

Abstract of Advisory Report:

Priorities for a Fair Europe: Stronger Together in an Uncertain World – Advisory Report 19/03

The Netherlands needs the EU in order to tackle the major problems of our time, such as climate change, migration, and digitalisation. EU countries must cooperate more closely to that end. The shifting global balance of power makes it necessary. For a strong and close-knit EU, it is important to improve living conditions, employment, productivity and incomes, and to reduce disparities between and within countries. This requires Europe to have a deeper and fairer internal market.

1.1 Request for an advisory report on a deeper and fairer internal market

In June 2018, the Minister of Social Affairs and Employment, acting also on behalf of the State Secretary for Economic Affairs and Climate Policy, requested the Social and Economic Council of the Netherlands (SER, “the Council”) to issue an advisory report on a deeper and fairer internal market. The Minister’s request noted that the internal market is an important basis for economic growth within the European Union (EU) and offers countless benefits for citizens and businesses.

But the internal market is never complete. For example, technological and other developments require adjustments to the regulatory framework. The request for an advisory report also noted that there is room for improvement in enforcement of the existing rules and that there are still flaws in the internal market. The free movement of persons and services not only has advantages but also effects that are perceived negatively by citizens. High levels of labour mobility affect social structures, in both the countries to which people move to work and in their countries of origin. Unbridled competition as regards wage costs and working conditions can undermine solidarity between European citizens and businesses. That is why, as the request for an advisory report puts it, “it is important to continue working towards an internal market that functions optimally and from which the EU’s citizens benefit equally: a deeper and fairer internal market.”

The Minister’s request for an advisory report asks the Council to explore the most significant choices and priorities on the way to a deeper and fairer internal market. It refers to the upcoming elections to the European Parliament (in May) and the appointment of a new European Commission (in the autumn) as important reasons for setting out significant choices and priorities in European integration – which includes the internal market. The boxed text below clarifies the position of the European Parliament and the European Commission, both of which have a five-year term of office.

European Parliament and European Commission

The directly elected members of the European Parliament represent the citizens of the European Union. Together with the Council of Ministers (the representatives of the Member States), they decide on EU legislation and the EU budget. The European Parliament elects the President of the European Commission, pursuant to a proposal from the European Council (of heads of government), taking into account the elections to the European Parliament. The appointment of a new Commission is subject to a vote of approval by the European Parliament.

The European Commission has the exclusive right to propose new legislation, implements the EU budget, and is the custodian of the Treaties. It promotes the public interest and carries out its duties with complete independence. The Commission is accountable as a body to the European Parliament. The Parliament can adopt a motion of censure against the Commission, in which case the members of the Commission are then required to resign collectively.

1.2 The Council's approach

The Social and Economic Council of the Netherlands has been involved in European integration for over 60 years, since negotiations for the Treaty of Rome (1957). That involvement stems from the realisation that European cooperation is essential for achieving the socio-economic objectives. It was with that in mind that, six decades ago, the Council welcomed the first steps towards market and policy integration in Europe. That integration is essential for our social prosperity, and it will remain so (see box). The Netherlands earns a large part of its national income from foreign trade, and controlling trading costs is therefore extremely important. In addition, many issues are of a cross-border nature and require an international – often European – approach.

A broad concept of prosperity

The Council's advisory report is guided by the objective of social prosperity in its widest sense. Social prosperity encompasses not only material progress but also social progress and a high-quality environment in which to live. By ensuring and maintaining balance and cohesion between *people, planet, and profit*, this approach creates the basis for sustainable development. Economic growth is therefore sustainable if it is accompanied by social cohesion, a pleasant and healthy living environment, and good environmental quality.

The Council believes that from the perspective of social prosperity it is obvious to discuss issues regarding the economic and social dimensions of the internal market in conjunction with one another. The request for an advisory report in fact invites such an approach by noting that "Deepening the internal market and making it fairer must go hand in hand."

Public support for European integration and cooperation is an important factor in that regard. The request for an advisory report makes a link to the provision by the EU of specific results, in particular by improving the operation of the internal market: "If these improvements are designed in such a way that everyone can reap the benefits, this will offer the best prospects for a prosperous Netherlands and for increasing support for the EU."

The Advisory Report was prepared by the Council's Europe Committee under the chairmanship of Prof. Romke van der Veen. A broad approach was adopted, specifically with a view to maintaining and strengthening public support for Europe. The question is how Europe, together with the Member States, can find an effective response to a range of challenges that is convincing for citizens, as well as what contribution a deeper and fairer internal market can make to this.

The Advisory Report was discussed and adopted at the public meeting of the Council on 12 April 2019. On that occasion, representatives of employers and employees stressed the vital importance of the EU for the Netherlands, while at the same time drawing attention to its current shortcomings. They also explained the need to give a new boost to the process of upward convergence within the EU.

