



# DIHK Survey on Single Market Obstacles 2019

Services, Goods and Investments

**DIHK**

Association of German Chambers  
of Commerce and Industry

 **Gemeinsam Europa Gestalten**

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## About the survey

Between May and July 2019, the DIHK interviewed the 79 Chambers of Industry and Commerce (IHKs) in Germany and the German Chambers of Foreign Trade (AHKs) in all EU Member

States about their experiences with obstacles in the Single Market for services, goods and investments. This document brings together the responses from IHKs and AHKs to this survey.

## Summary

Even 25 years after the creation of the EU single market, companies still face obstacles to cross-border activity in many EU Member States. This applies particularly to the provision of services, but also to trade in goods and investment in other EU countries. Bureaucratic hurdles caused by complex requirements and administrative procedures continue to be a considerable – and in some cases an increasing – problem for companies. The application of foreign regulations causes great difficulties for service providers operating across borders, especially SMEs. The lack of harmonization, and differences or shortcomings in the implementation and enforcement of EU law are also deplored. There is a great need for centralised and digitised administrative procedures, as well as information – also in English – on the requirements to be met. Language differences between Member States remain an obstacle. Foreign

companies are sometimes discriminated against compared to domestic companies, especially in public procurement. There are protectionist tendencies in some EU Member States. In addition, certain countries lack legal certainty or adequate legal protection, partly due to insufficient political independence and corruption in public administration, but also in courts, which causes difficulties for companies. Some obstacles in the Single Market are sectoral – such as in construction and insurance intermediation – and others country-specific. Even if many companies continue their activities in other EU countries despite the obstacles, after first cross-border experiences, e.g. with services, some companies would prefer in future to forego orders rather than to have to go through the necessary bureaucratic work again – a step backwards for the Single Market, which is urging political action.





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## A. Cross-border provision of services

### I. General obstacles

#### 1. Bureaucratic hurdles

Businesses complain about the sometimes complicated and confusing national rules for the provision of cross-border services and about complex, burdensome and lengthy administrative procedures. Consequently, starting and operating a cross border activity is rendered more laborious, time-consuming, costly and – in the case of errors leading to sanctions – also riskier and therefore less attractive. Such complaints concern in particular France, Luxembourg, Austria, Italy and Spain. Especially smaller companies, which are operating across borders for the first time, are suffering from this necessary effort. According to the experience of the Bayreuth Chamber of Industry and Commerce, “many companies tend to perceive an increase in national barriers rather than a simplification”. According to this IHK, after their first experiences with cross-border services, e.g. in France and Italy, some companies would prefer in future “to not process orders rather than to have to carry out the necessary bureaucratic work again”. Some companies have also complained about foreign customers often not being able to estimate the additional bureaucratic work born by companies, and not wanting to accept the cost calculation based hereupon.



*Note: Much information provided by companies relates to labour and social policy issues which cannot be included in this survey.*

Contact: e.g. IHK Aachen, IHK Bayreuth, IHK Bielefeld, IHK Bodensee-Oberschwaben, IHK Chemnitz, IHK Darmstadt, IHK Halle, IHK Dresden, IHK Koblenz, IHK Magdeburg, IHK Schwerin, IHK Südlicher Oberrhein, AHK Belgium, AHK Finland, AHK Greece, AHK Croatia, AHK Luxembourg, AHK Netherlands, AHK Sweden, AHK Spain

### 2. Different national regulations

#### a) Lack of harmonisation

In general, companies wish for uniform rules for the provision of services throughout the EU, in order to reduce the effort and costs related to the adaptation to varying legal requirements in cross-border activities. This also applies to administrative procedures, such as the registration of activities and employees.

Contact: IHK Bayreuth, IHK Bodensee-Oberschwaben, IHK Chemnitz, IHK Dresden

In particular, the fragmentation of consumer protection law hampers cross-border activities in Europe. Companies would welcome uniform regulations in this field. However, legal harmonisation especially promotes the Single Market if the economic benefits that companies gain through uniform regulations outweigh the simultaneous costs incurred by companies resulting from a new EU regulation and any new obligation. An appropriate balance must be struck between the interests of businesses and consumers. Consumer's responsibility should remain the guiding principle in consumer law; contractual freedom between companies and their customers should regain importance.

Contact: IHK Köln

#### b) Applicability of foreign law

Companies are often obliged to apply foreign law. This can cause them considerable difficulties and cost time and money, especially when companies do not settle permanently, but only provide services temporarily. The different legal provisions of the Member States also have an impact on planning and price calculation.

It would be important for distributors to be able to agree without further restriction on the applicability of their respective national consumer laws. This would provide greater legal clarity for businesses and avoid high legal investigation costs. Companies should not be obliged to conclude contracts under foreign legal systems. This is particularly important for SMEs or start-ups which, due to their size and structure, are not equipped to process many orders in many languages and to respect all consumer rights of the EU Member States (cf. on the application of the consumer's home country, Art. 6 Rome I Regulation). Since the level of consumer protection is generally high in all EU Member States, this would not lead to a reduction in consumer protection.

Contact: IHK Köln, IHK Magdeburg, AHK Sweden

#### c) Different or insufficient transposition of EU law

Companies also complain about the different transposition of EU law in the Member States. The AHK Sweden writes:



"National transpositions of EU directives lead to considerable differences in the respective provisions and ultimately there are no uniform standards in force". In many areas, EU directives leave the Member States much room for manoeuvre. Another major problem is that EU rules are interpreted inconsistently by national governments, authorities and courts, sometimes due to insufficient knowledge of existing EU law. This means that EU rules will not achieve the harmonisation hoped for, which would simplify cross-border operations for businesses. The IHK Bodensee-Oberschwaben states: "The large scope for national deviations makes it more difficult (especially for small and medium-sized enterprises) to effectively perceive the Single Market for services". This is why the IHKs Bayreuth and Darmstadt are in favour of an EU-legislation consisting in regulations instead of directives.

*Contact: IHK Bayreuth, IHK Bodensee-Oberschwaben, IHK Darmstadt, IHK Düsseldorf, AHK Sweden, AHK Slovakia*

One example is the General Data Protection Regulation (GDPR), which is not implemented uniformly throughout the EU. This is due to many of the EU Member States' scope for action, but also to a partly inconsistent interpretation. AHK Finland reports: "There are sometimes different views, e.g. regarding who is the controller and who is the processor (e.g. in personnel management). This leads to a need for clarification in international business relations, which does not serve the smooth running of business." An EU-wide uniform interpretation of existing law would greatly help businesses to reap the benefits of approximation in their day-to-day business.

*Contact: AHK Finland, Annette Karstedt-Meierrieke, DIHK (see also DIHK Position Paper of 2.7.2019)*

In addition, the often incorrect transposition of EU law into national law is a problem, along with the fact that national authorities and courts sometimes simply do not apply EU law. As a result, the freedom of businesses to provide services guaranteed by the EU Treaty and enshrined in many EU laws is not effectively implemented in practice, and entrepreneurs can only make use of this freedom under difficult conditions. Examples hereof are public procurement (see e.g. AHK Slovenia report, p. 15) and the use of electronic signatures from other EU Member States. Electronic signatures are increasingly required for many administrative steps such as company registration, filing of annual accounts or filing of documents. Companies would like to see both national and generally accepted international procedures be admitted in all EU Member States, without companies having to use the procedure approved for one single country and to purchase the necessary software/hardware in addition, as is the case in Poland, Sweden and Spain, for example. The eIDAS Regulation (Regulation (EU) No. 910/2014 on electronic identification and trust services for electronic transactions in the Single Market and repealing Directive 1999/93/EC) must be effectively implemented (see also p. 15, 16 and 21).

