/vegan labelling</b>	Regulation (EU) 1169/2011 on the provision of food information to consumers	<p>Divergent interpretations of current EU rules by national competent authorities as well as lack of (prompt) EU action resulted in a patchwork of national rules that compromise the smooth functioning of the Single Market: for instance, the lack of EU harmonisation around precautionary allergen labelling and the absence of EU harmonised criteria defining food products suitable for vegetarian or vegans can lead to obstructions of the free movement of goods and confusion among consumers.</p> <p>In order to achieve certainty to the benefit of the industry and avoid consumers' confusion, EU harmonisation should be sought.</p>	EC to develop implementing regulations
	<b>Plastic Tax</b>	The Plastics Own Resource (Decision (EU) 2019/665)	<p>Member States have different taxes and plans on taxes on plastic packaging in place with various amounts and conditions – based on the own resource to be paid by Member States per kg of non-recycled plastic packaging.</p> <p>To comply with the new Own Resources Decision, Member States are not required to introduce a tax. Yet, some Member States, including Italy and Spain, have decided to consider the introduction of a tax on 'single-use plastic' to tackle plastic pollution and raise revenues. This creates problem to the internal</p>	Create a harmonised framework for plastic taxes



			market as each national plan is different, and not all Member States are required to make a plan.	
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### Policies:

Actions	Topics	FoodDrinkEurope comments/positions	Proposed solution
<ul style="list-style-type: none"> <li>Ensure an EU-wide approach</li> <li>Prevent renationalisation of EU policies</li> </ul>	<b>Digital labelling</b>	<p>The F2F Strategy set that the EC will explore new ways to provide information to consumers through other means including digital, to improve the accessibility of food information for all, including visually impaired persons. Despite this, the topic of providing information to consumers through digital means has not featured prominently neither on the regulatory agenda nor in the broader public conversation around labelling of food and drink products.</p> <p>Having an EU-wide, country-, sector-, and product-agnostic approach in place for digital labelling will provide consumers across the EU with access to trusted information provided through digital means, which currently is not the case. The Single Market will be reinforced through a horizontal approach to digital labelling. Current trends of diverging national rules and industry initiatives that are fragmenting the Single Market will be reversed.</p>	Create a harmonised EU framework for digital labelling
	<b>Innovation</b>	The EU regulatory process should inspire consumer confidence but at the same time, regulatory bottlenecks to innovation (such as lengthy and strict approval procedures of novel ingredients and production techniques) should be identified and eliminated in order to ensure that innovative technologies and products can be transferred into practice in a timely manner, without fragmenting the Single Market.	Assess and resolve regulatory bottlenecks to innovation
	<b>Environmental Assessment Methodologies</b>	<p>Initiatives within the EU on the assessment and communication of the environmental performance of food and drink products should be in line with the deliverables of the Food Sustainable Consumption and Production (SCP) <a href="#">Round Table</a>, such as the Guiding Principles, the Environmental Assessment of Food and Drink (ENVIFOOD) Protocol and the Report on 'Communicating environmental performance along the food chain'.</p> <p>Doing so should result in better consumer understanding through harmonised, environmental assessments and in supporting the Single Market by ensuring the free movement of goods. Also we understand that the EC will ensure that the results of the upcoming pilot phase of the Product Environmental Footprint Methodology<sup>1</sup> (PEF)</p>	Future results and initiatives on the assessment and communication of the environmental performance of food and drink products are aligned with the Single Market.

		supports a harmonized EU single market aligned with global developments. National environmental information schemes - see as an example the French law (Law n° 2009-967) and experimentation in 2011 - should be avoided.	
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### 2.1.11 Orgalim

Orgalim developed a report on excessive regulatory burdens which can be found on [Feedback from: Orgalim - Europe's Technology Industries \(europa.eu\)](#). In addition, Orgalim identified horizontal problems that should be tackled.

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Regarding standards:

There are some specific examples of cited standards that are up to 12 years older than state of the art standards. The NLF requires the manufacturer to develop products that are state of the art. In the case of the LVD 60730-series: Automated controls: Part 1 standard, the latest standard published in the OJEU is from 2010, while the latest available from IEC is from 2022. The delays with the 60730-series are evident for part 2 standards as well, and the fact that part 2 standards rely on compliance with part 1 standards makes the situation even more complicated. There could be many reasons why these delays are happening. One of these, is the fact that the process to get a standard harmonised is quite complex and often standards that are offered for citation get rejected for legalistic reasons that have little to do with the technical quality of the standard.

Regarding conformity assessments:

The lack of harmonised standards (hENs) and the need to use a Conformity Assessment Body (CAB) in cases where self-assessment can only be used when hENs are available is a problem across the EU. The number of CABs in Europe is limited, as they have to be notified under a directive in the New Approach Notified and Designated Organisations (NANDO) [website](#) (which is a prerequisite to be able to operate under that directive). Member states or the Commission cannot force private bodies (e.g. CABs) to become a Notified Body under one or more directive(s), CABs have to volunteer to work under a certain directive. To do so, they need qualified personnel. The number of personnel available has an influence on the capacity of testing and thus the number of certificates that they can handle.