Within the Council, it has been observed that the Advisory Report implicitly advocates the Netherlands viewing Europe with a different mind-set, for example where the EU's

budget is concerned. That budget is generally assessed primarily on the basis of the expenditure that it entails for the Netherlands, whereas the focus ought to be on the question of what EU expenditure is needed for Europe, and therefore for the Netherlands.

This call for a different mind-set was accompanied by a desire to make the comprehensive Advisory Report more easily accessible to a wider readership. The present much shorter version is the result. At its core is the summary with which it concludes (Section 5).

2. Restoring upward convergence

Promoting cohesion and upward convergence is one of the EU's major objectives. The "convergence machine" has worked well for a long time, bringing prosperity to many. In recent years, however, that machine has been faltering, with fault lines becoming visible within the EU: between countries, between regions, and between groups of people. Those fault lines threaten to become deeper and broader, and to fuel political divisions between Member States. This is detrimental to the cohesion and strength of the European Union.

The Council attaches great importance to restoring the process of upward convergence within the EU (see box and Section 5). That is necessary in order to maintain and strengthen public support for European integration; it is also necessary if the EU is to operate effectively, as a single entity, towards the rest of the world. And ultimately, the future prosperity of our own country also depends heavily on the successful socio-economic development of the other EU Member States (which are, after all, among our most important trading partners).

What is upward convergence?

Convergence occurs when productivity, living conditions and employment conditions, and employment between and within Member States grow towards one another, thereby reducing disparities. Upward convergence occurs when the low scores increase towards the high scores (not vice versa).

The overall picture is that:

- There is upward convergence in income levels between the old and new Member States. However, the southern Member States (in particular Greece) were hit hard by the euro crisis, leading to a partial loss of convergence between the southern and northern Member States.
- Regional income disparities within Member States are increasing. This is mainly due to agglomeration effects, whereby the areas around capital cities often have the best infrastructure and education and thus attract the most economic activity.
- Unequal opportunities for building up human capital are leading to a skills gap. Technological advances mean that workers with only a low level of education and less productive firms are increasingly threatening to lag behind.

What can the EU do to promote upward convergence?

- It can ensure that upward convergence is prioritised in the policies of the Member States. It should form the priority in the new long-term strategy of the EU and the Member States. The European Pillar of Social Rights is an important guidepost in this regard.
- An important element here is investment in people's skills. The EU can complement national policies in this regard, for example by means of the Erasmus+ programme.
- Targeted deployment of adequate financial resources by the EU and the Member States. Where the EU is concerned, it is a matter of targeting the resources of the EU budget and of the European Strategic Investment Fund.

- Further deepening of the internal market and making it fairer, as a basis for strengthening competitiveness and economic growth.
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3. Europe faces major demands and challenges

3.1 Overview of demands and challenges

The Council wishes to stress the importance of maintaining and strengthening public support for Europe. To achieve this, it is necessary to find an effective response to the challenges facing the Netherlands and Europe, and one that is convincing for citizens. The people of the Netherlands have a need for justice (fair distribution between countries), security, peace and stability, and protection by the national government and the EU. Support for the EU is therefore fairly widespread but not very deep. Scepticism is clearly evident. At the same time – and this is the paradox – many citizens look to the EU for answers to such fundamental issues as immigration, defence, and security.

For very many people, the lengthy financial and economic crisis that erupted in 2008 and the increased flexibility of labour relations have made their future prospects more uncertain. This is reflected, for example, in negative reactions to forms of cross-border labour mobility.¹ These increased concerns among citizens call for a serious response not only in national policy but also at European level. Tackling unfair competition, including through improved rules, and enforcing the rules effectively are important in this regard. It is also essential to combat the exclusion of groups of people and to strengthen social cohesion.

The world around us presents the EU and its Member States with greater challenges than a few years ago. This is due to various factors, including the shifting balance of power within the global economy, reduced willingness to cooperate multilaterally, rapid technological developments (digitalisation) with as yet unclear effects on the labour market and employment, mounting political tensions at the EU's external borders, and the need to tackle and adapt to climate change. These are dealt with below.

In addressing these challenges, the EU is handicapped by a number of weaknesses. Tackling external challenges effectively demands strong internal cohesion and a sufficient degree of unanimity. These will require investment in the period ahead.

For very many people, the lengthy financial and economic crisis, the disruptive changes in technology and society, and the increased flexibility of labour relations have made their future prospects more uncertain. This is reflected, for example, in the rejection of incoming cross-border labour mobility.

As a result of digitalisation and climate change, the EU and its Member States find themselves facing a number of hefty transition tasks, certainly in combination with the ageing of the European population that will increasingly manifest itself. That ageing process underlines the importance of well-managed immigration and higher growth in productivity – higher than Europe has managed to achieve recently – in order to ensure future prosperity for all, young and old, active and inactive.