*Contact: IHK Bayreuth, AHK Poland, AHK Sweden, AHK Spain*

#### **d) Difficulties regarding the mutual recognition of foreign regulation**

There are difficulties with the mutual recognition of national regulation in other EU Member States. For instance, certain companies complain about the inconsistent recognition of professional qualifications in the Single Market, despite the existence of EU-wide regulation of this matter. The same applies to e-signatures. The freedom to provide services is also realised by the mutual recognition of national standards according to ECJ case law. In particular, where this is provided for under EU law, as is the case under the Directive on the recognition of professional qualifications or the eIDAS Regulation, this must also be implemented effectively so that companies can actually benefit from the freedom to provide services. State authorities are responsible for this. The SOLVIT centres are important points of contacts in this regard.

*Contact: IHK Koblenz, AHK Finland, AHK Greece, Dr. Knut Diekmann, DIHK*

### **3. Need for centralised and digitised administrative procedures and information**

#### **a) Administrative procedures**

Simple and easily accessible digitised administrative procedures are very important for businesses. This also makes it easier for businesses to have cross-border activities, because it reduces the efforts and also the costs related hereto. With the Single Digital Gateway (SDG), a number of administrative procedures will have to be made available online in the coming years. However, not all administrative procedures relevant for service providers are included in the SDG. Administrative procedures must still often be carried out separately in each country. And with the exception of certain limited EU-wide requirements, each procedure and portal looks different – even if in the future, some of them will be linked to the EU website. In addition, documents and evidence already submitted in the home country are often required to be submitted again to foreign authorities in the EU.



From the business point of view, however, a single EU-wide electronic portal would be helpful for all necessary notifications related to the provision of services. Then, companies would not have to familiarise themselves with the formalities required by any additional Member State, which is particularly time-consuming and costly, especially for SMEs. In addition, the IHK Darmstadt, for example, believes that a joint EU office should "centrally administer the applications for cross-border administrative procedures". This would guarantee uniform handling and ensure that national unilateral action would be curbed. Documents that have been submitted once should not have to be submitted again (once-only principle). In this way, unnecessary duplication of administrative work can be avoided. The establishment of so-called "one-stop shops" is also welcomed by companies, because then all procedural steps can be handled by one contact person, which makes it considerably easier for companies to deal with the authorities. There is also hope that the procedure will be shortened, as processing times are currently often too long and not practice-oriented. As the experience of the IHK Darmstadt shows, particularly the length of administrative proceedings "has a prohibitive effect instead of promoting intra-community trade in services".

*Contact: IHK Bodensee-Oberschwaben, IHK Darmstadt, IHK Dresden, IHK Erfurt, AHK Greece, AHK Slovakia*

## b) Information and points of contact

The Single Digital Gateway also brings improvements regarding the provision of information and the search of points of contact. The further expansion of the "Your Europe" portal is rated as positive by the IHKs, as is an improvement of the single points of contact (SPC) and a strengthening of the Enterprise Europe Network (EEN). The EU Commission and the EU Member States are increasingly endeavouring to make the relevant information available on the Internet in a bundled and easily understandable form and to name contact persons. Nevertheless, many improvements are still needed. Good, complete and up-to-date information concerning national and European requirements, also in English – or better in German as well – is still not sufficiently available. However, it is urgently needed by companies in order for them to be certain to comply to all requirements without spending a disproportionate effort in obtaining information. For companies, this means not only time and cost savings, but also legal certainty and a lower risk of sanctions for non-compliance with obligations. An effective implementation of the SDG is still missing. For this purpose, the Member States must actually provide information to the EU Commission and make contact persons available.

The IHK Darmstadt, therefore, calls for a further improvement of the "Your Europe" portal: "From the point of view of entrepreneurs, it is essential to obtain a complete overview of the regulations governing the provision of services in the EU Member States. This overview must be available online in an easily accessible place in all official EU languages. (...) This does not only create transparency but also pressure to compete between

business locations and complete the Single Market." In addition, there must always be a contact person "to help with questions concerning national rules".

*Contact: IHK Bayreuth, IHK Bodensee-Oberschwaben, IHK Darmstadt, IHK München, AHK Greece, AHK Croatia, AHK Netherlands*

## 4. Language barriers

Several IHKs and AHKs also mention the language barrier as a problem in the cross-border provision of services. The obtention of information in a foreign language and necessary translation of documents is a major effort for companies, especially for SMEs. Information, regulations, collective agreements etc. are often only available in national language, as are online reporting portals. It is not possible in all Member States to obtain information in English or to register in English. This can make it considerably more difficult to obtain information and communicate with the authorities. The IHK Magdeburg states: "companies that do not have personnel with the corresponding foreign language skills are often faced with a great challenge".

For this reason, all information should be available at least in English and reporting portals should also be usable in English, as is the case with the Single Digital Gateway. According to the IHK Südlicher Oberrhein, "a translation of the documents or certificates to be kept available (into the language of the host country) should generally not be necessary, because this is disproportionately time-consuming and expensive. At best, a translation into English should suffice". Also the requirements for the provision of services should usually not require comprehensive language skills in the national language either, as this could challenge the freedom of services.

*Contact: IHK Bayreuth, IHK Bodensee-Oberschwaben, IHK Dresden, IHK Magdeburg, IHK Südlicher Oberrhein, AHK Greece, AHK Italy, AHK Netherlands, AHK Spain*

## 5. Excessive regulation

The regulatory environment for enterprises, in particular SMEs, should become simpler and more transparent. Although many areas are unregulated, national requirements continue to create difficulties for cross-border trade in services. The databank of regulated professions shows that some Member States regulate more than others. For every newly introduced regulation a prior control of its aim and actual added value must be made – this is also provided by EU law. Existing regulation must be examined critically as well. In some cases, a further reduction in the number of regulated professions and in the requirements for the provision of certain services is needed. It is also important to strike an appropriate balance between entrepreneurial freedom and the interests of service recipients and also security requirements in hazardous industries.

Contact: IHK Bayreuth, IHK Darmstadt, Dr. Knut Diekmann, DIHK

## 6. Discrimination against foreign service providers

In spite of the convergence of the EU Single Market, foreign companies are repeatedly put at a disadvantage compared to domestic companies, partly due to protectionist legislation. To avoid such distortions of competition, national authorities and courts should respect the fundamental freedoms of the Single Market, including the principle of non-discrimination, and the Commission should vigorously pursue possible infringements.

Contact: IHK Bayreuth, AHK Croatia, AHK Spain

One example is public procurement. In a number of Member States, in particular Slovenia (see p. 15), companies from outside the EU regularly face difficulties with respect to the attribution of public contracts and discrimination. In addition, the procedures are long and complicated.

Contact: AHK Bulgaria, AHK Slovenia

## 7. Shortcomings in legal certainty and legal protection

In a number of Member States, cross-border companies also suffer from shortcomings in legal certainty and legal protection. Despite the gradual improvement of the application of EU law, of legal certainty and of the efficiency of legal systems in EU Member States, they are still inadequate in a number of Member States. Businesses complain about insufficient implementation of EU law and (EU) law infringements by administrations (see above, p. 8). But the legal system is a location factor which is of great importance for the decision of companies to engage in the respective region. EU legislation must be transposed correctly and quickly, applied uniformly and enforced consistently to ensure a level playing field for all European businesses.