This means the number of products that can be placed on the market by industry, when third party certification is required, depends on the capacity of private entities in certification and testing business. This also results in the fact that in the absence of hENs it is not up to the manufacturers process alone to have products ready in time.

Note that to be notified in NANDO, CABs have to go through an often lengthy process at national level. Those processes however are important, as they ensure the level playing field among CABs in all member states preventing a race to the bottom.

The burden for industry is twofold: 1) often CABs have to be included in the conformity assessment procedure which result in complete different processes that are not in the hand of the manufacturer alone and 2) in the (often temporary) absence of hENs, the CABs notified under a certain regulation/directive cannot handle the amount of work due to a high number of request for a specific deadline in due time. Industry depends on such assessments for market access. If a company doesn't have a product assessed in time for a new regulation to be effective, this will lead to competitive disadvantages compared to those competitors that did manage to get an assessment in time for the new regulation/directive to be applied.

The Medical Device Regulation (MDR) is a good example where industry has faced massive problems in the past years. The MDR application date was postponed due to the fact that

otherwise there would have been a lack of medical equipment on the EU-Market in the middle of the pandemic.

Other similar problems have been experienced with the RED 2014/53/EU Article 3.2 in 2016/17. For several upcoming regulations we will most likely encounter similar problems due to very short transitional periods (e.g. RED DA for Article 3.3(d), (e) and (f); CRA; AI Act).

## 2.1.12 SolarPower Europe

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Barrier & description	Examples / evidence	Relevant policy file	Suggested solution
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<b>1. Interventions on markets price formation,</b> with the gas price cap in Iberia and caps on market revenues which level and design varies from country to country in the EU. Also representing a barrier to cross-border renewable Power Purchase Agreements. You will find attached our assessment from last February, which we are updating at the moment.	<p>In Romania, the cap is set until 31/12/2025 without recommendation from the E-U, with a tax on revenues above 92€/Mwh for solar.</p> <p>Countries like Slovakia and Czech Republic also have a cap running until end of 2024.</p> <p>In France the cap is still arbitrarily set at 100€/Mwh and 90% of the revenues above are skimmed off.</p>	Electricity Market Design (EMD) revision (Emergency measures).	An immediate removal of all caps on renewables market revenues is vital to meet the targets set by the EU.
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<b>2. Lack of common grid standards for electrical and energy products.</b> Although the EU has a certain acquis with the EU Network codes for grid connection requirements on high-voltage levels, all the standards for electrical products at lower voltage level (i.e any equipment in the building for instance) remain at national level. This has industrial consequences: standards are very important for our solar inverter manufacturers, particularly active in the low voltage segment, that need easy access to EU markets.		RfG + secondary legislation	Harmonisation Type A / Type B threshold Recognition of CEN certification procedure
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<p><b>3. Fragmentation of the market for guarantees of origins</b>, with some countries which still haven't joined the European associations for Guarantees of Origin emissions and certification, which means different access rules and validity.</p>	<p>Poland is not registered to the AIB and its framework for green certificates is deteriorating with a limit for obligatory redeemed certificates down to 5% resulting in a oversupply and significant drop in their price.</p> <p>Romania and Bulgaria are also not registered and thus are having huge difficulties to transfer GOs across their borders in virtual cross-border PPAs.</p>	<p>Renewable energy directive (RED)</p>	<p>All countries should be registered to the association of issuing bodies (AIB)</p> <p>Guarantees of origin rules must be harmonized at E-U level.</p>
<p><b>4. Fragmentation of EU infrastructure service quality</b> – it is not as easy to obtain a construction permit (depending on administrative infrastructure of the country) or a grid connection offer (depending on the distributed network infrastructure of the country) in all EU27 countries, due to a difference in infrastructure financing and implementation of the Energy Single Market rules.</p>	<p>Publication of our survey of average grid connection times in December to support this claim. We can disclose the figures in anticipation if needed.</p>	<p>Electricity Market Design EU Grids Action Plan</p>	<p>Have an EU-level monitoring of available grid capacity / grid connection times across the EU, for reporting at the European Semester.</p> <p>Have a strategic committee to monitor implementation of EU Law with regard to grids.</p>

<p>5. Fragmentation of the labour market due to <b>a lack of common EU recognition of solar skills</b> (electricians mostly, as well as DC installers). There is no recognition of electrical competences under the Service Directive, meaning that it is difficult for electricians and solar workers to travel across borders and work abroad.</p>	<p>We have surveyed our members and will publish results in our upcoming Skills paper. We can disclose the elements in anticipation if needed</p>	<p>Service Directive Renewable Energy Directive &amp; Energy Performance of Buildings Directive both have elements.</p>	
<p>6. Potential fragmentation of tender design, due to inconsistent implementation of non-price criteria.</p>		<p>NZIA</p>	



### 2.1.13 WindEurope

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Single Market barriers that the wind energy sector is experiencing.