Each of the separate Member States will also need to develop an effective policy response to these transition tasks. However, a joint, coordinated policy response from the EU is also required. Where new rules are needed, it is better to have a single set of rules for the EU than 27 different sets. And when global challenges are concerned, the EU has far greater clout externally than any individual Member State.

¹ See: Social and Economic Council (2014), *Advisory Report: Labour Migration*, publication no. 14/09, in particular p. 66.

3.2 Geopolitics and the shifting balance of economic power

The global balance of power is shifting, and it is not doing so to the benefit of the countries of Europe.² There is competition between the various socio-economic systems and a struggle for hegemony between the US, China, and the EU. This is accompanied by increasing protectionism. The role of geopolitical considerations in international trade is increasing. This is apparent, for example, from the way Chinese state-owned enterprises operate and from large-scale strategic projects such as China's *One Belt One Road* initiative. In addition, there is much tension in the transatlantic relationship now that the current US administration is so clearly distancing itself from multilateral forms of cooperation and is explicitly expressing itself negatively regarding European cooperation as such. The US refusal to appoint new judges to the WTO's Dispute Settlement Mechanism threatens to bring that mechanism to a standstill.

The EU, together with other countries, has long invested heavily in multilateral cooperation and has also benefited greatly from the structuring of economic relationships that results from it. Now, however, the EU finds itself facing existential political and economic challenges. The EU basically still has the necessary global clout, but only if it operates in a unified and sufficiently strategic manner.

With the EU, the Member States are in a stronger position within the process of globalisation because of the size of the internal market and the bargaining power that can be derived from it. The Netherlands – like the other EU Member States – is too small to be able to influence and shape the rules of the game for that globalisation process. The EU, by contrast, is indeed powerful enough to have a major impact, and to channel the globalisation process in a way that leads to sustainable growth in social prosperity, including by negotiating bilateral trade agreements. The internal market (and access to it) is an important geopolitical tool at the disposal of the EU, and an important foundation for our prosperity.

The Council has set out a number of basic principles for assessing the EU's bilateral trade agreements with third countries, a yardstick to ensure sustainability.³ Based on those principles, the EU can protect its own standards and values and also promote them vis-à-vis third countries. Ratification of the ILO's Core Labour Standards must form an integral part of trade and investment agreements with third countries. Bilateral trade agreements must not be a reason to alter the levels of protection afforded to people and the environment. The EU must be able to maintain and, if necessary, increase its high level of protection. Governments must remain free to declare certain services to be "of general public interest"; the method of organisation and financing also belongs in principle to the sovereignty of the Member States.

The EU sets the standard worldwide for consumer protection, safety, environmental protection, and accountancy. It is now also up to the EU to define the frameworks for responsible Artificial Intelligence (AI) and thus to set a global standard.

3.3 Migration from outside the EU

Irregular migration is a major concern for many people. The large influx of refugees in 2015 set relations within the EU on edge. As the first countries of arrival, Italy and Greece feel abandoned by other Member States that have sealed their borders. Hungary and Poland have come into conflict with other Member States over the EU Council's decision on the distribution of incoming asylum seekers from Greece and Italy. Without effective EU policy, there is a risk that support for the EU will crumble and that the free

² See: Social and Economic Council (2012), *Advisory Report: The Shifting Balance of Economic Power*.

³ Social and Economic Council (2016) *Advisory Report: TTIP – Transatlantic Trade and Investment Partnership*, publication no. 16/04.

movement of persons within the EU – and, by extension, the internal market – will come under pressure.

The Social and Economic Council of the Netherlands believes that an effective migration policy should be supported by the EU and the Member States jointly. It must cover the entire “migration chain” – tackling root causes, combating trafficking in human beings, ensuring effective control at the EU’s external borders, reception and selection, return policy, redistribution within the EU up to and including the integration of recognised asylum seekers into the labour market – while at the same time providing a humane system of reception for refugees.

3.4 Climate and energy

Climate change is a global phenomenon that entails risks and negative consequences in a number of respects. The EU – which is responsible for around 10% of global greenhouse gas emissions – already decided in 2009 to reduce its emissions by 80-95% by 2050. Doing so demands a fundamental overhaul of the energy system.

Increasing energy efficiency and decarbonising the economy are major objectives of the common energy policy. Energy security is also such an objective, involving ensuring the safe, reliable, affordable, and sustainable supply of energy. In this context, the heavy dependence on imports of natural gas and oil from unstable countries and regions is seen as a geopolitical risk. Increasing and making better use of cross-border transport capacity can promote sustainable energy supply and reduce dependence on energy imports from third countries.