In addition, there is a lack of legal certainty due to frequent, sometimes retroactive changes in legislation, especially in tax law. This makes it difficult for investors in particular but also for service providers, to adapt in a timely manner to the current legal situation. Legal protection against infringements of EU law is inadequate. Lengthy administrative and court proceedings, inefficient and poorly equipped authorities and courts as well as protectionism on the part of the public authorities hinder the exercise of fundamental freedoms and fundamental rights as well as the use secondary legislation by companies. Sometimes there is a lack of political independence in the administration, but also in the judiciary. Corruption persists, particularly in the administration of some Member States, but sometimes also in the judiciary. This destroys confidence on the part of companies in the local legal system and hampers competition from companies that respect the law. It also has a negative impact on companies wishing to enforce claims against domestic authorities or business partners. Indices of international organisations such as the World Justice Project Rule of Law Index, the Corruption Perception Index of Transparency International, the Ease of Doing Business Index of the World Bank and the Global Competitiveness Report confirm these problems. Shortcomings in the judicial systems are also clearly visible in the EU Justice Scoreboard, whereas shortcomings in the national legal systems are shown in the EU's rule of law proceedings against certain EU Member States (see also below under Investments p. 20).

Contact: AHK Bulgaria, AHK Croatia, AHK Greece, AHK Italy, AHK Poland, AHK Slovakia

## 8. Tax aspects

### a) General information

Value added tax (VAT) is difficult to handle for companies in the mass business – this applies to both national and EU cross-border situations. This is accompanied by high administrative burden, an increase in legal uncertainty and high financial and liability risks. For example, different evidence requirements in individual Member States and different procedures in the settlement of input tax pose a risk for entrepreneurs. In addition, various VAT exceptions in different states add complexity to companies trading cross-border and raise the question for them whether they should trade cross-border at all as they look for answers to the following fundamental questions:

- whether the vendor or the customer has to pay the tax,
- which tax rate applies,
- in which state VAT is to be paid and
- which national regulations must be observed.



Contact: IHK Koblenz, IHK Magdeburg, AHK Poland, AHK Spain, Brigitte Neugebauer and Malte Weisshaar, DIHK

## b) Reverse Charge

The simplification rule of reverse charge (RC) still does not cover all cross-border services (i.e. services provided by a trader established abroad in a certain country), such as real estate services. In addition, the conditions for the application of the RC procedure differ in various aspects. In Germany, for example, it is not necessary for the recipient of services to be resident in Germany; a foreign customer might have to register for tax reasons in Germany. However, in other Member States (e.g. Portugal) the application for the RC procedure presupposes the residence of the customer in that State; otherwise the supplier must charge VAT and pay it to the foreign tax authorities. The changes in the application of the RC procedure to purely domestic situations (in Germany, for example, with regard to construction services), which sometimes take place in rapid succession as part of the fight against fraud, are also difficult for companies to keep track of. Additionally, they have to deal with the respective national VAT law in corresponding cases. Furthermore, a number of questions of interpretation arise, such as the treatment of subcontractor cases or the scope of some of the exemption rules. The distinction between 'contract for service delivery' (in German "Werkleistungs-Vertrag") and 'contract for manufacture and supply' ("Werklieferungs-Vertrag"), which does not exist in all Member States, also becomes relevant here.

Derogations should be abolished where possible and the RC procedure should be generally applicable in B2B cases. In addition, the conditions for application should be defined uniformly throughout the EU. It is particularly difficult for SMEs to keep track of this and apply all the rules correctly.

Contact: IHK Südlicher Oberrhein, Malte Weisshaar and Brigitte Neugebauer, DIHK



## c) VAT registration and submission of VAT returns

VAT registration and the associated obligations to submit VAT returns in the various EU states still represent a hurdle for SMEs. Here it would be helpful to standardize formalities or even create a uniform registration portal (similar to the MOSS system) for services to private customers (B2C). At the same time, VAT regulations should be further harmonised. Different provisions of the respective national material law pose great difficulties, particularly for SMEs. In addition, the national procedural tax rules are also a considerable obstacle. An adjustment should also be sought in this respect.

Contact: IHK Südlicher Oberrhein, Malte Weisshaar and Brigitte Neugebauer, DIHK

## 9. Sector-specific problems

The construction industry is particularly affected by bureaucratic difficulties, such as the complex registration obligations in France (professional identification card or Cartes d'identité professionnelle BTB) and Spain (REA register).

Contact: IHK Bodensee-Oberschwaben, IHK Halle, IHK Südlicher Oberrhein

With regard to insurance intermediaries, bureaucracy is created partly by EU law and partly by national law. If an insurance intermediary wants to go to another EU country to carry out insurance mediation, he must notify this the registration authority, in Germany the IHK, which in turn transmits this to the host country (§ 11a para. 4 GewO). This serves to implement Articles 4 and 6 of the Insurance Distribution Directive (IDD). However, the notification procedure is very complicated and time-consuming. Not all registry authorities forward the reports correctly and promptly or process them correctly. In addition, it is disputed whether the insurance intermediary is, nevertheless, allowed to operate abroad immediately. When using the freedom to provide services, waiting for the confirmation notification for the information sent should not be a prerequisite for action. However, the Directive provides otherwise and there is legal uncertainty. All in all, the effort involved makes it very difficult to have business activities in other EU countries.

Apart from that, the orderly financial circumstances of the relevant traders must be reviewed within the framework of a complex licensing procedure in accordance with § 34d GewO. For this purpose, information in debtor registers of the last five years must be checked; an extract hereof shall be submitted. If the persons concerned have resided in other European countries during this period, the foreign debtor registers must also be checked. In practice, however, it is very difficult to gain access to the relevant foreign registers. The IHK Dresden reports: "In general, you don't know the competent authorities that can provide information or concrete extracts".

Contact: Mona Moraht, DIHK, IHK Dresden

## II. Country-specific barriers

### 1. Belgium

#### a) Mandatory "Agréation" to carry out public contracts in the building sector

In Belgium, the construction sector incurs considerable administrative burden and cost. In Belgium, a so-called "Agréation" is required to carry out public contracts in the construction sector. The necessary documents for granting the "Agréation" depend on the desired class, but in most cases include the following documents:

- Police clearance certificate (criminal record)
- Commercial register excerpt or business registration
- Certificate of proof of no previous bankruptcy and paid taxes and social security contributions
- Certificate of incorporation of the company and amendments to the partnership agreement
- Certificate of satisfaction of previous clients
- Certificates relating to the balance sheets (e.g. copy of last published balance sheet)
- List of academic diplomas and other certificates awarded to managers
- Various completed and signed forms which can be found on the homepage (<https://economie.fgov.be/fr/themes/entreprises/secteurs-specifiques/qualite-dans-la-construction/agregation-des-entrepreneurs>).

This leads to considerable administrative burden for the companies concerned.

#### b) Mandatory identification card on construction sites (Construbadge)

Since 1st of October 2014, construction workers have been obliged to carry a so-called Construbadge on Belgian construction sites so that they can be identified. Construction companies are obliged to apply to the so-called Safety Fund for the Existence of Construction Workers ("Fonds voor Bestaanszekerheid van de Werklieden uit het Bouwbedrijf"/"Fonds de Sécurité d'Existence des ouvriers de la construction", fbz-fse Constructiv) and to pay a fee. However, the Construbadge will not be sent abroad, e.g. Germany. For foreign construction companies, this not only means a considerable obstacle to their cross-border activities, it also constitutes discrimination against domestic providers.



