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# Conference Report 3/2015

For smoother internal market in Central Europe:  
Recommendations for public administration

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May 2015

## For smoother internal market in Central Europe: Recommendations for public administration

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*May 2015*

*\* Conference report was written with contribution of Vladimír Benč (SFPA)*

International Expert Workshop “How to improve functioning of the internal market among V4 countries” was held in Bratislava on 29 April 2015. The event was supported by the International Visegrad Fund.

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### **The smooth functioning of the internal market among V4 countries: Perspectives of public administration**

The principle of sincere cooperation of the EU is applicable not only between the EU and its member states but also horizontally, in direct relations between the authorities and institutions of individual EU member states, insofar as they are required to communicate with each other under EU law.<sup>1</sup> The relevant parties are thus obliged to satisfy their counterparts not only formally, but also in a way that renders the effect of requests as useful as possible. The EU also operates various programmes that facilitate such cooperation, including various Rapid Alert Systems (e.g. RAPEX, RASFF etc.), the Internal Market Information (IMI) System or the network of Solvit Centres.

Considering how interlinked the markets in the Visegrad Group (V4) are, the relevant authorities of the V4 countries could be expected to come into contact frequently. The workshop consisting of representatives of the authorities responsible in V4 countries for such internal market horizontal cooperation focused on the following topics (1) the organizational structure of the relevant authorities in V4 countries, (2) the frequency of cooperation between these authorities in V4 countries, (3) the character of the demand for mutual cooperation and (4) the possible ways of strengthened V4 cooperation in this concern.

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<sup>1</sup> See case C-251/89 – *Athanasopoulos*, ERC I-2847, paragraph 57.



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### Main conclusions and recommendations

- The most viable pattern for organization of authorities responsible for the internal market horizontal cooperation is to gather the all relevant cooperation tools into one single market centre (one unit in one ministry) which than can profit from broader insight into the internal market agenda. It is, however, similarly important to provide for a controlling mechanism of that single unit from outside of its structure and (according to best practice form the United Kingdom in the digital agenda) have a challenging authority that would assure that the one single market centre fulfils its tasks fully up to its potential.
- The frequency of cooperation between the V4 horizontal cooperation authorities is lower than it would be suggested by the amount of mutual trade. It is most probably caused as a result of migration flows from V4 countries to Western Europe (and the United Kingdom in particular) that triggers most of the incoming requests for horizontal cooperation and distorts the overall workload statistic as the free movement of persons related cases dominate the workload. Second reason may consist in low information about the horizontal cooperation tool, their roles and possibilities of use in V4 countries among the general public and people working/doing business in other V4 country than a country of residence. The regional patterns for the workload between the V4 countries are more visible only in the sending requests within the IMI System.
- In practice, business triggers less demand for the internal market horizontal cooperation than citizens. This is most probably caused by problematic response time within which the internal market horizontal cooperation can operate. Unless some degree of a harmonization of administrative proceedings and some way of synchronization of the maximum time limits for specific actions of public authorities is introduced on the EU level, the differing procedural law would most probably remain causing unpredictable delays in horizontal cooperation. If the demand for horizontal cooperation between the V4 countries rises in the future, it could be relevant to consider at least regional (V4) approximation of the relevant procedural provisions including agreed maximum time limits for specific cases.
- So far the highest demand for horizontal cooperation in the V4 region is between the Czech Republic and the Slovak Republic due to extensive mutual migration flows and good bilateral cooperation e.g. also in joint consultations if problems occur. In the future a strengthen V4 horizontal cooperation could be considered for instance in the area of exchanges of personnel, joint workshops and trainings or in a right to request inspections in the agricultural sector in the similar way as it is currently under the Service Directive.



### Structure of authorities in charge of the internal market cooperation agenda in V4 countries

The pattern of organizational structure of public authorities and division of competence between them is different in each of the V4 country. The existing structure is a result of a specific set of factors in each country, including such as the historical development of administrative practice and organizational decisions of the incumbent government, esp. regarding the management of the EU agenda. This is true also for a division of competence for *horizontal cooperation* (i.e. cooperation between individual member states of the EU) related to functioning of the internal market of the EU in each of the V4 country.