The transition to a carbon-neutral economy and society will require additional investment. The EU’s Emissions Trading System (EU ETS) is an important mechanism for reducing greenhouse gas emissions, based on the “polluter pays” principle. It produces benefits from climate change mitigation, reduced harm from extreme weather conditions, and less air pollution (which leads to ill-health and premature deaths).

The transition to a carbon-free economy is accompanied by shifts in the economy and employment. These can have a significant impact on certain sectors and regions. The EU and its Member States need to have the necessary policy instruments at their disposal in order to guide the transition effectively. The timely reskilling and retraining of employees is a crucial element in this. The energy transition underlines the great importance of investing in the skills of large groups of people.

3.5 Digital challenge

Digitalisation makes it possible to develop new products and services and to tackle societal challenges more effectively. It is important for as many people as possible to be able to reap the benefits of digitalisation. At the same time, digitalisation is accompanied by major changes in production processes and structures, and it can therefore have far-reaching consequences for businesses, the labour market, workers, and labour relations.⁴ It is therefore of the utmost importance that companies and employees equip themselves with different skill-sets, and that education policy is designed accordingly. This underlines the importance of a coordinated skills strategy at European level.

Digital innovations can – and must – also be deployed to increase the quality of work. This depends in part on fundamental choices regarding the organisation of work and consultation between employers and employees.

The advent of large digital platforms leads to a disruption of existing labour relations between employer and employee, and also creates tensions through the centralisation of

⁴ Social and Economic Council (2016), *Exploratory Study: People and Technology – Working Together*.

economic power, the possible application of systematic (price) discrimination, and threats to fundamental rights such as privacy and security.

Within the EU, policies are being developed for the responsible development, use, and application of AI, taking into account the social, ethical, and legal aspects. Europe plays a leading role in AI research, but Asia and North America are at the forefront as regards commercial applications. The EU consequently runs the risk of missing out on opportunities to strengthen its competitiveness and of becoming dependent on solutions developed elsewhere. It is of urgent geostrategic importance for the EU to invest more in AI, partly so as to continue to pursue its own approach to the responsible use of this technology. The public interests at stake in new ICT applications also demand to be safeguarded at European level. The EU High Level Expert Groups have been set up with that in mind. There remains a certain tension between the EU's legitimate emphasis on the value of privacy and the desire to strengthen the competitiveness of European companies in digital markets.

Main recommendations:

- Ratification of the ILO's Core Labour Standards must form an integral part of trade and investment agreements between the EU and third countries. Bilateral trade agreements must not be a reason to alter the levels of protection afforded to people and the environment. The EU must be able to maintain and, if necessary, increase its high level of protection. Governments must remain free to declare certain services to be "of general public interest"; the method of organisation and financing also belongs in principle to the sovereignty of the Member States.
 - It is now also up to the EU to define the frameworks for responsible Artificial Intelligence (AI) and thus to set a global standard.
 - An effective migration policy should be supported by the EU and the Member States jointly. It must cover the entire "migration chain" – tackling root causes, combating trafficking in human beings, ensuring effective control at the external border, reception and selection, return policy, redistribution within the EU up to and including the integration of recognised asylum seekers into the labour market – while at the same time providing a humane system of reception for refugees.
 - Increasing and making better use of cross-border transport capacity can promote sustainable energy supply and reduce dependence on energy imports from third countries. The transition to a carbon-neutral economy and society will require additional investment. The EU's Emissions Trading System (EU ETS) is an important mechanism for reducing greenhouse gas emissions, based on the "polluter pays" principle.
 - The transition to a carbon-free economy is accompanied by shifts in the economy and employment. These can have a significant impact on certain sectors and regions. The EU and its Member States need to have the necessary policy instruments at their disposal in order to guide the transition effectively. The timely reskilling and retraining of employees is a crucial element in this. The energy transition underlines the great importance of investing in the skills of large groups of people.
 - In order to address the digital challenge, it is of the utmost importance that companies and employees equip themselves with different skill-sets, and that education policy is designed accordingly. This underlines the importance of a coordinated skills strategy at European level.
 - It is of urgent geostrategic importance for the EU to invest more in AI, partly so as to continue to pursue its own approach to the responsible use of this technology. The public interests at stake in new ICT applications also demand to be safeguarded at European level.
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4. Priority for upward convergence

Economic, social, and territorial cohesion and upward convergence are important EU objectives. Without upward convergence, the Economic and Monetary Union cannot function effectively. Upward convergence – in living conditions, in productivity, in employment, and in employment conditions – is also important for maintaining public support, given that feelings of social injustice and inequality among citizens can turn against Europe and thus undermine the European integration process.

