

COMMISSION RECOMMENDATION
of 7 December 2001
on principles for using 'SOLVIT' – the Internal Market Problem Solving Network

(notified under document number C(2001) 3901)

(Text with EEA relevance)

(2001/893/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

- (1) Article 3 of the Treaty sets out the aim of abolishing all obstacles to free movement of goods, persons, services and capital between the Member States to create what is known as an Internal Market. Citizens and businesses, particularly small businesses, alike would benefit if there were a way of resolving informally the problems which arise when rules intended to achieve that aim are not applied correctly.
- (2) The Single Market Action Plan of 1997 ⁽¹⁾ called on Member States to establish 'Contact Points for citizens and for business' to which specific Internal Market problems can be channelled. Member States also established 'Coordination Centres' to work together to resolve cross-border problems, which are caused by misapplication of Internal Market rules by public administrations ('the problem solving network').
- (3) The problem solving network has now been in place for three years. Member States and the Commission, through the Internal Market Advisory Committee, have looked at how effective it is. They concluded that one of its main weaknesses was that cases were not all given the same standard of treatment and that outsiders could not see how it was working.
- (4) The Commission has set out its ideas on problem solving in its Communication on effective problem solving in the Internal Market ('SOLVIT' ⁽²⁾). It proposed a new approach called 'SOLVIT'. It is proposed to make the network more effective by setting up a shared online database. Coordination Centres in the Member States will register and track cases which will be more efficient and make it easier for citizens to see how it works.

- (5) Common principles should be laid down to make sure that SOLVIT is responsive to the needs of citizens and businesses and that efforts by one Member State will be replicated in all others. Furthermore, Member States should ensure that adequate human and financial resources are available so that Coordination Centres are able to deal with an increased number of cases, to provide a high quality service to users, and to promote awareness.
- (6) The European Parliament, the Council, ⁽³⁾ the Economic and Social Committee ⁽⁴⁾ and the Committee of the Regions ⁽⁵⁾ have all stressed the need for more effective ways of problem solving.
- (7) The White Paper on European Governance ⁽⁶⁾ is part of efforts to make the Union more tangible for its citizens and businesses. It also affirms the responsibility of national administrations and courts for enforcing and applying Community law correctly.
- (8) Since SOLVIT is a network for informal problem resolution, it should only deal with cases, which are not the subject of legal proceedings at national or Community level. An applicant remains free to launch such proceedings at any time, in which case the problem will be registered as closed in the database. Where other effective cross-border problem-solving mechanisms exist and are effective, SOLVIT is not intended to replace them, but to direct appropriate cases to those mechanisms.
- (9) Successful problem resolution requires the Member States' Coordination Centres to work together. The Coordination Centre in the Member State of the applicant should ensure that the case is valid and that all relevant information is made available. It is then up to the Coordination Centre in the Member State where the problem occurs to take steps to resolve it.

⁽¹⁾ CSE (97) 1 final of 4.6.1997.

⁽²⁾ COM (2001) 702 final of 27.11.2001.

⁽³⁾ Council conclusion of 31 May 2001.

⁽⁴⁾ CES 702/2001 of 30-31 May 2001.

⁽⁵⁾ CdR 200/2001Rev. 2 of 14/15 November 2001.

⁽⁶⁾ COM(2001) 428 of 25.4.2001.

- (10) Both Coordination Centres should confirm that a case is valid and that they will use their best endeavours to resolve it within a fixed deadline, which may be extended in exceptional circumstances.
- (11) Applicants should be informed in advance how cases are handled and what deadlines apply. They should be reminded that other more formal means of redress, such as legal proceedings, might also be available to them. In order to benefit from such formal means, a case may need to be lodged within certain deadlines, which will not be suspended as a result of using SOLVIT. Applicants do not have to accept proposed solutions. As SOLVIT is an informal problem-solving mechanism, it does not provide for ways for the applicant to challenge proposed solutions.
- (12) All proposed solutions should be in full conformity with Community law. The Commission reserves the right to take action against Member States whenever it considers that this may not be the case.
- (13) All appropriate steps should be taken to protect confidential information.
- (14) The principles set out in this Recommendation should apply from the time when the online database becomes operational,

HEREBY RECOMMENDS:

I. GENERAL

A. Subject-matter and scope

This Recommendation, sets out Principles to be followed by their Coordination Centres of the Member States when they deal with cross-border problems related to the application of Internal Market rules as part of the SOLVIT network.

It does not apply to problems which are the subject of legal proceedings at national or Community level.

B. Definitions

For the purposes of this Recommendation, the following definitions apply:

1. 'Coordination Centre': department in the administration of a Member State with responsibility for handling cross-border problems raised by individuals or businesses;

2. 'Home Coordination Centre': the Coordination Centre in the Member State in which the cross-border problem was raised;
3. 'Lead Coordination Centre': the Coordination Centre in the Member State in which the cross-border problem occurred;
4. 'cross-border problem': problem confronting an individual or business in a Member State involving the application of Internal Market rules by a public authority in another Member State; this includes situations where a citizen or business having an administrative link (e.g. nationality, qualifications, establishment) with one Member State is already in the second Member State where the problem occurs;
5. 'Internal Market rules': provisions governing the functioning of the Internal Market within the meaning of Article 14(2) of the Treaty;
6. 'legal proceedings': formal proceedings for the resolution of a dispute before a judicial or quasi-judicial body;
7. 'applicant': an individual or business which has submitted a cross-border problem to a Coordination Centre.