#### **1) Uncoordinated national interventions / revenue caps on the EU power market in 2022-2023**

The energy crisis resulting from the Ukraine war has put the European economy under severe strain: the EU energy market rightfully translated supply/demand imbalances into higher prices. The EU energy security strategy REPowerEU identified the deployment of renewables as the key instrument to increase the availability of home-grown renewable power supply, to balance out the very high energy prices and to support European families and businesses. The EU wants wind energy to make up 43% of Europe's electricity by 2030, up from 15% today. This means double the rate of wind deployment from 15 GW p.a. to circa 30 GW p.a.

National Governments intervened on Energy Markets to alleviate the burdens for end-consumers. They did so without a joined-up policy response to the energy crisis, leading to fragmented and uncoordinated interventions and the introductions of revenue caps for inframarginal generators like wind energy. This undermined the very fundamentals of the internal energy market leading to uncertainty on revenues and ultimately to very significant negative impacts on renewable investments.

Europe is in a fierce global race for renewable energy investments while all the EU wind energy indicators were flashing red in 2022:

- Europe only invested €17bn in new wind, the lowest since 2009.
- Final Investment Decisions were taken for only 10 GW.
- Turbine orders were down 47% year on year.
- There was not a single Final Investment Decision in commercial scale offshore wind.

As the EU is now finalising the revision of its Electricity Market Design, we trust the co-legislators will aim to urgently restore certainty for renewables in Europe. Ahead of the final deal which we expect this December, attached is also a letter recapping one more time how the sudden and uncoordinated interventions on the EU Power Market persist and continue to undermine the EU's energy transition and renewables investments.

#### **2) Regulatory barriers to trade in climate goods and services in the EU Single Market**

Our colleagues have contributed recently to the report "[A European Green Single Market](#)" by Implement Consulting Group which outlines Single Market Barriers to wind energy. Pages 9-14 outline numerous examples of barriers to wind energy related to:

- Permitting
- Access to raw materials and secondary materials
- Requirements for lights and markings on wind turbines
- Training standards / mutual recognition and transferability of skills
- Customs procedures for offshore wind
- Interpretation of health & safety regulations
- Landfill ban on decommissioned wind turbine blades

- Transportation of decommissioned blades

### 3) Barriers to Skills required for the European Wind Industry

As the wind industry experiences unprecedented growth and development, it faces a pressing challenge: a shortage of skilled professionals. By 2030, the industry is projected to require a staggering 450,000 workers, a significant increase from the current 300,000-strong workforce.

While reskilling the existing workforce remains essential, new talent must also be attracted to form a dedicated workforce capable of addressing the ever-changing requirements of this sector. In this overview, we delve into main challenges that can be addressed by EU regulatory framework e.g. in the Wind Power Package.

- 1) Frontload the recognition of qualification to maximise worker mobility and entry into the workforce.

Main challenge: the wind industry does not have a centralised certification system apart from health and safety in some countries. This means there is a lack of harmonization and standardization across the industry allowing for workers to move freely with their certifications and credentials.

#### a. Streamline training:

- The wind industry requires diverse competences for manufacturing, installation, operation, and maintenance. Remote and difficult locations require specialised training and health and safety certifications, which adds complexity and time to training while ensuring safety and compliance.
- However, once this training is acquired, it is often necessary to repeat it when transferring jobs, as trainees' courses are not always recognised by the companies to which they apply. This discourages hiring and increase expenses for personal training. Streamlining qualifications is necessary for increased workforce entry speed and productivity.
- Standardised qualifications facilitate employee mobility in seasonal jobs. For example in offshore wind, installations not only require a high level of expertise, but they also are subject to specific weather condition windows and short deadlines. All this heightens competition for qualified labour that has little room for mobility after the peak periods finish (spring and summer).

Shorter, faster, cheaper, and more efficient training is needed to meet workforce requirements.

#### b. Faster entry:

- The absence of a comprehensive curriculum and qualification framework hinders the industry's ability to quickly recruit new talent. According to the Global Wind Organisation (GWO), fifty percent of the required workforce will be entry-level.
- GWO has developed a foundational curriculum for training new technicians. This framework serves as a standardisation for the H&S training of new technicians by all enterprises and training centres. But it requires a more comprehensive qualification framework beyond H&S to aspects tailored to the roles needed across the wind value chain.
- American Clear Power provides a similar framework, created with their members and GWO, which offers a framework as a reference for a basic curriculum, promoting

industry-wide hiring and talent mobility, focusing on five general knowledge areas, aligning with industry standards and facilitating new talent integration.