#### c) Taxes

It is necessary for the supplier, if he is the person liable for payment of VAT, to register for VAT in Belgium. In the worst case, this registration can take up to three months. In addition, there are numerous formalities to be respected depending on the value of the benefits: a daily attendance registration or a contract registration with the social insurance, for example.

*Contact: AHK Debelux*

### 2. Bulgaria

From the point of view of the AHK, deficiencies in public administration are a major problem for companies in Bulgaria (cf. also p. 13). According to the annual business survey of the Bulgarian AHK, 62% of the companies express the most dissatisfaction regarding the fight against corruption. 54% of enterprises are discontent with the lack of transparency of public administration in public procurement. However, confidence in the public administration in general is rising steadily, suggesting a process of improvement (see section on investments p. 20).

*Contact: AHK Bulgaria*

### 3. Croatia

According to a snap survey by the AHK Croatia among companies from its board, one third of the companies surveyed felt restrictions on foreign service providers and difficulties in providing services. Half of the companies feel discriminated in relation to local service providers. Complex regulatory requirements and administrative procedures, unnecessary bureaucracy, ineffectiveness, the lack of transparency and independence of the public administration, as well as retroactive changes in legislation are seen as obstacles. In some cases, there is corruption.



The judiciary works very slowly (see p. 11). Foreign companies are often not provided with the necessary information on the procedures to be followed (see above p. 10).

*Contact: AHK Croatia*

#### 4. Finland

In Finland there are difficulties with the recognition of diplomas and qualifications, as well as with the different application of the GDPR (see p. 9).

*Contact: AHK Finland, IHK Schwerin*

#### 5. Greece

According to AHK Greece, "bureaucratic burden, regulatory and tax requirements, lengthy approval and judicial proceedings, (...) retroactive changes in the law and lack of certainty regarding a long-term tax system" hinder foreign companies in Greece. Bureaucracy is seen as the second biggest problem for companies in Greece, as confirmed by the Global Competitiveness Report and the World Bank's Ease of Doing Business Index. Online procedures have been introduced in some cases in recent years but are often still lacking: "A lot of time is lost as a result". "In the ministries and authorities, e.g. the tax office, it is often difficult to find the responsible contact persons and to obtain binding and generally valid answers." Especially where the laws leave room for discretion, this leads to major delays in administrative procedures. The AHK Greece also reports difficulties with the recognition of qualifications and required skills (such as linguistic skills) of tourist guides.

*Contact: AHK Greece*

#### 6. Italy

From the point of view of the AHK Italy, "the bureaucracy, the insecurity caused by legislation and the lack of competence of the authorities are the biggest obstacles for companies in Italy". There are many bureaucratic obstacles to the provision of services. Lack of transparency is also a problem. It is often unclear whether and which permits are required in Italy for certain services and according to which regulations these have to be provided. Information and portals are often only accessible in Italian. Inquiries to the authorities are either not answered at all or only superficially. Often, a "grey area" remains for companies, which requires the involvement of experts or is associated with legal uncertainty and liability risks. Particularly in tax law, the legal situation often remains unclear and the tax administration is not very cooperative. Companies perceive them as being prejudiced against foreign service providers.

The AHK Italy also takes a very critical view of retroactive laws and legal changes strongly affecting investment plans, e.g. in

tax law. Also, the legal protection in Italy is not considered as sufficiently effective. The duration of the proceedings is very long, at least one and a half years for a first instance judgment; then a further two to five years for the second and third instances. Debt recovery takes at least a year and is very uncertain. Since so-called "medium-sized companies" are not subject to insolvency, there is little pressure to pay receivables. There is no private insolvency in Italy.

Finally, service providers are affected by a new regulation for cars registered abroad. Decree-Law No 113/18 amended the Italian Road Traffic Regulations and provides, inter alia, that vehicles registered abroad may not be driven in Italy by legal entities established in Italy for more than 60 days. The penalties provided for under Art. 93 (7) bis of the Italian road traffic regulation reach from 712 to 2,848 euros; in addition, the confiscation of the vehicle is ordered immediately. Foreign companies that provide company cars to employees employed in Italy must pay attention to the contractual arrangements and certain formalities in order to prevent the imposition of the penalties mentioned above.

*Contact: AHK Italy*

#### 7. Poland

##### a) Taxes

Tax calculation is a challenge for entrepreneurs operating on the German-Polish services market. One of the problems is profit calculation. According to the applicable national regulations – both in Poland and in Germany – the financial result of an enterprise should be calculated according to the interna-



tional standards ("Authorized OECD Approach"). However, the double taxation agreement signed between Poland and Germany in 2003 does not take all of these principles into account and leads to deviations in finding the correct taxable result. In addition, the company is obliged to keep records for the tax administration and, sometimes on top, to do some tax accounting.

The precise form of this documentation is unclear till today.

#### **b) Legal certainty**

Companies continue to be very dissatisfied with the legal uncertainty and unpredictability of economic policy (see above, p. 11 and on investments on p. 21). The lack of efficiency of the Polish courts is also a fundamental problem. Long proceedings are common. The transparency of public procurement and the fight against corruption are ranked as poor.

#### **c) Recognition of workplace training**

For employees sent to Poland, there is a general obligation to have completed a Polish workplace training course before starting work at the Polish site. Equivalent workplace training is not recognised. Fines are imminent and the Polish service recipient even has the right to refuse to accept the service. Introducing an obligation of mutual recognition for workplace trainings where it is considered equivalent could solve this problem.

*Contact: AHK Poland*

### **8. Slovakia**

AHK Slovakia generally deplores the inefficient public administration, bureaucracy, e.g. with regard to registration and reporting obligations, and the lack of digitisation. In addition, differences in the application of the law hamper companies operating across borders. Finally, there are complaints about deficiencies in legal certainty, lengthy proceedings, unpredictability of judgments and lack of continuity in legislation (see above, p. 8 et seq. as well as with regard to investments p. 22).

*Contact: AHK Slovakia*

### **9. Slovenia**

#### **a) Public procurement**

From the point of view of AHK Slovenia, the problem remains that German and other companies from other EU countries regularly have difficulties in public procurement (cf. also above p. 11). "The proceedings are long and complicated and require a great deal of effort on the part of the applicants. Foreign companies, in particular, are repeatedly asked to submit new and more comprehensive documents during the proceedings. Applicants often lose interest". Even after the entire procedure has been completed, it is not uncommon for a Slovenian company to be awarded the contract without a clear justification, even though foreign companies have submitted a much cheaper bid.

In addition, the lack of effective legal protection in the review procedure remains a problem: the National Revision Commission is not a court in the sense of EU law, its members are not judges and do not have a comparable degree of independence.

They are apparently not obliged to consider all procedural guarantees under Art. 6 ECHR; in particular, it is not possible to obtain expert opinions before the National Revision Commission. In addition, judicial legal protection against its decisions is only available to a limited extent. This entails the risk of unfair treatment, especially of foreign investors.

However, the situation has also improved: Especially in those cases in which public contracts are awarded to foreign companies, there are hardly any obstacles left in the way; in particular, there are no longer any restrictive reporting obligations to be observed.

*Contact: AHK Slovenia*

#### **b) General legal protection**

According to the AHK, there has recently been an overall positive trend in the level of legal protection in Slovenia and complaints about lengthy court proceedings have also declined significantly in recent times. However, Slovenian lengthy administrative proceedings are problematic for companies (see p. 11 and p. 22 with regard to investments).