The law of the EU requires member states to create specific institutions responsible for horizontal cooperation in the area of the internal market, such as:

- **Solvit Centres**, national offices in each of the EU member state initiated by the European Commission to help EU citizens and businesses to push through their EU-guaranteed rights of free movement;<sup>2</sup>
- **Coordinators of the Internal Market Information System (IMI)**, national agencies responsible for granting national authorities access to the IMI system and provide them with necessary support;<sup>3</sup>
- **Liaison Points for the Service Directive**,<sup>4</sup> national bodies designated by each EU member state to fulfil obligations of mutual assistance under the Service Directive;<sup>5</sup>
- **Alert Mechanisms**, set of authorities responsible for national inputs to the various internal market alert mechanisms, including the alert mechanism under **the Service Directive**,<sup>6</sup> the alert mechanism for food and feeds (**RASFF**) and the alert mechanism for other dangerous products (**RAPEX**).

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<sup>2</sup> For a scholarly analysis of Solvit and its impact, see, for instance, Vifell & Sjögren (2014).

<sup>3</sup> The IMI System is the basic adaptable multilingual tool for the online communication of authorities from various EU member states. It includes various aids ranging from a pre-translated set of questions and answers that frequently occur in communication between authorities to on-line forms that simplify requests for information or measures from other authorities functioning in the internal market. The IMI is up and running in the areas of the recognition of qualifications, cooperation between national authorities within the framework prescribed by the Service Directive, and other further expanding areas such as patients' rights. Solvit centres also draws on the IMI for communication inside its network.

<sup>4</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ [2006] L 376/36, as amended (Service Directive).

<sup>5</sup> Ibid, Chapter VI, Articles 28-36.

<sup>6</sup> Ibid, Article 32.



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The division of competencies differs in each V4 country. In some states the competencies for the EU internal market horizontal cooperation tend to be assigned to a single unit of a specific ministry while in other they may be split between several units or even between different ministries and offices. For this reason the initial part of the workshop covered differences of organizational structure and division of the *horizontal cooperation* in individual V4 countries.

In **Hungary** the structure of authorities responsible for competencies in the EU internal market and the related horizontal cooperation has recently undergone a full makeover. The general EU agenda had been shifted to the Office of the Prime Minister. The infringement cases and the responsibility for horizontal internal market coordination, including responsibility for horizontal market tools, such as Solvit Centre and Coordination of the IMI System, had been shifted to the Ministry of Justice. The personnel in charge of horizontal internal market cooperation competencies has been partially moved together with the shifted competencies. With the grouping of most of the internal horizontal cooperation competencies into the Ministry of Justice, the creation of a single market centre is on-going. The single market centre at the Ministry of Justice will thus be in charge of internal market related tasks while the Office of the Prime Minister will be entitled for the EU agenda in general.

Most of the competencies in the EU internal market horizontal cooperation are united in a single unit in **Polish** Ministry of Economy, including Service Directive liaisons and points of single contact, IMI Coordination and Solvit Centre. The policy coordination of the EU agenda is responsibility of the Ministry of Foreign Affairs which has regular (every week) joint committee meetings with the representatives of the horizontal cooperation unit of the Ministry of Economy. From the alert mechanisms only the Service Directive alert mechanism is included in the unit of the Ministry of Economy, while RASFF is governed by the Office of Competition and Consumer Protection and RAPEX by the Chief Sanitary Inspectorate.

The highest concentration of the internal market horizontal cooperation competencies is in **the Czech Republic**. As in Poland, most horizontal cooperation tools belong to one single market centre, which is one unit of the Ministry of Industry and Trade. Besides horizontal cooperation tools under the Service Directive, IMI Coordination and Solvit Centre, the Ministry of Industry and Trade is responsible also for the RAPEX alert mechanism. Only RASFF alert mechanism rests in the Ministry of Agriculture.

The V4 country with the most diffused internal market horizontal cooperation competencies is **Slovakia**. The IMI Coordination and RAPEX belong to the Ministry of Economy, while Solvit Centre is at the Office of the Government (Department of Approximation) and the



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points of single contact (PSC) portal under the Service Directive is provided by the Ministry of Interior. RASFF alert mechanism rests in the State Veterinary and Food Administration.

**There are two leading patterns that influence division of internal market horizontal cooperation competencies in the V4 countries. The first pattern is to concentrate most of the cooperation tools within one unit (*one single market centre*) of a specific ministry. The second pattern consists of division of the internal market horizontal cooperation competencies between multiple units, even from different ministries.**

The first pattern allows easier consultations on informal basis between representatives of individual cooperative tools, leading to exchange of internal knowledge and development of concentrated “know-how” of the unit. These informal means of communication between personnel could be further strengthened for instance by easier rotation of the personnel between various tasks of different cooperative tools. The overall “know-how” of such a single market centre is then preserved by the continuity within the unit team, even with gradual fluctuations, and maintained also by a single leadership that rests in one head of the unit. The resulting advantage is a broader picture on the internal market agenda. The possible disadvantage is a need of a specific mechanism that would provide corresponding feedback on the work of such one single market centre.