For a long time, the European Union has actually worked as a convergence machine, but that machine has recently started to falter. Due to the financial and economic crisis, a number of southern European countries have experienced major setbacks. Most central and south-eastern European countries are still in the process of catching up, but that often does not translate into proportionate wage increases and improvements in household income, while regional disparities between the centre and the periphery are increasing.

EU and Member States need a long-term strategy

The Council considers it important to re-establish the process of upward convergence within the European Union. In the Council's view, this needs to become the priority for the new long-term strategy pursued by the EU and its Member States – the successor to the Europe 2020 strategy. Otherwise, there is a risk that the fault lines that are already emerging between and within Member States will become deeper and broader. That would be detrimental to the cohesion and strength of the Union and to the role that the internal market can play as a driver of growth. It can also undermine public support for European integration.

The European Pillar of Social Rights is an important guidepost for renewed convergence towards better living and employment conditions across the entire EU. These principles serve as a reference point for European policy coordination aimed at fostering policy competition between Member States, towards upward convergence.

The starting point for the long-term strategy is the current distribution of powers between the EU and the Member States. As regards the socio-economic field, the Council considers that the distribution of powers is currently in balance. In policy areas where it is primarily up to the Member States to act, there is a need for common policy objectives – along the lines of the Europe 2020 strategy – in order to promote upward convergence. New social indicators (on the Social Scoreboard) play a major role. It is important to involve the social partners in developing indicators and monitoring scores.

Adequate financial resources must be made available for the long-term strategy, by both the EU and the Member States. Where the EU is concerned, it is a matter of targeting the resources of the EU budget and of the European Strategic Investment Fund (EFSI) or InvestEU.

Within the EU budget, the Structural and Cohesion Funds are pre-eminently geared to supporting upward convergence – of Member States, regions, and groups of people – and to investing in the quality of infrastructural facilities. These goals are important for the proper operation of the internal market, and they indirectly benefit the Netherlands.

Investment in infrastructure

A high-quality infrastructure is essential for Europe's competitiveness and is a prerequisite for the proper operation of the internal market. Investing in infrastructure is important in various fields: in the knowledge infrastructure (research capacity that reinforces innovative capacity), in communication and energy networks, and in physical infrastructure (such as roads and railways).

The development of a European Energy Union so as to guarantee a sustainable energy supply is a good example of such coherence. This involves investing in good interconnections between national networks, sufficient coordination of energy and climate policy between Member States, and arrangements for free movement. The Treaty leaves Member States free to select their energy sources.

Investing in human capital

An important element for the long-term strategy is investment in people's skills, in human capital. Education and vocational training are an area in which the EU has the competence to support, coordinate, and/or supplement action by the Member States. In the coming period, this must be implemented by developing a common skills agenda, in the first instance by the social partners.

More investment in the creation, use, and maintenance of human capital ("lifelong learning") can help make better use of the opportunities offered by further digitalisation, the shift to a low-carbon economy and globalisation, to increase Europe's resilience, and thus to reduce the risks of unemployment and of groups being "left behind" on the labour market.

Opportunities for building human capital are often unevenly distributed, to the detriment of people with lower incomes and less education. Technological advances (digitalisation) mean that workers with only a low level of education, less productive firms, and peripheral regions threaten to increasingly lag behind. That is undesirable not only for social but also economic reasons, entailing as it does the under-utilisation of available potential.

There are already differences on the labour market between the skills required and those available. That concerns not only digital skills but also interpersonal skills, problem-solving skills, the ability to work together, and so forth. It is also necessary to respond to shifts in employment that are taking place, and will continue to take place, under the influence, for example, of digitalisation and the transition to sustainable energy.

The skills agenda is an important element in the broader – integrated – approach that is needed and that must be reflected in the long-term strategy pursued by the EU and the Member States. That strategy must also include investment in the quality and size of the infrastructure and in further development and improvement of the internal market.

The role of the social partners.

It is important to involve the social partners closely in the development of this new EU strategy for upward convergence. In line with this, the social partners must also be closely involved in the European Semester. The social partners at different levels have primary responsibility for implementing the skills approach.

The European social dialogue is a fundamental component of the European social model and of the European Pillar of Social Rights. It comprises the agreements, discussions, negotiations, and joint action initiated by the social partners, and is conducted both within individual sectors and on a cross-sectoral basis. Where appropriate, the European social dialogue can lead to EU legislation, for example the Temporary Agency Work Directive and the Part-time Work Directive. Since the economic and financial crisis, social dialogue in the Member States and at EU level has come under pressure, although sector agreements have been converted into (draft) EU legislation.

In the context of social dialogue, the social partners are also consulted regarding EU social legislation. The Council wishes to emphasise that consultation means more than just listening to the views of the social partners without any obligation. For the period 2019–2021, the European social partners have drawn up a work programme for cross-sectoral dialogue comprising six priorities: digitalisation; improved functioning of labour markets and social security systems; skills; psychosocial aspects and work-related risks; capacity building with a view to strengthening social dialogue; and the circular economy.