II. PRINCIPLES

A. Home Coordination Centre

1. The Home Coordination Centre should enter the cross-border problem in the SOLVIT database.
2. Before entering a case in the database, the Home Coordination Centre should:
 - (a) check its merits;
 - (b) verify whether the case could be better resolved by other means, for example, through the Euro Info Centres Network;
 - (c) check whether legal proceedings would be more appropriate.

It should not enter a case in the database if it is already the subject of legal proceedings. If an applicant decides, at any stage, to initiate legal proceedings, the case should be removed from the database.

3. When entering a case in the database, the Home Coordination Centre should make available to the Lead Coordination Centre all relevant information so that the case can be resolved quickly, subject to the confidentiality safeguards referred to in H.
4. It should maintain contact with the applicant until the case is closed.

B. Lead Coordination Centre

1. The Lead Coordination Centre should confirm acceptance of the case within one week and forward it to the appropriate part of its Administration for action. Any additional information required should be requested from the Home Coordination Centre as soon as possible. If the Lead Coordination Centre does not accept a case, this should be automatically indicated in the database and reasons for the rejection given. The Home Coordination Centre should inform the applicant, who may pursue the case through more formal proceedings.
2. The 'Lead' Coordination Centre should take responsibility for resolving the cross-border problem.

C. Information of the applicant

1. The Home Coordination Centre should inform applicants in advance about the procedure and deadlines. This should include information that more formal means of redress may be available at national and Community level. It should be pointed out that under national law certain deadlines might have to be respected in order to preserve legal rights and that SOLVIT does not affect these deadlines.
2. Applicants should also be informed that they do not have to accept proposed solutions. However, proposed solutions cannot be challenged within SOLVIT. If a problem cannot be solved through SOLVIT, or if a solution proposed is considered to be unacceptable, an applicant may still initiate formal proceedings, if so desired. If formal proceedings are launched during the problem-solving phase, this will result in the case being removed from SOLVIT.

D. Access to SOLVIT database

1. The Home Coordination Centre and the Lead Coordination Centre should be able to register information in the SOLVIT database and to close the case.
2. The other Coordination Centres should only have read-only access to the information on the case, which will be made anonymous. Applicants should have read-only access to their cases.

E. Deadlines

1. As soon as the Lead Coordination Centre confirms acceptance of a case, the database should indicate the date by

when the problem should be resolved. The deadline for resolving problems should be ten weeks.

2. In exceptional cases, the Home and Lead Coordination Centres may agree to extend the deadline by up to four weeks if they consider it probable that a solution can be found within that time.

F. Exchange of information and communication

1. The Lead Coordination Centre should use its best endeavours to resolve the case in close cooperation with other parts of its Administration.
2. Maximum use should be made of electronic mail and other rapid means of communication.
3. The Lead Coordination Centre should keep the Home Coordination Centre informed of progress. It should update the information in the database whenever there is a change or at least once a month.
4. The Home and Lead Coordination Centres should agree between themselves what language they will use to communicate with each other, bearing in mind the aim of resolving problems through informal contacts as quickly and efficiently as possible, in the interests of the applicant.
5. The Home Coordination Centre should be responsible for providing translations of documents submitted by the applicant, whenever necessary.

G. Outcome of a case

1. All proposed solutions should be in full conformity with Community law. The Commission reserves the right to take action against Member States whenever it considers that this may not be the case.
2. When a solution is found to a cross-border problem within the deadline, the Lead and Home Coordination Centres should confirm their agreement that the problem has been solved and register that fact in the database. The Lead Coordination Centre should inform the Home Coordination Centre how the applicant can benefit from the solution.
3. If the Lead Coordination Centre concludes that the Member State concerned has complied with Internal Market law and that the case is unfounded, it should enter that fact in the database. The Home Coordination Centre should inform the applicant of the reasons. The applicant may, if desired, pursue the case through more formal proceedings.

H. Confidentiality

1. The Home Coordination Centre should normally disclose the applicant's identity to the Lead Coordination Centre to facilitate problem solving. The applicant should be informed of this at the start of the process and offered the opportunity to object, in which case the applicant's identity should not be disclosed.
2. The information provided by the applicant should be used by the Lead Coordination Centre only for resolving the case.
3. Appropriate steps should be taken to safeguard commercially sensitive or personal data at all times and especially when transferring data across the network.

III. DATE OF APPLICATION AND ADDRESSEES

This Recommendation applies from 1 June 2002.

This Recommendation is addressed to the Member States.

Done at Brussels, 7 December 2001.

For the Commission

Frederik BOLKESTEIN

Member of the Commission