The second pattern consists of division of the internal market horizontal cooperation competencies between multiple units, even from different ministries. It posts higher demand for coordination between individual units or ministries and the informal transfer of knowledge is weakened or impossible. The rotation of personnel between these offices may be constrained with more administrative and legal difficulties. The advantage of such division could be having more separate institutions that watch over each other and provide mutual feedback on the work of the others. An example of such practice could be an administrative practice in the United Kingdom in the area of the digital agenda, where the *Department for Business, Innovation & Skills* serves as the main coordinator responsible for implementing the digital agenda and the *Prime Minister's Office* is in a role of the challenger which oversees activity of the coordinator and provides feedback on its work if it seems to be less ambitious than it could. Similar “challenging” principle could be used also within the second pattern of the internal market horizontal cooperation competencies. The one single market centre could be given most of the competencies, while a unit at a different ministry could be in charge of the position of the challenger checking if the first unit performs fully up to its potential. The challenger could be also endowed with a specific cooperative tool and in such a case performing a function of the Solvit Centre seems as the most fitting as it allows to gather feedback (complaints) from clients from outside of public administration and perform such a controlling function based on insight into real cases where the one single market centre may not perform in its optimum.



### **The frequency of the internal market horizontal cooperation between the V4 countries**

The trade between V4 countries forms a significant part of the trade of each of the country of this region. The biggest share of the trade with other V4 countries is in the Slovak Republic, in which case the trade with the other V4 countries in total surpasses even the Slovak trade exchange with its biggest partner Germany.<sup>7</sup> The speakers at the workshop, however, agreed that the amount of trade between V4 countries is not proportional to the workload of cases (complaints within Solvit Centres or requests under the IMI System) coming from other V4 countries.

The actual workload is significantly lower than the amount of mutual trade would suggest. The only difference is the workload of cases between the Czech Republic and the Slovak Republic, which is significantly higher than between any other two V4 countries. The prevailing explanation of this fact suggested during the workshop was that the initiative for internal market horizontal cooperation, i.e. complaints within Solvit Centres or the incoming requests in the IMI System, is dominantly (in the whole EU) still connected primarily to the cases of migrating citizens (and solving their problems related mostly to social security issues, residence permits, acceptance of qualifications, access to education etc.) and only in much lower extent to issues brought up by business involved in trade. The complaints and incoming requests that trigger the activity of the internal market horizontal cooperation tools thus dominantly follow the migration flows. The typical incoming cases are thus requests for relevance and authenticity of professional qualification documents or complaints for discriminatory treatment within the agenda of provision of health care or in the area of social securities. As most of the migrants from V4 countries move to states in Western Europe, and in particular to the United Kingdom, the most incoming requests are from these countries (the United Kingdom at the first place) and not from other V4 countries. The exception of the workload cases between the Czech Republic and the Slovak Republic is fully in line with this interpretation as traditionally there are also very high migration flows between these two countries.

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<sup>7</sup> For more information see KRULIŠ, Kryštof (2015). *Internal Market among V4 Countries: Energizing stakeholders' activity to press for its smoother functioning*. Association for International Affairs (AMO), Research paper 1/2015. Available online at: <http://www.amo.cz/publications/internal-market-among-v4-countries-energizing-stakeholders-activity-to-press-for-its-smoother-functioning.html?lang=en>, p. 5-11.



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**The regional pattern for the workload is more visible only on the sending requests within the IMI System.<sup>8</sup> According to data of Polish IMI System, Poland sends through IMI System around 30% of its requests to other V4 countries, which reflects the geographical factors. The span of the workload of out-going requests may thus be more relevant source for measurement of the real need of internal market horizontal cooperation as it is less distorted by needs of cooperation triggered solely by the migration flows from V4 countries.**

## **The demand for horizontal cooperation from the citizens, business and authorities**

The speakers of the workshop agreed that currently most of the cases that lead to horizontal internal market cooperation have a source in free movement of persons. They concern such issues as proving of professional qualification acquired in a different EU member state or deals with complaints on discrimination in the areas of unemployment benefits, provision of health care or in social security issues. Neither Solvit Centres nor IMI System is used widely by the business. For instance, according to experience of the Czech Solvit Centre entrepreneurs still mostly submit their applications accompanied with full set of documents, translated and certified, so there is rarely a need to use IMI System for documents verifications. It is a case even when the submissions are prepared by professionals.