The aim is to conclude an autonomous agreement on digitalisation, with attention, *inter alia*, to the consequences for required skills, work organisation, and working conditions. In addition, various sectors have also drawn up work programmes for their own social dialogue.

Employment conditions are ultimately determined on a decentralised basis by the social partners. It is important that the right frameworks are put in place at European and national level to enable the social partners to achieve responsible wage formation in line with the objective of sustainable upward convergence.

Main recommendations:

- Upward convergence must become the priority for the new long-term strategy pursued by the EU and its Member States – the successor to the Europe 2020 strategy.
- The European Pillar of Social Rights is an important guidepost for renewed convergence towards better living and employment conditions across the entire EU. These principles serve as a reference point for European policy coordination aimed at fostering policy competition between Member States, towards upward convergence.
- In policy areas where it is primarily up to the Member States to act, there is a need for common policy objectives – along the lines of the Europe 2020 strategy – in order to promote upward convergence. New social indicators (on the Social Scoreboard) play a major role.
- Adequate financial resources must be made available for the long-term strategy, by both the EU and the Member States. Where the EU is concerned, it is a matter of targeting the resources of the EU budget and of the European Strategic Investment Fund (EFSI) or InvestEU.
- An important element for the long-term strategy is investment in people’s skills, in human capital. Education and vocational training are an area in which the EU has the competency to support, coordinate, and/or supplement action by the Member States.
- It is important to involve the social partners closely in the development of this new EU strategy for upward convergence. In line with this, the social partners must also be closely involved in the European Semester. The social partners at different levels shoulder primary responsibility for implementing the skills approach.

5. The internal market: deeper and fairer

In recent decades, the internal market has made an important contribution to the prosperity of the Netherlands and other Member States. The Council stresses the importance of further developing and strengthening the internal market. Deepening it and making it fairer must go hand in hand. A fairer internal market – providing a level playing field with decent conditions for all – is important not only for workers but also for businesses and consumers. For example, when a business wants to operate within the internal market, it is important not only that access to that market is properly regulated but also that there is a level playing field and that the rules of the game are enforced effectively. Ensuring that level playing field and that enforcement are in the common interest of the Member States.

The Council believes that further development of the internal market is not only a technical issue but must also – again, as in the run-up to “1992” – become a political priority. Some elements of the internal market are being eroded, thus distorting the level playing field. A number of large Member States are reluctant to address the major issues that hamper operation of the internal market, such as better enforcement and implementation of the rules. Brexit will not make that any easier. In some of the new

Member States, the wind of protectionism is blowing, making it more difficult to sell products from elsewhere in the EU. And the European Commission hardly displays any of the necessary drive needed to come up with a bold agenda. The Netherlands will therefore have to work with like-minded countries to get this issue high on the agenda in the various specialised councils.

In line with the EU Treaty, the Social and Economic Council of the Netherlands stresses equality of economic freedoms and social rights in the EU. That equality is also a measure of the proper operation of the internal market. It also offers the Member States scope for declaring certain services to be "of general public interest". Fundamental rights and the rule of law are important preconditions for the proper functioning of the European Union as a community based on the rule of law and on values.

Opportunities and obstacles

The people of the Netherlands (and of other Member States) interact with the internal market in differing capacities – as entrepreneurs or employees, as travellers and consumers – which can lead to diversity as regards how they experience and view it. As consumers, people generally benefit considerably from the internal market, even if they do not make any cross-border purchases. That benefit is taken for granted, and the same also applies to their use of space without internal borders.

But consumers often still feel inhibited about making cross-border purchases, not only because of the language barrier but also due to uncertainty as to whether any problems that arise will be resolved satisfactorily. It is therefore important to offer consumers greater certainty when making cross-border and online purchases by facilitating redress against unfair commercial practices and by improving alternative and online dispute resolution. Provided it avoids any abuse of due process, the European Commission's proposal to offer consumers in all Member States the possibility of collective redress deserves support.

When purchasing online, it is not always clear who the counterparty is from which one can if necessary seek redress. Online platforms can also be used to import goods and substances from third countries that fail to meet EU health and safety requirements. This requires EU regulation so as to give customers greater transparency and insight as regards their rights.

SMEs account for two-thirds of jobs and 57% of added value in the EU. For such enterprises, a deeper internal market offers further opportunities for development. For small businesses, additional formalities and procedures associated with international trade are a disproportionate obstacle. The existing harmonisation of rules and procedures in the context of the internal market is already significantly reducing that obstacle. In addition, SMEs need clear and easily accessible sources of information about the specific rules (procedures, permits required) in a given Member State. The "Single Points of Contact" – the government portals in each of the Member States that inform businesses about the necessary permits and formalities – are very important in that regard.