A standard framework will allow for mobility and faster entry into the workforce.

c. Apprenticeships are crucial:

- Many businesses only employ based on experience. This is especially challenging for inexperienced entry-level workers.
- Apprenticeships are a quick method for companies to hire new workers, but they can be lengthy. Apprenticeships should be financially rewarding and provide incentives for retraining employees. The United States and IRA use high-paying apprenticeships to recruit new wind industry workers. WindEurope surveyed its members and inquired if their company offered apprenticeships; 38 out of 56 members responded affirmatively. Every business should offer apprenticeships that lead to employment, and this should be enforced at Member State level.

Apprenticeships are a reliable and assured entry into the workforce.

#### RECOMMENDATIONS:

1) Alignment Assessment: Encourage Member States to assess alignment between learning programmes and qualification requirements, addressing potential disparities resulting from varying conditions and training demands.

2) Standardised Training Framework: Encourage Member States to establish a unified framework for minimum knowledge, skills, and competencies in the wind industry in order to facilitate cross-border mobility by advocating for mutual recognition of qualifications. This is a component of the Net Zero Academies, but we cannot wait; it must occur immediately due to this bottleneck.

3) Promote apprenticeships: Encourage member states, notably those with government subsidies, to promote and support apprenticeship programmes. This helps close the skills gap by assuring a pipeline of skilled workers.

## 2.2 National associations

### 2.2.1 Ibec (Ireland)

This new report, [\*The Single Market – a gateway to diversification and resilience\*](#), published in February 2024, lists 11 specific and impactful policy initiatives to strengthen the functioning of the Single Market.

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The overall work was commissioned by Amazon and conducted by Implement Consulting Group as an independent assessment of how further integration of the European Single Market can support economic growth and resilience in Ireland.

### 2.2.2 Benelux Business Roundtable

This note below summarises the key priority topics and positions voiced by members of the Benelux Business Roundtable (“BBR”) on the topics discussed during a working dinner held on 15 November 2023 in Brussels in the presence of Mr Enrico Letta, as regards the future of the EU single market, with a particular focus on energy.

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The full note can be found here: <https://www.beneluxbusinessroundtable.org/wp-content/uploads/2024/01/BBR-input-Letta-report.pdf>.

### 2.2.3 VNO-NCW / MKB Nederland

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See the paper on: [\*“30 YEARS OF THE EUROPEAN SINGLE MARKET: remaining barriers within the EU”\*](#), July 2022.

10 striking examples of barriers in the European internal market:

- 1) Notification requirement for posting of workers abroad;
- 2) Administrative procedures for working across borders;
- 3) Recognition of diplomas and professional qualifications;
- 4) Differences in public procurement processes;
- 5) Secondment of self-employed persons;
- 6) Lack of harmonisation of national green labels;
- 7) Driving bans;
- 8) Digitisation of transport documentation;
- 9) Lack of harmonisation of sustainable transport infrastructure;

10) Infrastructure for better and safe data access.

In addition to the above, VNO-NCW has contributed to the European Commission's call for evidence for the Single Market Strategy in January 2025 with a new set of 50+ barriers from their members (which can be found [here](#)).

#### 2.2.4 Austrian Federal Economic Chamber (WKO)

A set of policy recommendations from February, 2023 to deepen the Single Market. The publication and additional info can be found [here](#) and [here](#).

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#### 2.2.5 Federation of German Industries (BDI)

A successful and fully integrated single market is a central bedrock for the future of the European Union. At the same time, the single market remains Europe's biggest construction site. This paper puts into concrete terms the core demand of German industry to make the completion of the single market an overarching political leitmotif of national and European policy once again. The proposed recommendations for action are intended to help overcome the current political stalemate in deepening the single market at national and European level.

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Full publication [here](#).

#### 2.2.6 Confederation of Swedish Enterprise

In its 2022 report, Swedish Enterprise presents its positions and views on how the Single Market should be developed through improvements to the free movement of people, goods, capital – and data.

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Full publication [here](#).

#### 2.2.7 Czech Chamber of Commerce

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A collaborative effort led by the Czech Chamber of Commerce resulted in 10 specific recommendations aimed at enhancing the functionality of the Single Market:

### **1. Regulatory detox**

The upcoming EU mandate should be focused on overall inventory of European legislation, including reduced reporting. Ensuring that regulatory objectives, specific targets and measures are not contradictory. Administrative burdens and lengthy authorization procedures must not prevent the implementation of strategic projects in the pursuit of raw material and technological autonomy.

### **2. Application of better regulation principles and impact assessments**

Adhering to the principles of better regulation and conducting thorough impact assessments throughout the legislative process, including the competitiveness test. Avoidance of cumulative burden is necessary. Each legislative proposal should contain a summary of the obligations arising from the proposal.

### **3. Enforcement of legislation**

Setting up an effective system to identify emerging national barriers and enabling the Commission to remove them at source. Creating tools that allow the Commission to automatically trigger infringement and significantly reduce the timeframe for the whole procedure. Protectionism does not belong to the single market.