*Contact: AHK Slovenia*

### **10. Spain**

#### **a) Tax authority requires Spanish bank account**

It is not possible for foreign companies to transfer Spanish taxes from a foreign account to the Spanish tax administration. The tax authority does not operate by bank transfer but uses a national direct debit system in which only Spanish banks can participate. This means that foreign companies are forced to open a Spanish bank account, which entails additional costs. Outside the input tax refund procedure, the Spanish tax office also does not transfer money to foreign accounts – e.g. for VAT refunds in the regular VAT procedure. Here, too, a Spanish account must be provided by the recipient. To be permitted a deferral for taxes to be paid, once again, a Spanish bank account for direct debiting is needed. Also the bank guarantee, needed for a deferral of payment above a certain amount, must come from a Spanish bank.

#### **b) Invoicing to public authorities only via an electronic system**

Since February 2015, invoices with a value of over 5,000 Euro must be sent electronically to the Spanish public sector (state, local authorities, municipalities, public companies) via a special state distribution system (FACe). This can only be done with a Spanish tax number and a Spanish digital signature. German companies have considerable difficulties in transmitting these invoices. Even with the help of service providers who can issue the invoice as a third party and who,

naturally, charge a fee for this, the transmission of the invoice is associated with considerable technical difficulties because the invoice recipients are often technically unable to receive invoices from issuers from other (EU- countries). In addition, Catalan companies generally communicate only in Catalan and not in Spanish; they do not work with the state distribution system "FACE", but only with their own Catalan system (for electronic signatures, see p. 9).

#### **c) Digital certificates/Electronic communication with authorities**

Increasingly, at least legal persons are required to contact the authorities exclusively electronically. This requires a digital certificate. However, the application for such a certificate represents a high administrative burden for a foreign company, which can be disproportionate depending on the specific project. From the point of view of the AHK Spain, "the practical implementation of the EU-wide mutual recognition of electronic signatures, as provided for in the eIDAS Regulation" would be desirable in this respect (on electronic signatures, see p. 9).

#### **d) Appointment of a fiscal representative for permanent establishments in Spain**

A fiscal representative must be appointed for a dependent branch office/permanent establishment in Spain. This representative is fully liable for the liabilities of the branch. Due to the risks associated with this, the office of a fiscal representative is only assumed extremely reluctantly. Some law firms offer this position, if necessary, against payment of corresponding securities (e.g. bank guarantee). In some cases, employees of the companies concerned working in Spain assume this position, which entails high risks for them. These requirements hinder the freedom of establishment and the freedom to provide services. Several SOLVIT complaints on this issue are currently pending in the EU.

#### **e) Tax procedure/Pre-tax refund**

Companies having to submit regular sales tax returns (usually quarterly in Spain) can only declare any excess input tax for the previous year as late as January of the following year. Tax authorities then have a further six months to refund. An input tax surplus dating January 2020 may therefore not be refunded before July 2021. For larger companies and those with high input tax amounts, might be allowed to switch to a monthly return – which, of course, accelerates the refund procedure. However, this "monthly procedure" on the other hand causes considerable expenses: For example, monthly declarants must submit all invoice data (e.g. incoming invoices, outgoing invoices) online to the Spanish tax office within a period of only four days, as part of a real-time procedure. This so-called 'Suministro Inmediato de Información' (SII) is "disproportionate and not appropriate or necessary for the fulfilment of tax obligations" from the point of view of the AHK Spain.

*Contact: AHK Spain*

## **11. Sweden**

In Sweden, the ID06 system for the identification of employees causes considerable administrative work for companies in the construction sector. According to AHK Sweden, a new ID06 card with a stricter security standard (ID06 card 2.0) is currently being introduced. In connection with this, the following changes have arisen which, from the point of view of the AHK, are "a major administrative hurdle" for construction companies operating across borders:

- When registering a company in the ID06 system or when subsequently ordering ID06 cards, it will in future be required that both the legal representative of a company (e.g. the managing director) and all cardholders prove their identity. This is to be done by presenting a passport in person in Sweden. It is not yet clear whether there will be also other ways of identifying persons who are not in Sweden. The introduced identification by the Swedish so-called "bank ID" is only possible for persons who have a bank account and a personal number (social security number) in Sweden.
- When registering in the ID06 system, foreign companies must now also provide proof that they are registered with the Swedish tax authorities for the so-called company tax.
- In the future, each cardholder must activate his ID06 card himself after receiving it. To do this, the e-mail addresses and mobile phone numbers of all cardholders must be specified.

Companies already registered with ID06 must re-register with the card manufacturer in accordance with the new identification standard in order to apply for the new ID06 cards.

As for some Member States (including Germany), no solution for the introduced identification has yet been found due to the absence of individual personal or social security numbers, the introduction of the new cards for companies from these countries has been postponed until January 2020. Nevertheless, the old cards became invalid in May 2019 and German companies already registered will have to apply for new cards when they start working on projects in Sweden from June 2019. This will entail new costs and administrative effort as well as a loss of time (cf. on electronic signatures p. 9).

*Contact: AHK Sweden, IHK Bayreuth*

## **B. Trade in Goods**

### **I. General obstacles**

#### **1. Different national regulations**

For several IHKs and AHKs, different technical standards and certifications for goods are a major obstacle to the free movement of goods in the EU Single Market. From the point of view of the AHK Greece, it is "sometimes costly to obtain certifica-

tions. Also, information on the required certifications is often not generally known". The DIHK hopes for improvements from 2021 through the new Regulation 2019/515 on the mutual recognition of goods, which, however, must actually be applied uniformly and effectively in order to have a real impact. Transport documents also continue to vary widely from country to country and are associated with a high level of bureaucracy. National reporting thresholds for Intrastat declarations (to record intra-Community trade in goods) vary from one Member State to another.

In addition, national differences in consumer law are problematic also for the trade in goods. The 2019 Directive on certain aspects concerning contracts for the sale of goods has only led to further harmonisation of the legal systems in certain areas; particularly with regard to consumer information, Member States will continue to have scope for implementation (Articles 10 and 20). "Should this result in the trader not only having to observe the respective consumer protection law of the country of sale, but also having to inform the trader about it in advance of the contract, this could lead to an obstacle", said IHK Köln (see also p. 8). It would also be important for traders to be able to agree on the applicability of their national consumer law (see p. 8).