Where public procurement and tenders are concerned, governments are not permitted to discriminate on the basis of the nationality of EU-based suppliers. The purpose of the (European and Dutch) public procurement rules is to guarantee the fair awarding of public contracts and a good price/quality ratio for procurement. This opening up of the market provides opportunities for companies that are able to make a good competitive bid.

In practice, though, problems do occur. It is often the lowest price that is decisive in the public procurement process, rather than the best value for money or the provision of a service under decent employment conditions and in compliance with social legislation, because too little weight has been given to quality and the social aspects. Nor is optimum use yet being made of the possibility of investigating "abnormally low" tenders in greater detail. Making effective use of the scope offered by EU procurement law

requires further professionalisation of the purchasing staff of local and regional authorities and public institutions. In the area of social services, a review of the Public Procurement Directive is desirable. When municipalities determine that there is pre-eminently a case of local service provision, such services should be excluded from the scope of that directive.

In order to further deepen the internal market, it is important to look at both the free movement of goods and at the business services industry. Major shortcomings in the free movement of goods are to be found mainly in the areas of standardisation, mutual recognition of products, and market supervision. As regards standardisation, it is important for harmonised standards to be produced quickly and to retain market relevance. It is also necessary to improve operation of the system of mutual recognition, which is important, *inter alia*, for determining whether products are safe. This requires greater involvement on the part of the Member States. Better market supervision is also needed, with more stringent checks on compliance and improved cross-border cooperation between the various enforcement authorities. That is necessary, for example, in order to enforce product safety rules. It is also particularly important in view of the large volume of imports that enter the EU market in the form of small consignments. Having a level playing field through mutual recognition and market supervision is particularly beneficial for SMEs.

It is important to ensure, by means of suitable rules, that specific types of business services providers are properly qualified. Some 600 regulated professions are distinguished within the EU, with significant differences in the extent of regulation between the Member States. A number of Member States are not cooperating in assessing the proportionality of this regulation.

With a view to public support for the internal market, the experience and perceptions of citizens as workers are important. Employees and the self-employed find that the level playing field within the internal market is uneven and therefore leads to various kinds of unfair competition. That is partly due to inconsistent legislation, but more often than not to inadequate enforcement of existing European and national legislation. This underlines the importance of striving for a fairer internal market.

Making the internal market fairer starts with a good statutory framework that provides effective protection for workers, consumers and the environment, and a level playing field for businesses. New developments, such as digitalisation and the emergence of online platforms, call for appropriate new rules to safeguard public interests and protect public values effectively. However, legislation must also be enforced and that all too often fails to actually happen.

The labour market: European but also national

The free movement of persons, and thus workers, has created a European labour market. EU social legislation aims to create and ensure a level playing field. Where the labour market is concerned, the EU has a large number of directives setting out a mandatory minimum threshold for the protection of workers, thus ruling out that protection becoming the object of competition in the internal market. If existing social measures do not provide adequate protection, or if they are circumvented or violated by deploying cross-border workers, improved enforcement and new rules are necessary.

The EU's framework of directives laying down a minimum level of protection does not prevent there still being national labour markets in the socio-legal sense. The applicable employment law, social security law and tax law, as well as the organisation of the pension system, are national in nature. Monitoring compliance with social and fiscal rules is also the responsibility of the Member States. The co-existence of different national systems with regard to employment law, social security, and taxation means that European legislation is needed to cover cross-border situations (such as on coordination of social security). The increasing flexibility of the labour market, reinforced by new trends such as the rise of platform work, raises important questions:

- To what extent is the scope and application of the traditional concepts of employee, entrepreneur, client, and employer still appropriate in national and EU labour market practice?
- To what extent are national social protection systems adapted to changing labour markets, with the result that an increasing proportion of the working population have insufficient access to social protection because of their labour market status or the nature of their employment relationship?
- What changes are needed as regards education and training?
- What can be done to strengthen the bargaining power of flexworkers?

The Council considers it important for these questions to be answered at national and European level, as a matter of priority.

Improve enforcement of rules

Increased attention to compliance and enforcement is essential for confidence in the proper operation of the internal market. Barriers within the internal market arise from gaps in regulation, unclear regulation, and insufficient enforcement of regulation. Remedying this will require greatly improved cooperation and systematic sharing of information between Member States. As regards the labour market, the European Labour Authority is being established for this purpose. The social partners need to be closely involved in the work of the Authority, and must play a meaningful role as stakeholders by enabling them to report cases of fraud.

Effective enforcement of existing legislation requires greater efforts and improved cooperation on the part of the Member States and safeguards for the independence of the judiciary in the Member States. The pressure now being exerted by the EU to ensure the quality of the rule of law is essential for the proper operation of the internal market.