### **4. Digital evolution and e-government**

The implementation of the rules must be accompanied by digital applications and e-government. New legislation must not be adopted to replace poorly implemented rules in practice. Prevention is better than cure. Simplifying the application of law and new obligations so that everyone can understand them.

### **5. Harmonized rules and standards**

Removing barriers in the single market for services and products. Harmonizing rules and standards where appropriate. Prevent that the Member States do not create their own legislation on top of the European legislation, perceived as non-tariff barriers.

### **6. Recognition of qualification and simplification of posting of workers**

Improving recognition of qualifications and validation of knowledge. Simplifying and streamlining the whole process of posting of workers. The ageing of population and the shortage of workers is one of the biggest challenges for the European economy.

### **7. Simplifying reporting requirements**

Simplifying and rationalizing reporting requirements. Companies face extensive and frequently changing ESG reporting as well as ethical, environmental and supplier codes of conduct. Providing the required information only once and in an easy-to-implement format.

#### **8. VAT harmonization**

Addressing the harmonization of VAT, including its use to address social and other problems in individual Member States.

#### **9. Efficient competition policy instead of subsidy race**

Effective and transparent setting of the competition policy. The excessive use of narrowly focused national subsidies (especially as a result of the covid-19 pandemic and the energy crisis in Europe) is undermining the competitiveness of Member States.

#### **10. Regulation must not put European firms at a disadvantage**

The setting of strict legislation for companies from EU countries leads to a significant reduction in the competitiveness of European companies vis-à-vis their competitors from third countries, which do not have to comply with strict regulatory measures.



## 2.3 Individual companies

### 2.3.1 Philips

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Philips submitted this selection to illustrate broader challenges. Additional examples have also been compiled by different industry associations.

#### The European Single Market: continuing the success story

Integration of European markets and the resulting free movement of goods, services, capital, and people has been one of the foundations of post-war industrial success in the European Union. However, translating research into innovative products, taken up by European healthcare systems, is proving increasingly difficult. Already, Europe is falling behind internationally in some areas, such as Artificial Intelligence, with innovation now reaching European citizens later than in other regions like North America. This also reflects a lack of investment in supporting the development and deployment of medical and digital health technologies. Combined with barriers arising from the complexity and lack of capacity in the regulatory system as well as a fragmented market, this puts the competitiveness of European companies at significant risk. Broad challenges in the single market include:

- Divergences in the transposition of Directives are common, as seen e.g. in the implementation of the WEEE or the NIS Directive. Where Regulations are adopted, they often still leave space for differing national interpretations or guidance that may create market access barriers – examples are the General Data Protection Regulation or Medical Devices Regulation.
- Coherence between different pieces of legislation impacting one sector or product category is lacking, ranging from merely duplicating to potentially conflicting requirements. An example is the need for coherent implementation between the Artificial Intelligence Act and the Medical Devices Regulation or the increasing number of reporting requirements between different pieces of cybersecurity legislation.
- Timelines for implementation often do not correspond to the capacity of EU and national regulators to create the necessary infrastructure. That includes the designation of Notified Bodies (e.g. under the MDR), development of guidance documents (e.g. on due diligence under the Batteries Regulation) or harmonization and reference of technical standards.
- Once legislation is in place, enforcement by national authorities is fragmented and often lacks resources, especially in areas where it is needed to maintain a level playing field between European companies and global competition.
- Implementation of the New Legislative Framework for products, and especially the Blue Guide, are not aligned with latest technological advances, including the transition to a circular economy and conformity assessment of stand-alone software.
- COVID has shown the fragility of the single market in a crisis when member states for example introduced barriers to the free movement of people that impacted the ability of field services engineers to travel and deliver much-needed maintenance and repair services for medical equipment.

#### General recommendations for the future of the single market

1. A political commitment is needed for the preferred adoption of Regulations over Directives, starting with the revision of the Public Procurement Directive.

2. Any impact assessment for new legislation should include whether there is a real market failure to be addressed, as well as a sector-by-sector assessment of how newly proposed requirements may interact with existing legislative frameworks.
3. Any action plan or strategy to be developed in this mandate should include single market objectives in its scope (e.g. effective streamlining of the NIS2 Directive's implementation under the Action Plan for cybersecurity of hospitals or removal of single market barriers for innovation under the Life Science strategy).
4. A holistic review of the legislative framework for products (including the New Legislative Framework and the Standardisation Regulation) should center on simplified and timely placing on the market.
5. The first Omnibus package for simplification of reporting requirements should be followed by further Omnibus legislation to streamline requirements and reduce the administrative burden in different areas.

