

Free movement of goods: elimination of obstacles to trade, Commission intervention mechanism

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This Commission staff working document contains the executive summary of the evaluation of Regulation (EC) 2679/98 on the functioning of the internal market in relation to the free movement of goods among the Member States.

According to the evaluation, the Regulation has been effective in enabling the exchange of information between the Commission and the Member States (through the national contact points - NCPs) via the early warning mechanism, even if such exchange mechanism is considered in some aspects insufficient.

Since the adoption of the Regulation up until June 2019, 244 obstacles have been reported to the Commission under the early warning mechanism, after which the Commission could inform the other Member States. However, the evaluation has also shown that there are many incidents that have not been reported under the Regulation.

The evaluation has also shown that the Regulation has a deterrent effect and thus has exerted pressure on Member States' public authorities to address cases of disruptions in the physical movement of goods, and has therefore improved the management of obstacles.

Shortcomings

The evaluation has identified a number of shortcomings, which overall undermine the value, efficiency, coherence and added value of the Regulation.

Effectiveness

The effectiveness of the Regulation is jeopardised by the lack of awareness, especially by local authorities, of the existence of the Regulation, its role, mechanisms, and objectives it seeks to pursue. As a result, many obstacles or disruptions are not reported. The lack of a monitoring mechanism to check the Member States' compliance with their obligations also contributes to the weakening of the effectiveness of the Regulation.

Efficiency

The main external factor influencing the efficiency of the Regulation is that, in order to not interfere with the right to strike, the Regulation does not prevent obstacles from occurring. It thereby does not prevent losses for economic operators, although it can help to shorten the time of disruption and thus related damages.

Coherency

To keep the Regulation coherent, relevant and with EU added value, it needs some adaptation to embrace new technological developments, to ensure faster communication of the obstacle and also inform interested parties and stakeholders. In terms of coherence, the Regulation is considered to be a useful instrument that does not interfere with other EU or national policies, in particular it is consistent with the EU transport and environmental policies.

Conclusion

It is concluded that the issues mentioned above could possibly be mitigated through:

- a better definition of the key concepts of the Regulation (e.g. ‘obstacles’);
- the introduction of a monitoring mechanism to check Member States’ compliance with their obligations under the Regulation;
- the introduction of a unified digital solution with real time information accessible to businesses and national associations to speed up information exchange and reduce the asymmetry of information;
- the introduction of a transparent, and non-discriminatory and effective procedure to compensate economic operators for any losses or damage related to the obstacles.

In the past, the EU institutions and relevant stakeholders were deterred from engaging in actions to strengthen the policy embodied in the Regulation due the unanimity rule required to revise the current Regulation. However, it should be noted that not all actions to further strengthen the policy would necessarily require legislative change and also alternative Treaty bases might be investigated.