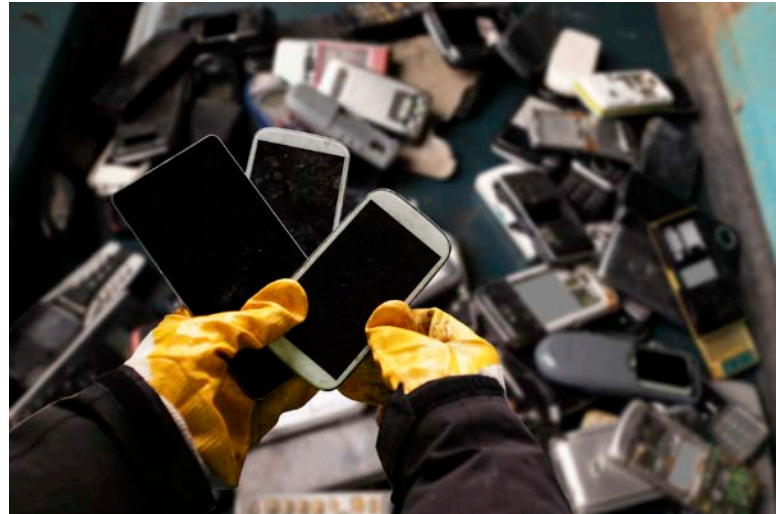
*Contact: IHK Koblenz, IHK Köln, AHK Debelux, AHK Finland, AHK Greece, AHK Croatia, AHK Sweden, Dr. Ulrike Regele, DIHK*

## 2. Product-specific regulations

### a) Directive 2012/19/EU on waste electrical and electronic equipment (WEEE Directive)

The transposition of Directive 2012/19/EU on waste electrical and electronic equipment (WEEE Directive) creates obstacles, as it imposes not only extensive obligations concerning registration and system participation for the companies concerned, but also the obligation to comply with the national regulations of other Member States. According to the implementation law transposing the WEEE Directive into German law (so-called ElektroG), manufacturers, importers and distributors of electrical and electronic equipment in Germany must register with the Foundation "Elektro-Altgeräte-Register" (EAR). This foundation is responsible for the return of old appliances and their environmentally compatible disposal. The ElektroG also obliges foreign manufacturers to appoint an authorised representative in Germany and one in each EU country when exporting there. "Since no EU-wide regulation applies here either and each Member State takes its own measures, this hinders the free movement of goods and causes additional bureaucratic costs," says IHK Dresden. As the IHK Aachen reports, "the owner of an online shop that offers electrical or electronic equipment for sale across borders must comply with the respective national regulations in the respective EU country". This also means that they must register in each country, as far as it is required. This involves considerable effort and high costs and is "almost impossible without a service provider", according to the IHK Chemnitz.

Here different solutions are discussed in order to reduce red tape and costs for the enterprises, without endangering the goals of the regulation itself. From the point of view of IHK Chemnitz and IHK Dresden, the system must work according to the same rules in all EU Member States, which should also be as simple as possible. According to IHK Aachen, a higher degree of harmonisation of product classifications would also be helpful, as well as the mutual recognition of national registrations in



other EU Member States (see also p. 9). From the point of view of the DIHK, a one-stop shop that coordinates the registrations for all EU Member States would be the most useful solution (see also p. 6 above). In addition, IHK Aachen and Chemnitz and DIHK believe that special rules for small quantities should be created.

Another major obstacle can arise in trade with second-hand goods, e.g. smartphones with slight optical or technical defects. Delivery to other EU countries is often not possible because the authorities classify them as electrical waste, although there are customers in the EU Member States concerned who repair or continue to use the equipment, which is also a good approach in terms of sustainability.

*Contact: IHK Aachen, IHK Chemnitz, IHK Dresden, Dr. Ulrike Regele, DIHK*

### b) Directive 94/62/EC on packaging and packaging waste

Directive 94/62/EC on packaging and packaging waste also causes problems for businesses. Anyone who places packaged goods for private final consumers on the German market for the first time must participate in a dual disposal system in order to pay for the future disposal costs of packaging. In Germany, registration with the foundation "Zentrale Stelle Verpackungsregister" (<https://www.verpackungsregister.org/>) is required. However, different rules apply in each EU country. According to IHK Dresden, "this hinders the free movement of goods and creates additional bureaucratic costs". Also here – just like with the WEEE directive – mutual recognition of national registra-



tions in the other EU Member States and a One-Stop-Shop are discussed, in order to reduce the administration and costs for the enterprises concerned.

Contact: IHK Chemnitz, IHK Dresden, Dr. Ulrike Regele, DIHK

### c) Other

Special regulatory requirements make the import, export and trade of certain goods more difficult, such as furniture (see below, p. 19).

Contact: AHK Italy



## 3. E-Commerce

International online trade is booming. Many online retailers are already selling their products to other countries. Studies show that online retailers can increase their sales by an average of 10 to 15 % simply by selling their products or services internationally. But there are challenges and potential risks that can cost merchants a lot of money – despite many simplifications in the EU Single Market. Among other things, country-specific peculiarities must be taken into account, e.g. regarding currency, language and payment methods. Concerning payment methods, difficulties arise mainly from the obligation to offer in all EU Member States such payment methods that may only be used in one or a few Member States, although this causes considerable practical difficulties or additional costs. 46 % of online merchants also see major hurdles in the legal uncertainties surrounding sales to foreign customers and possible problems with the enforcement of open claims or the handling of returns. Different legal regulations and standards require a lot of know-how on the part of companies, for example with regard to packaging disposal of electronic waste or VAT (see the specific sections for details hereto as well as the section

on consumer law p. 16/17). Further details can be found in the DIHK-ibi-Study "International E-Commerce – Opportunities and Challenges from the Retailer's Perspective".

Contact: Dr. Ulrike Regele, DIHK

## 4. Transport and transport infrastructure

The free exchange of goods is crucial to reaping the benefits of the Single Market. However, the movement of goods is also burdened by infrastructure problems. "The transport infrastructure is at its limit", says IHK Koblenz. There is a major problem with the Inn valley, which is particularly important for the whole of Germany as part of the most important transit route to Italy – but also for the exchange of goods between Scandinavia and Italy. Tyrol's intended driving bans for Euro VI vehicles thus represent an obstacle to the Single Market. In addition, there are competition problems in road freight transport (compliance with and monitoring of rules on cabotage).

Contact: IHK Koblenz, IHK München, Susanne Reichenbach and Patrick Thiele, DIHK

## 5. Tax aspects

Many tax aspects of the provision of services can also be applied to the movement of goods (see p. 11). Value-Added-Tax regulations or the 'confirmation of receipt' (for German "Gelangensbestätigung") continue to vary widely from country to country and involve a great deal of bureaucracy. According to IHK Chemnitz, the application of the correct tax law to chain transactions and triangular transactions is also very complex. Partially rulings with retroactive effect by the European Court of Justice (as well as the Federal Court of Finance) in the field of tax law lead to legal uncertainty.

Contact: IHK Chemnitz, IHK Koblenz, AHK Greece, AHK Croatia, AHK Sweden

## II. Country-specific barriers

### 1. Belgium – Luxembourg

As examples of obstacles to the free movement of goods in Belgium and Luxembourg, AHK Debelux mentions the restrictions for certain products on import or export as well as tax rules.

Contact: AHK Debelux

### 2. Bulgaria

The difficulties identified for trade in services also apply to trade in goods, such as the fight against corruption and dissatisfaction with the public administration (see p. 13).



### 3. Germany

According to IHK Koblenz, German customs authorities work in the field of transport of taxable products under tax suspension with IT programmes technically not sufficiently reliable. Compared to other EU countries German customs administration handles the movement of goods in an unnecessary complicated way.

*Contact: IHK Koblenz*

Pursuant to article 6a paragraph (3) of the German VAT Law (UStG), the prerequisite for the tax exemption of an intra-Community supply is that the entrepreneur proves the intra-Community supply on the basis of accounting records and supporting documents (Section 6a.2 (1) UStAE). However, the obligations to provide evidence in this regard have been considerably tightened compared to the previous legal situation. Among other things, proof was introduced by means of a "Gelangensbestätigung" ("confirmation of receipt", article 17a UStDV). However, the actual confirmation of receipt is only used in relatively few cases. Companies often encounter a lack of understanding when they ask their EU customers to sign the prepared confirmation of receipt. Many customers have no use for it or are afraid of the civil law consequences of their signature. Germany's special approach to the burden of proof is a bureaucratic obstacle and, therefore, a competitive disadvantage for the companies concerned.