One possible explanation is that entrepreneurs and even consultation firms do not fully know of the possibilities allowed by the IMI System. The parallel and quite plausible explanation is that entrepreneurs prefer smooth execution of their submissions without further delay that may be caused by additional time spent on requesting cooperation through the IMI System (on average more than 20 additional days). Nevertheless further promotion of the possibilities of the IMI System among the consultants and law firms could still be relevant. The same is true for the further need of promotion of the IMI system among public authorities that may use it to send requests and thus simplify their own work and ease the administrative burden of citizens.

The general problem of the horizontal cooperation mentioned by the speakers of the workshop consists in difficulties to set a uniform time limit (deadline) for any task demanded from an authority in a different state as every state has its own procedural rules and time limits for actions of the public administration. In practice it is difficult to change established patterns just in cases related to foreign requests. This however may potentially clash with the

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<sup>8</sup> Since end of 2008 when the IMI system was introduced, only 56 cases were reported in PL-CZ relations, 25 in case of PL-HU and 18 cases between PL and SK, which reflects the low exchange of information via IMI in V4.



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principle of loyal cooperation in the EU law which under specific conditions requires proper and timely cooperation even in the horizontal relationships between member states.<sup>9</sup> It has been mentioned by the speaker from Hungary that Hungary belongs to a narrow group of EU member states that has a specific internal instruction that stipulates how governmental offices should proceed so they comply with the principle of loyal cooperation.<sup>10</sup> Otherwise, securing of the time limits is one of the tasks of the IMI Coordinators.

**Unless some degree of a harmonization of administrative proceedings and some way of synchronization of the maximum time limits for specific actions of public authorities is introduced on the EU level, the differing procedural law would most probably remain causing unpredictable delays in horizontal cooperation. If the demand for horizontal cooperation between the V4 countries rises in the future, it could be relevant to consider at least regional (V4) approximation of the relevant procedural provisions including agreed maximum time limits for specific cases.**

## Inspections and exchanges

The last part of the discussion of the workshop turned to the use of possible patterns of the Service Directive in further horizontal cooperation in EU and in particular in a format of a strengthened cooperation between V4 countries.

A first specific suggestion concerns exploration of possible expansion of the right of an authority from one EU member state to request information or even checks, inspections and investigations from other EU member state under the Service Directive.<sup>11</sup> According to experience of the workshop speakers the authorities in practice use the least intrusive way of request and instead of demanding a specific check, inspection or investigation ask usually only for information and leave to the requested authority full scope of action through which it would acquire the needed information. Given the sometimes mediaally over escalated issues over the problems with standards of food supplied from a different V4 country (e.g. the Polish gritting salt case),<sup>12</sup> it would be relevant to consider introduction of a similar right to request information, checks, inspections or investigations, as it is under the Service Directive, also into the agricultural sector. With such a tool of horizontal cooperation it could be easier to explain to the general public that a specific failure of food standards from

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<sup>9</sup> Ibid, p. 14.

<sup>10</sup> The government decree No. 354/2013. (X. 7.) Korm. Rendelet.

<sup>11</sup> Service Directive, Art. 29 (2).

<sup>12</sup> See KRULIŠ, Kryštof; LÍDL, Václav (2015). *Economic Journalism and Internal Market*. Association for International Affairs (AMO), Conference report 2/2015. Available online at: <http://www.amo.cz/publications/economic-journalism-and-internal-market.html?lang=en>.



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a foreign country has been followed by a request for inspection in the producer facility and that within a given deadline the report from the inspection will be issued. This may help to prevent spreading of negative impact of the standard failure to all suppliers from the wrongdoer country which often happens nowadays.<sup>13</sup> The speakers of the workshop, however, mentioned several difficulties with this measure to be adopted within the intergovernmental V4 framework and suggested that EU legal base would be far more convenient for such horizontal cooperative tool.

The second specific suggestion concerned exchanges of personal of authorities responsible for horizontal cooperation between V4 countries as already envisaged in the Service Directive.<sup>14</sup> In practice, such an EU exchange program has not been started. However, the speakers agreed that such a project may prove worthy for their work. Acquiring knowledge of the functioning of the administrative practice in a foreign country with which the home state of the official has frequent horizontal cooperation activity could after return of such an official improve the way of how his/her home state formulate requests and thus lead to smoother and quicker cooperation. If such programme is started as a pilot on the EU level or within the strengthen cooperation among the V4 countries, the IMI Coordinators, liaisons for the Service Directive or Solvit Centres could be the best positions to start with. An exchange of duration up to three months seems as the most convenient to acquire the relevant knowledge including familiarization with the administrative routine in the hosting country. These positions would also provide the most possibilities to use the hosting official for a performance of the real everyday tasks of the office even without knowledge of the hosting country language.