#### Examples of single market barriers<sup>16</sup>

##### Free flow of data-enabled innovation

Fragmented implementation of the General Data Protection Regulation, diverging national and local rules,<sup>17</sup> create privacy and data protection challenges that reduce the European industry's competitiveness and innovation potential in data analytics and Artificial Intelligence, endangering the digital transition in the health sector. Member states do not hold a single position on the legal concept of personal data and non-personal data, and no adequate and recognized standards exist on the anonymization of personal (health) data. Conditions on data processing for scientific research purposes are fragmented. Some member states retain cross-border data transfer restrictions (often as part of the criteria for public procurement and use of cloud services or within local healthcare regulations).

##### Public procurement of innovative technology

Public procurement should be a powerful tool to drive innovation and the competitiveness of European industry as well as support the European Union's strategic priorities including the digital and green transitions. However, transposition and implementation of the Public Procurement Directive is fragmented between member states, increasing administrative burden for companies and making it more difficult not only to procure cross border but also to scale innovation across the entire EU. In addition, price only procurement continues to occur and overall continues to dominate purchasing decisions for health technology.

##### Harmonized standards in support of the single market

Harmonised European standards represent a consensus by stakeholders on how to meet market needs, while at the same time facilitating compliance with EU legislation and supporting the circulation of goods in the Single Market. However, over the last years, some administrative processes around the harmonisation of standards on the EU level severely slowed down the final publication of European standards in the Official Journal of the EU. The result is a situation where standards are not available to the users, and manufacturers have to resort to alternative and often costly ways to demonstrate compliance with EU law. This prevents companies from using the potential benefits of Single Market governance, as it unnecessarily complicates EU market access.

##### Transition to a circular economy

Various studies and reports highlight the importance of embedding circular economy principles in the European Single Market for the EU's transition to net-zero and future competitiveness

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<sup>16</sup> This is a selection to illustrate the broader challenges. Additional examples have also been compiled by different industry associations.

<sup>17</sup> [https://health.ec.europa.eu/system/files/2021-02/ms\\_rules\\_health-data\\_en\\_0.pdf](https://health.ec.europa.eu/system/files/2021-02/ms_rules_health-data_en_0.pdf)

of a resource-scarce continent. They also clearly point out the existing barriers,<sup>18</sup> often the result of EU and national legislation developed many years ago based on a linear model of production and use. These include restrictions on the purchase of refurbished medical equipment in national procurement regulations, a fragmented application of reprocessing rules under the Medical Devices Regulation, or limits in chemicals legislation to the use of recovered spare parts for repair, upgrades and in the manufacturing of new medical devices.

#### Effective environmental regulations

A successful green transition requires a foundation in effective regulation. However, in the environmental area there is a need for increased harmonization and coherence. In the implementation of the WEEE Directive, reporting requirements, including exemptions and evidence, as well as fee calculations differ between member states, and the definition of waste from electrical and electronic equipment. For packaging and packaging waste, a Regulation has successfully been adopted but, in the meantime, national labelling schemes persist. Coherence is also lacking between newly adopted legislations, e.g. thresholds for applicability in CBAM and the Deforestation Regulation or definitions of concepts between the EU taxonomy and other environmental legislations like the ESPR.

### 2.3.2 Anonymous 1

The entity has submitted several additional case studies around transportation issues. These case studies do not point to specific countries where the barrier(s) occurred or, in the case of one barrier, describe obstacles taking place inside a country. Nevertheless, they seemed sufficiently urgent to include.

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#### (1) More issues around road transport

*Different rules for traffic circulation at certain times and days, as well as urban freight distribution.*

Different national and regional regimes that regulate and restrict the circulation of heavy vehicles on specific routes, or at certain times and days, and are regularly updated, triggering serious inefficiencies, delays, and increase road transport's costs.

The same problem is observed in the final urban distribution of goods (loading and unloading), where a myriad of regional or municipal authorization systems and processes complicate transit. The following are some examples only in Spain:

Autonomous Community	Circulation Restrictions	Examples of Holidays
Cataluña	Specific restrictions on holidays and weekends.	National Day of Catalonia (September 11)
País Vasco	Restrictions on holidays and weekends, with some exceptions for perishable goods transport.	San Sebastian Day (January 20)
Comunidad de Madrid	Restrictions on holiday eves and Sundays. For example, Wednesdays or Thursdays eves of holidays, traffic is restricted	Community of Madrid Holiday (May 2)

<sup>18</sup> <https://www.technopolis-group.com/wp-content/uploads/2020/02/Regulatory-barriers-for-the-circular-economy.pdf>

	from 4 to 12 hours, and on Sundays and holidays from 8 to 12 hours. On consecutive holidays, the restriction on the first day is from 8 to 3 p.m. and on the last day from 8 to 12 hours.	
Andalucia	Restrictions on holidays and weekends, with some exceptions for dangerous goods transport.	Andalusia Day (February 28)
Comunidad Valenciana	Restrictions on holidays and weekends, especially on main access roads to the city.	Valencian Community Day (October 9)
Galicia	Restrictions on holidays and weekends, with some exceptions for perishable goods transport.	Galicia Day (July 25)

### *Trans-European Transport Corridors*

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It is necessary to guarantee predictable and uninterrupted freight transport traffic throughout Europe, allowing economic operators to plan and improve their logistics by establishing trans-European transport corridors, to be specially protected, maintained, etc.. to avoid interruptions on EU movements of goods, for external factors, such as meteorological, demonstrations, etc...