*Contact: IHK Dresden*

### 4. Finland

AHK Finland mentions the following examples of obstacles to trade in goods: the still strong regulation of alcohol imports; the taxation of used cars also from the EU; the possibly different product guarantees; the geographical location and the high transport costs associated with it; the fact that many platforms (e.g. Amazon) do not deliver large products (such as furniture) to Finland at all; the limited resources available for internationalisation; the lack of financial resources or low production volumes that can constitute barriers to entry; the competitors (e.g. from China or Finnish competitors with a very strong market position) and the strong price competition; as well as the challenge to find suitable suppliers, partners and personnel.

*Contact: AHK Finland*

### 5. France

In France there is an extended producer responsibility for furniture and furniture elements. Foreign companies that deliver directly to French end customers (direct sales, mail order and online trade) are obliged to pay an environmental tax because of the costs of subsequent disposal. It must be invoiced in

addition to the sales price and shown to the end customer in a comprehensible manner. The foreign company pays the environmental tax to the French institution which finances and organises the collection and recycling of the old furniture.

*Contact: Dr. Ulrike Regele, DIHK*

### 6. Hungary

In Hungary, the EKAER system – an electronic system for reporting the transport of goods – is regarded as an obstacle to the free movement of goods.

*Contact: IHK Koblenz*

### 7. Poland

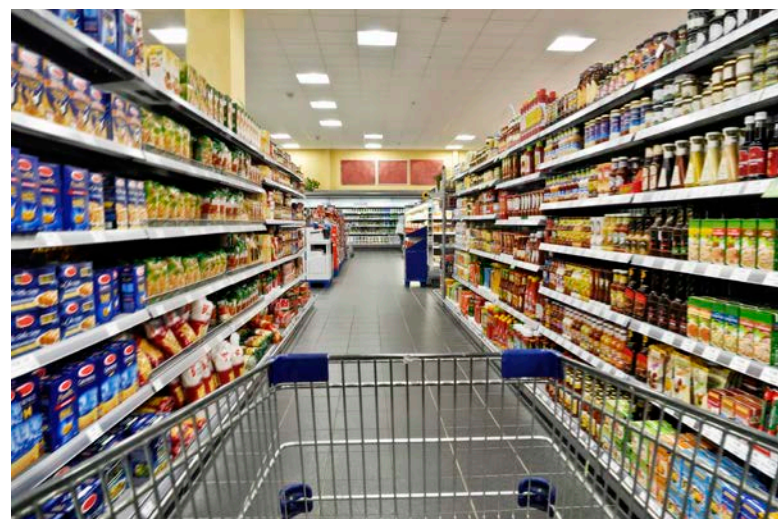
The SENT regulations – a control system for the transport of goods – are criticised as an obstacle to the free movement of goods.

*Contact: IHK Koblenz*

### 8. Slovakia

Foreign retail companies in Slovakia feel disadvantaged by the policy of the Ministry of Agriculture.

*Contact: AHK Slovakia*



### 9. Slovenia

According to the AHK Slovenia, the official approval and licensing procedures for products in Slovenia are very lengthy and difficult. In addition, a new draft law on the disposal of packaging stipulates that the dual system in Slovenia can only be implemented by companies based in Slovenia. Since the bill also stipulates a minimum market share of 25%, there would be

a maximum of four suppliers. This would not allow long-term competition and could result in low service quality and high prices in the dual system.

*Contact: AHK Slovenia*

## C. Establishment and investment in other EU countries

### I. General obstacles

The obstacles for companies wishing to establish themselves cross-border and invest in other EU countries are similar to some extent to those faced by service providers. In general, the partly excessive bureaucracy is an obstacle. This is the case in almost all EU Member States. In addition, there is sometimes insufficient information about applicable requirements and lack of transparency in public administration (especially in public procurement, see above, p. 8 et seq.). In some EU Member States, public administration is considered to be inefficient or not sufficiently digitalised.

Some IHKs and AHKs also criticise the inconsistent implementation of EU law, which can lead to legal uncertainty and distortions of competition. One example is the Industrial Emissions Directive (IED): although the vast majority of companies praise its economic benefits by creating a uniform level of requirements across the EU and avoiding distortions of competition, some companies report different experiences in some Member States. From the point of view of companies, it is very important that Member States implement, apply and enforce EU law uniformly throughout the EU.

In many Member States, this is compounded by lengthy administrative and judicial procedures and lack of legal certainty due to frequent, short-term and sometimes retroactive legislative changes, e.g. in tax law, which can seriously affect investment plans. Occasionally, there are protectionist tendencies. Sometimes there is also a lack of political indepen-

dence in the judiciary and administration or even corruption. International indices and the EU confirm this (see above, p. 11 for the services sector and the country examples below).

Certain tax law problems also arise in trade in services, in the case of cross-border establishment (see above, p. 11 et seq.).

## II. Country-specific obstacles

### 1. Bulgaria

From the point of view of the AHK, deficiencies in public administration are a major problem for companies in Bulgaria. Indeed, 88% of the companies surveyed in the context of the annual business survey conducted by the AHK Bulgaria answered positively to the question "Would you again choose Bulgaria as an investment location today?" 37% even want to increase their capital expenditure in 2019 and 57% expect their company's business situation to improve in 2019 compared to the previous year. This also confirms last year's positive trend. Companies are also satisfied with the tax system. Moreover, according to the AHK's experience, confidence in the public administration in Bulgaria is continuously growing. Nevertheless, some of Bulgaria's disadvantages as a business location persist and hinder companies that invest in Bulgaria or wish to do so. In addition to a shortage of qualified and unqualified workers and infrastructure problems, the lack of transparency in public administration, corruption and organised crime stand out. The greatest dissatisfaction among enterprises (62%) concerns the fight against corruption; more government efforts are expected in order to solve the problem. 32% of respondents are dissatisfied with public administration, 54% with the lack of transparency of the public administration in public procurement, in particular. 39% see problems with legal certainty (see also p. 8). The World Justice Project Rule of Law Index and the Corruption Perceptions Index confirm this.

*Contact: AHK Bulgaria*

### 2. Finland

In Finland, investment is for example hindered by burdensome administrative procedures. An example from the AHK Finland: "Without a personal Finnish bank account, which is often used as electronic personal identification, it is difficult or even impossible to benefit from the digitisation of government services, for example with the tax authority". Energy costs and commodity prices also pose a risk. Practical challenges are the lack of skilled workers and the search for a suitable location for the establishment (especially for construction, retail and hotel investments). However, no difficulties with public administration or deficiencies in legal protection have been reported; local courts are also working effectively.

*Contact: AHK Finland*



### 3. Croatia

According to a snap survey conducted by the AHK Croatia among companies from its board, only a small number of companies perceive obstacles in certain sectors, or disadvantages compared to domestic companies. However, state enterprises have an advantage over foreign companies because the state is more generous towards them. In addition, 90% of companies see complex regulatory requirements or administrative procedures and retroactive legal changes in law as an obstacle for investment. In addition, two thirds of companies have already experienced difficulties with public authorities or legal protection. The judiciary works very slowly. The ineffectiveness as well as the lack of transparency and independence of the public administration are also seen as obstacles. Foreign companies are often not provided with necessary information on procedures to be followed (see also p. 10). Investment protection is considered important or very important by 80% of companies.