The necessity of the strengthen cooperation between V4 countries could increase if the demand for horizontal cooperation between them rises in the future. So far the highest demand for horizontal cooperation in the V4 region is between the Czech Republic and the Slovak Republic due to enhanced mutual migration flows.

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<sup>13</sup> Ibid.

<sup>14</sup> Service Directive, Art. 34 (3).



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## Other issues discussed during the workshop:

- Involvement of other state institutions to the systems and exchange of information on internal market. Participants expressed big potential for higher involvement of other ministries, e.g. Ministries of Foreign Affairs into the exchange of information through internal market information systems, that would help to support export, but also assist business in foreign countries e.g. through embassies and consulates.
- Potential of the involvement of regional actors, such as regional administration, municipalities, chambers of commerce into the IMI system that could help in several ways, e.g. to make the systems more visible and closer to citizens and business, have more information from the “terrain”.
- Missing feedback from the cases and their results, esp. in the IMI system. The IMI Coordinators and also Solvit Centres would welcome further feedback from the recipients of information on the results of the cases, e.g. if the information provided helped to successfully solve the problem / case. No such mechanism is now fully in operation.
- Increasing of the visibility of the horizontal cooperation tools for citizens and esp. businesses is necessary. Joint promotion projects of the tools for citizens and businesses in V4 countries would be very beneficial.



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## Workshop program:

Moderated by: **Kryštof Kruliš**, Research Fellow with the Association for International Affairs (AMO); Czech Republic

**Martyna Perek**, IMI Coordinator, Poland

**Imola Peresztegi-Nagy**, IMI Coordinator, Hungary

**Jozef Biznár**, Department of European Affairs and Internal Market, Ministry of Economy of the Slovak Republic, Slovakia

**Patrik Šmýd**, SOLVIT, Czech Republic

The workshop covered the following questions:

- How does the Internal Market Information System work between the V4 countries? How can its functioning be improved?
- How effective is Solvit and its informal handling of claims of denials of EU rights to free movement between V4 countries? Is Solvit used between the V4 countries more frequently than in relation to other EU member states?
- How effective are the forms of administrative cooperation prescribed by the Service Directive between the V4 countries? Is there room for enhanced cooperation on the Visegrad group platform?
- Could the pattern of cooperation established by the Service Directive, including inspection requests or the hosting of personnel, also be introduced to areas other than the service sector? Would relations between the V4 countries improve if such a level of cooperation was also guaranteed, for instance, in the agricultural sector?

During the workshop, AMO presented the research paper [Internal Market among V4 Countries: Energizing stakeholders' activity to press for its smoother functioning](#) which was written as a background material for a further analysis to be conducted during the course of the project. PPT presentation is available [here](#).

The international conference was a part of the [Smooth Functioning of the Internal Market between V4 Countries](#) project supported by the International Visegrad Fund. The project is a platform for meetings of experts, representatives of media, consumer organizations, chambers of commerce and public administrations from Visegrad countries in order to discuss possibilities of enhanced functioning of internal market in the Central European region.

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The Association for International Affairs – AMO is a preeminent independent think-tank in the Czech Republic in the field of foreign policy. Since 1997, the mission of AMO has been to contribute to a deeper understanding of international affairs through a broad range of educational and research activities. Today, AMO represents a unique and transparent platform in which academics, business people, policy makers, diplomats, the media and NGOs can interact in an open and impartial environment.

### In order to achieve its goals AMO strives to:

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- present critical assessment and comments on current events for local and international press;
- create vital conditions for growth of a new expert generation;
- support the interest in international relations among broad public;
- cooperate with like-minded local and international institutions.

## RESEARCH CENTER

Founded in October 2003, the AMO's Research Center has been dedicated to pursuing research and raising public awareness of international affairs, security and foreign policy. The Research Center strives to identify and analyze issues crucial to Czech foreign policy and the country's position in the world. To this end, the Research Center produces independent analyses; encourages expert and public debate on international affairs; and suggests solutions to tackle problems in today's world. The Center's activities can be divided into two main areas: first, it undertakes [research and analysis](#) of foreign policy issues and comments on [AMO blog](#); and second, it fosters dialogue with the policy-makers, expert community, and broad public.

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