### *Low Emission Zones (LEZ) and other urban vehicle access restrictions (UVARs)*

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European cities are introducing different urban vehicle access restrictions (UVAR). These limitations may involve congestion charges or various restrictions such as "diesel bans" or "low emission zones" (LEZ). Road haulers find it increasingly difficult to understand and anticipate these unilateral and divergent measures, even within the same Member State.

This regulatory disparity hinders the efficiency of "*last mile delivery*" in freight transport.

It is necessary to harmonize the basic elements of these plans through European regulations. Likewise, it would be necessary to: unify the symbols identifying the class of environmental behavior of vehicles and standardize the approval procedures for these UVARs.

The the Commission should support the operators needing to undertake approval procedures by putting in place a digital platform where the companies can upload the information required across all the countries and cities to receive the permits, following the Only Once principle. This platform should automatically link with the national authority, so that the latter can review the information and provide its answer in the same platform.

This platform could also serve as a Single Digital Information Point, accessible, free, and updated, providing details on the various regulations in force in each Member State and its regions. This point should include information on restrictions, authorizations, and UVAR plans.

### *Land agreement of the Schengen Agreement to Romania and Bulgaria*

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The Schengen Area is a zone of free movement of people that includes most European Union (EU) countries and some associated countries. This agreement allows people to travel

between member countries without internal border controls. It represents a significant achievement in creating the European Single market.

In the context of freight transport, the implementation of the Schengen agreements allows drivers to circulate without internal controls, which is crucial for the efficiency of cross-border trade. It is necessary to complete the implementation of the Schengen agreement in the territories of Romania and Bulgaria by eliminating internal land border controls.

However, current problems related to irregular migration flows, caused by military conflicts and socio-economic issues, are threatening the continuity and effectiveness of the Schengen Area.

According to Frontex, in the first six months of 2024, irregular border crossings at the EU's eastern land borders increased by 148%, and by 174% on the West African route to the Canary Islands.

This increase in migratory pressure is causing some Member States, including Germany and Austria, to announce the reactivation of temporary controls at their land borders, citing the need to preserve public order or internal security. Other countries such as Sweden, France, Italy, Denmark, or neighboring countries like Norway, are taking similar measures. Since 2006, the European Commission has received 441 notifications to reintroduce border controls in the Schengen Area, arguing insufficient surveillance of the EU's external borders. In 2022, the European Court of Justice ruled that Austria had illegally extended its border controls with Hungary and Slovenia, but despite this ruling, Austria continues to apply these controls.

This situation compromises not only the mobility of people but also the integrity of cross-border freight transport in the EU. Truck drivers, facing again lengthy border checks, find their ability to transport goods smoothly compromised. This situation endangers the core objective of the Schengen Agreement, which is to promote free movement and trade between Member States.

## (2) Air transport

### *National requirements per airline per country*

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It is unnecessary complex for a European airline to establish itself in another European country due to some specific requirements, such as part of the crew being registered with the host country's social security, which complicates and slows the process. These requirements and registration processes often discourage airlines from establishing themselves in other Member States, limiting their operational, efficient, and sustainable development and affecting their competitiveness against third-country airlines that can operate routes directly to any EU country.

### *The Single European Sky (SES2+):*

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The Single European Sky" reform approved on October 22 was limited by Member States' reluctance to relinquish competencies. In the initial draft by the CE, an attempt was made to strengthen the Performance Review Body (PRB) as an independent entity with regulatory authority and the authority to approve binding performance targets for Member States, but this was not achieved, leaving the PRB with only advisory functions. Air traffic management remains under national control, causing delays and operational problems, without effective centralization by the EU to ensure the necessary operability and stability in this sector.

## (3) Horizontal barriers affecting all modes of transport

### *Insufficient and inadequate infrastructure:*

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The lack or insufficiency of adequate transport infrastructure in the EU hinders the free movement of goods and affects the Single Market. The European transport network does not meet the established criteria; cross-border connections are inadequate or non-existent, and some national digital systems are incompatible. Ten-T Regulation focus on addressing these shortcomings and modernize the network to promote the decarbonization and digitalization of the sector.

To achieve a true Single Market in the EU, it is essential to implement a reliable and high-quality trans-European transport network to ensure connectivity throughout Europe without interruptions or bottlenecks.