*Contact: AHK Croatia*

### 4. Greece

Investment activity in Greece is hampered by bureaucracy, regulatory and tax requirements, lengthy approval and judicial procedures and retroactive legal changes, particularly in tax law (cf. on services above p. 8). As an example, the AHK Greece mentions the deliverance of building permits requiring 124 days, which is more time than average in high-income OECD countries (see also EU Commission, European Construction Sector Observatory, March 2018, p. 12). It is necessary to wait 55 days for an electricity connection – also a considerable disadvantage for Greece as a location for investments from the point of view of companies. If there is margin of appreciation concerning administrative decisions, such as spatial and urban planning, this also leads to major delays in approval procedures and thus also in the progress of the investment. Online procedures have been introduced in some cases in recent years but are often still lacking. Frequently, it is difficult – as with the provision of services – to find the responsible contact persons in an authority and to obtain binding and generally reliable answers – this leads to legal uncertainty for companies. Court proceedings are usually very lengthy, even though the situation has improved in recent years (see EU Commission, The EU Justice Scoreboard 2019, p. 13 ff.), which makes it more difficult to enforce claims against public authorities and business partners. In general, there is no evidence of discrimination in comparison with domestic investors. Nevertheless, when investing, it helps to work together with domestic business partners. The AHK – together with the foreign trade promotion societies and the industry association – is happy to develop concrete suggestions for improvement in order to harmonise procedures, remove obstacles and facilitate investments.

*Contact: AHK Greece*

### 5. Italy

From the point of view of the AHK Italy, regulatory requirements represent an obstacle to investment. Even if these obstacles could often be overcome with greater effort and the involvement of consultants and experts, this would increase the investment costs. Business speaks of an "Italy factor of +20–30%", which is not insignificant. In addition to bureaucracy, the legal uncertainty and lack of skills of the authorities lead to disadvantages for companies. AHK Italy takes a very critical view of retroactive and other legal changes, which severely affect investment plans, especially in tax law. In the past, this has been the case, for example, in the renewable energy sector and the real estate sector, where changes in tax law have impaired investments. In addition, "legal protection is pretty hopeless in Italy". Debt collection takes too long, which has negative effects on payment practices. The duration of the proceedings is very extensive, as already mentioned with regard to services (see p. 14 above). A judgment in the first instance may require one and a half years in civil proceedings; two to five years should be planned for in the second and third instance. In administrative courts, the duration of proceedings is even longer (see also EU Commission, The EU Justice Scoreboard 2018, p. 13 f.). Alternative dispute resolution, such as arbitration, is considered useful if procedural costs are not too high.

*Contact: AHK Italy*

### 6. Poland

#### a) General

90.1% of companies would invest in Poland again, slightly less than in previous years. 36.7% of companies wanted to invest more in 2018, only 10.8% wanted to invest less. However, companies remain very dissatisfied with the legal uncertainty and unpredictability of economic policy. These location factors are at the lower end. "Currently, the implementation of quickly introduced laws without an implementation period poses major problems for companies operating in Poland. It is often not possible to implement the regulations in practice within a short period of time. It would make sense to have more time to implement the laws. This would also contribute to more effective implementation". The lack of efficiency of the Polish courts is also a fundamental problem. Long proceedings are common but delay important investments. In general, the strengthening of arbitration would be welcomed. The transparency of public procurement and the fight against corruption are also rated as poor.

*Contact: AHK Poland*

#### b) E-signatures

Since 1 October 2018, it is mandatory in Poland for each managing director to sign annual financial statements with an

electronic signature in order to forward them electronically to the tax administration and the registry court. Although it is in principle possible to sign the annual financial statements with an e-signature valid in another EU member state, only Polish e-signatures are accepted in practice due to a lack of harmonisation of technical standards. According to the AHK Poland, it poses a challenge for foreign managers of Polish companies to acquire a Polish electronic signature in order to ensure the timely signing and filing of annual financial statements. Here, too, uniform technical standards for legally valid e-signatures or mutual recognition in accordance with eIDAS Regulation would be useful solutions to ensure that foreign documents can be smoothly signed (see also p. 9).

*Contact: AHK Poland*

## 7. Sweden

For about a year now, the Swedish translation of documents such as partnership agreements, some of which have a large scope, has been required for the registration of dependent branches (Swedish: "filial") of foreign companies with the Swedish Commercial Register ("Bolagsverket"). This causes additional high costs, administrative effort and loss of time.

*Contact: AHK Sweden*

## 8. Slovakia

The AHK Slovakia generally criticises inefficient public administration, bureaucracy, e.g. regarding registration and reporting obligations, and a lack of digitisation: "E-governance is in its infancy". In addition, "in practice, despite harmonised European standardisation, differences in the application of laws (e.g. in occupational safety) have repeatedly been found, resulting in greater training requirements". Finally, shortcomings in legal certainty, long procedural durations, unpredictability of judgments and lack of continuity in legislation are criticised. When subsidies are awarded, complicated bureaucratic procedures and the lack of transparency in decision-making processes are deplored. Furthermore, according to the AHK, "the policy of the Ministry of Agriculture is directed against foreign retail companies", especially in the food sector.

*Contact: AHK Slovakia*

## 9. Slovenia

According to current surveys of AHK Slovakia, a positive development in the level of legal protection has recently become apparent in Slovenia. The number of complaints received by the Chamber about lengthy court proceedings has also fallen significantly in recent times. However, long Slovenian administrative procedures, e.g. with regard to building permits for wind

or industrial plants, are problematic. According to the AHK, environmental associations, for example, can "raise objections under very low conditions and thus delay the proceedings disproportionately, which has a deterrent effect, especially for foreign investors". For example, the AHK reports on a case in which "a number of environmental organisations requested compliance with increasingly complicated environmental requirements during a building permit procedure for the plant of a foreign company so that the proceedings took a very long time". Furthermore, there is the above-mentioned problem of complex administrative procedures in public procurement and the lack of legal protection in the case of discrimination, which could be particularly detrimental to competitors from other EU countries (see above, p. 15).

*Contact: AHK Slovenia*

## 10. Spain

Problems with input tax refunds also affect companies wishing to set up business in Spain (see p. 16).

## D. Who we are

The Association of German Chambers of Commerce and Industry (DIHK e.V.) is the umbrella organisation of the 79 Chambers of Industry and Commerce (IHKs) in Germany. Our common goal: the best conditions for successful business. In Germany and in Europe, DIHK represents the collective interest of German business towards policymakers, administration and the public. Several million commercial, industrial and services businesses are members of a Chamber of Commerce and Industry by law – from kiosk owners to Dax-listed corporate groups. DIHK and IHKs are consequently a platform for the diverse interests of business. We combine these interests in an established procedure with a statutory basis in order to present common positions of German business and contribute to economic policy decision-making. DIHK also coordinates the Worldwide Network of 140 German Chambers of Commerce (AHKs), Delegations, and Representative Offices of German business in 92 countries. The DIHK is registered in the European Commission transparency register (No. 22400601191-42).

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## F. Background to the survey

From 13th of May to 5th of July 2019, the DIHK conducted a survey among the 79 Chambers of Industry and Commerce and the German Chambers of Foreign Trade in all EU Member States on their experiences with obstacles in the Single Market. They were asked about restrictions for certain sectors, discrimination in comparison to domestic investors, complex regulatory requirements or administrative procedures, lack of information and difficulties with public administration as well as deficiencies in legal protection. Concrete proposals to remove the respective obstacles and to improve the Single Market were also requested. The IHKs and AHKs mentioned among the contacts took part in the survey with their own feedback.



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