The protection of workers plays a major role in the free movement of services. Effective enforcement is necessary so to ensure that posting (secondment) is not abused because it may have cost benefits. This also requires a well-defined concept of the "seat" of a business so as to prevent the establishment of "brass-plate companies" ("letterbox companies") and "regime shopping". Effective enforcement is also important in order to prevent undesirable forms of policy competition between Member States which undermine the objective of high levels of protection for workers or the environment.

In order to ensure a level playing field within the EU, it is necessary to re-examine the rules on coordination of social security. The purpose of the coordination rules is to ensure that an employee is covered by social security where it makes the most sense from his or her point of view. Measures must be taken to prevent the applicable social security regime being utilised as a means of unfair competition. It is therefore important that the revision of the Posting of Workers Directive emphasises the temporary nature of posting. The concept of temporariness in the Co-ordination Regulation should be brought into line with this. Improved enforcement of the Co-ordination Directive is also needed so as to exclude, *inter alia*, brass-plate companies.

It is essential for A1 certificates – which show that a posted worker is insured in his or her usual country of employment – to be reliable, which is not sufficiently the case at present. Problems arise when the country of employment discovers that fraudulent and unreliable A1 certificates have been issued. The Council considers it essential that this be clarified.

New rules are needed for cross-border transport. Where international road transport is concerned, there is no question of a level playing field for companies and employees. This is due to insufficient clarity regarding the applicable employment legislation in the case of cross-border transport; an insufficiently strict concept of the "seat" of a business that encourages "regime shopping" in order to put pressure on labour costs; and insufficient options for enforcing the existing rules. It is important for the revised Posting

of Workers Directive to be applied uniformly to the transport sector in all Member States.

Regime shopping also occurs in the aviation sector, at the expense of a level playing field and decent employment conditions. In order to combat these practices, it is necessary to amend the rules at European level and to ensure that they are properly enforced, with Member States also collaborating in that regard.

Clarity as to the applicable rules is also needed so as to guide the further emergence of the platform economy. There is a need for clear European sectoral demarcation of the activities of digital platforms: are they information services or transport services? The status of platform workers – are they employees or self-employed persons? – also needs to be clarified, as does the status of the platform as an employer.

It is a good thing for clients, customers, and trade unions – based on shared social responsibility – to conclude agreements on excluding companies that engage in unfair practices.

Main recommendations:

- Increased attention to compliance and enforcement is essential for confidence in the proper operation of the internal market. Remedying this will require greatly improved cooperation and systematic sharing of information between Member States.
- Effective enforcement of existing legislation requires greater efforts and improved cooperation on the part of the Member States and safeguards for the independence of the judiciary in the Member States. The pressure now being exerted by the EU to ensure the quality of the rule of law is essential for the proper operation of the internal market.
- In the area of social services, a review of the Public Procurement Directive is desirable. When municipalities determine that there is pre-eminently a case of local service provision, such services should be excluded from the scope of that directive.
- Major shortcomings in the free movement of goods are to be found mainly in the areas of standardisation, mutual recognition of products, and market supervision.
- It is important to ensure, by means of suitable rules, that specific types of business services providers are properly qualified.
- The increasing flexibility of the labour market, reinforced by new trends such as the rise of platform work, raises important questions that must be answered, at national and European level, as a matter of priority.
- The social partners need to be closely involved in the work of the European Labour Authority, and must play a meaningful role as stakeholders by enabling them to report cases of fraud.
- Effective enforcement is necessary so to ensure that posting (secondment) is not abused because it may have cost benefits. This also requires a well-defined concept of the “seat” of a business so as to prevent the establishment of “brass-plate companies” (“letterbox companies”) and “regime shopping”.
- The concept of temporariness in the Co-ordination Regulation should be brought into line with the same concept in the revised Posting of Workers Directive. Improved enforcement of the Co-ordination Directive is also needed so as to exclude, *inter alia*, brass-plate companies.
- It is essential for A1 certificates – which show that a posted worker is insured in his or her usual country of employment – to be reliable, which is not sufficiently the case at present. Problems arise when the country of employment discovers that fraudulent and unreliable A1 certificates have been issued. It is essential that this be clarified.

- New rules are needed for cross-border transport. It is important for the revised Posting of Workers Directive to be applied uniformly to the transport sector in all Member States.
 - Regime shopping also occurs in the aviation sector, at the expense of a level playing field and decent employment conditions. In order to combat these practices, it is necessary to amend the rules at European level and to ensure that they are properly enforced, with Member States also collaborating in that regard.
 - Clarity as to the applicable rules is also needed so as to guide the further emergence of the platform economy.
 - It is a good thing for clients, customers, and trade unions – based on shared social responsibility – to conclude agreements on excluding companies that engage in unfair practices.
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