In terms of digitalization, the Commission should promote the creation of tools that provide support for the Ten-T projects of common interest to go beyond the boundaries of participating countries, through technology sharing, standardization and tools. It is especially important in relation to the objectives of art 35: support the take-up and deployment of new digital technologies, in particular promote data exchange and connectivity infrastructure; promote efficient ways to provide accessible and comprehensible information to all users and providers of transport services regarding interconnections, interoperability and multimodality and regarding the environmental impacts of their transport choices; further advance the development and deployment of ICT systems and new technologies for transport within and between modes of transport.

Introducing security technology is a Ten-T objective that should be directly linked to the EU cybersecurity strategy.

To carry out this implementation, adequate public funding must be granted. For this, it is necessary to also provide the necessary financial support to those countries that have more economic difficulties in meeting the priority projects on time. Otherwise, territorial differences between Member States, both in the scope and speed of implementation of the committed infrastructures, will generate internal physical barriers (adaptation of track railway to standard measures, adaptation of infrastructures for multimodal transport, sufficient and adapted sustainable recharging and refueling options) that will be difficult to overcome.

Finally, considering the serious driver shortage crisis facing this sector, among other measures, it is necessary to increase and improve safe and secure parking areas so that these professionals can comply with legally established rest times in any EU country under appropriate conditions.

### 2.3.3 Anonymous 5

The entity has submitted one additional case study that is technically less of a cross-border barrier in the strict sense and more an overall reporting burden. Divergent interpretations or practices are still likely to emerge. One of the main issues with enforcement is the delay in resolution after reporting problems to the Commission, so a more proactive approach should be encouraged.

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#### Description of barrier:

The EU's cybersecurity acquis has grown substantially in the last legislative term. However it is marked also by the creation of multiple different reporting structures and supervisory entities. As a result, there is considerable uncertainty about the ways in which Member States will implement those new rules and the degree to which they can comfortably co-exist. For example, the proposed Cyber Resilience Act foresees reporting lines directly by companies to ENISA, whereas the NIS2 Directive foresees these to the national cybersecurity authorities.

Given that reporting will largely mirror each other, there is a risk of duplication. Similar concerns arise in relation to DORA or GDPR, which have sector or situation-specific reporting needs, yet frequently will address substantially the same incidents. The impact on the company and wider sector is increased administrative burden and diversion of resources away from proactive cybersecurity technical work towards routine tasks. Recent studies show that this type of work is less attractive to cybersecurity professionals, negatively affecting how appealing a career in cybersecurity in the EU is (<https://www.tines.com/reports/voice-of-the-soc-2023>).

#### Suggested solutions:

EU cybersecurity frameworks should follow the one-stop-shop approach for cybersecurity reporting and national implementation and future EU-level reporting requirements should build upon this structure. This would avoid rather than duplication or the creation of parallel reporting structures that increase administrative burden and complicate reporting lines within the Single Market. This extra workload only increases the time to action, as companies are required to interact with multiple reporting portals and requests for information rather than focusing all resources on the problem at hand. Furthermore, research has shown that among cybersecurity professionals there is a clear preference to minimize reporting or administrative duties in favor of more hands-on activities supporting cybersecurity. By adopting methods such as automation and simplified reporting structures, the EU can increase its attractiveness as a place in which to focus on cybersecurity careers at a time when the need for cybersecurity professionals is only growing.

#### 2.3.4 Anonymous 6

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#### Examples:

- EUCD: different implementations in different countries
- Data Act: Gatekeepers' ban (Article 5.2):
  - The prohibition for any undertaking of a gatekeeper to become a third party to receive data still remains contradicting and we see potential conflicts with GDPR data portability right and the DMA data portability obligations;
  - For example, would it mean that if a user ports its data under the DMA it cannot choose a service offered by another gatekeeper to receive it.
  - The same would apply for GDPR data portability rights in Art 20.
- Spanish RD14/2019 is an example of data localization legislation (Royal Decree-Law 14/2019, 31 October, on urgent measures for reasons of public safety in the areas of e-government, public sector procurement and telecommunications ("Royal Decree-Law 14/2019") established the prohibition of keeping several kind of data outside of the European Union (although it points to an existing adequacy decision of the EC as an exception to transfer such data to a third country/org).
- EHDS, Article 62 of the EHDS proposal sets out restrictions regarding international transfers or governmental access to non-personal electronic health data held in the Union, while art.63 gives MS margin of maneuver to introduce further limitations to transfers. The way the EC proposal is drafted is very similar to the Data Act (i.e an obligation to put in place technical, organizational and legal measures, including contractual arrangements, to prevent transfers of non personal electric health data or access that pose a conflict of law). What is actually more concerning in EHDS is some Parliament amendments that call for storage of personal electronic health data to take place exclusively in the EU. This is still under negotiations (trialogues have not started yet).



- Without an EU-US Cloud Act, European concerns around LEA won't be mitigated and this would pose a risk to the free circulation of service. (DPF addressing data transfers but not solving LEA concerns, including from EU DPAs that have pointed to the conflict of law with art.48 GDPR that says that a legal order from a third country does not give companies a legal basis to transfer data).