



# Recommendations for the future of Europe

Austrian Federal Economic Chamber

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The Austrian Federal Economic Chamber (WKÖ) is the legal representation of interests for approximately 500.000 companies from all sectors as well as social partner on behalf of the employers. WKÖ is registered under No 10405322962-08 in the transparency register of the European Commission and the European Parliament.

## 1. Introduction

On the 25<sup>th</sup> of March 2017, the 60<sup>th</sup> anniversary of the Treaties of Rome, and thus the foundation of today's European Union, was celebrated. This is the right moment to reflect on what has been achieved until now and to look towards the future.

Austria, as a small open economy, benefits from the international trade of goods and services. Austria's integration within the Single Market is fundamental for its international competitiveness. Therefore, a **strong and functioning European Union** is of particular interest to Austrian businesses.

A study commissioned by the Austrian Federal Economic Chamber shows that Austria owes 150.000 jobs, about one third of all foreign direct investment and 7% of its wealth to EU integration.<sup>1</sup> In Austria, foreign direct investment rose from € 16 billion in 1995 to around € 151 billion euro in 2015.

The export rate (exports of goods and services measured by GDP) increased from 33,6% (1995) to 52,6% (2016). Thereby, more than half of Austria's value added is generated abroad. Austria is particularly dependent on the EU market, considering more than 70% of external trade is conducted with other EU Member States. Austria's export of goods in the EU rose from € 33 billion in 1995 to € 91 billion in 2016.

The European Union faces major challenges today, namely Europe's position in the global economic competition, the refugee crisis, Brexit and the current global political situation. Therefore, in order for the EU to provide answers to current economic and political challenges and to succeed in the international competitive environment it's capacity to act and adequately function needs to be strengthened.

## 2. Executive Summary

Based on a first assessment by Austrian businesses, in a European Union of 27 Member States the following concerns should be taken into consideration:

In order to create a business friendly regulatory environment the European Union should focus on initiatives with a **clear European added value**. In areas regulated at EU level Member States need to commit to an **effective enforcement** of the measures agreed upon.

A closer cooperation between some but not all Member States is already a reality in some areas, for example Schengen, the Economic and Monetary Union (EMU) and the unitary patent in the field of enhanced cooperation (article 20 TEU). Yet one has to bear in mind that in certain areas, as for example environmental, energy and transport policy, EU-wide provisions are required to **avoid a distortion of competition**. To achieve this, EU law has to be uniformly applied and interpreted, as well as implemented in a better way, at Member State level; otherwise, standards would only exist on paper.

Also, in the **field of employment and social policy**, legislative measures must continue to be applied to the whole EU. With regard to the Economic and Monetary Union, some standards in the field of social policy (for example the sustainability of social security systems) have to be converged. This should not be achieved by legislative means but rather by determining common goals and their periodical review. →

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<sup>1</sup> „Austria in the EU or ÖXIT?“, WPZ study, 15<sup>th</sup> of November 2016

To make the **Economic and Monetary Union** more stable, resilient to crisis and competitive, **a stronger and enforceable integration of economic, fiscal and financial policy** is necessary. A far-reaching shift of competences can however only be considered, if sufficient economic and social convergence among Member States has been reached. Therefore, the Member States should strengthen their competitiveness by implementing structural reforms and creating a stable economic framework.

The Single Market is the cornerstone of European integration. In Austria and the EU, it has contributed to economic growth and higher employment as well as many advantages for businesses and citizens. The Austrian Federal Economic Chamber welcomes the **initiative for the Single Market's future** with the aim of developing the latter and contributing to make the European Union a more attractive place for living, working and investing in the globalized world.

In the fields of research, technical development and innovation, the performance of European actors in the global competition depends directly on the quality of the Single Market, a strong integration of markets, knowledge and the four freedoms of the EU. With the advancing digitalisation in mind **more enhanced integration in the field of research and innovation** is necessary.

Concerning the field of regional development policy, if more prosperous regions should continue to receive support the focus has to be on **competitiveness, innovation and SMEs**.

With regard to **migration and asylum policy**, better cooperation and **an effective enforcement of decisions** are needed. The asylum crisis has clearly shown that solutions have to be found together. A common sustainable European asylum system is necessary.

The Austrian Federal Economic Chamber underlines the **importance of enhanced economic and trade relations with partner countries**. This will strengthen the competitiveness of Austria's companies and ensure equal treatment with competitors on foreign markets as well as growth, employment and prosperity in Austria and the EU.

The Austrian Federal Economic Chamber commits to efficient consumer protection, but in the future a **fair balance** between consumers' interests on the one hand and companies' interests on the other hand has to effectively be ensured.

### **3. Stronger consideration of the principle of subsidiarity**

The principle of subsidiarity should ensure that the European Union, in areas beyond its exclusive competence, **shall act only** if the objectives of the proposed action cannot be sufficiently achieved at local, regional or central level by the Member States, but can rather be better achieved at Union level (Art 5 (3) TEU).

Respecting the principle of subsidiarity, new legislative acts should only be proposed if firstly, the issue is not covered by another legal act and secondly, the impact assessment shows a **clear European added value** as well as an **economic added value**.

#### 4. Reducing red tape and better regulation

According to the latest economic forecast, the European Commission predicts - for the first time in almost a decade - economic growth for all Member States. In order for the EU to grow in a sustainable way, a level playing field is required. The regulatory environment has to be simplified and additional burden should be avoided. There is no necessity for a general deregulation, but rather **better regulation** is required. New regulations and directives should lead to concrete solutions for concrete problems in a clear language and should be easily applicable. Generally speaking, the practicability of legislation has to be improved.

The “**One in - Two out**” principle as a deregulation instrument may improve the regulatory environment, especially if costs and efforts of the concerned companies are in the focus (i.e. qualitative approach).

Gold Plating means adding stronger rules at national level when transposing EU directives into national law. Very often stricter rules than originally intended in the European legislative act are implemented at national level. These cases are often justified with the need for stronger consumer rights. If stricter rules are put into place at national level, the European legislator cannot be blamed. Gold Plating would also lead to a higher fragmentation of the Single Market. This is why **Gold Plating should be avoided** or at least be justified when EU legislation is transposed into national law.

#### 5. Strengthening the Single Market

The **four freedoms** are the cornerstones of the European Union and must remain. Restrictions to those freedoms (existing restrictions excluded) would mean a step backwards for integration. Systematic border controls would especially constrain businesses in the field of transport, industry, commerce and tourism and should therefore be avoided.

Rather than adopting new legislation for the Single Market the existing four freedoms should be fully implemented.

Not everything should be regulated in detail, wherever possible the **principle of mutual recognition** should be applied. This principle ensures the free movement of goods and services making the harmonisation of national legislation unnecessary. It particularly ensures compliance with the principle of subsidiarity by avoiding the systematic creation of cumbersome rules at EU level.

If there is need for legislation, it should be analysed on a case by case basis which legal instrument - directive or regulation - is better suited. It should be examined, in which areas regulations are a better option than directives, in order to avoid diverging national implementing measures and to raise savings potential in the field of legislation.

In those fields that are regulated at the EU level, a more **effective enforcement** is necessary, for example through an accelerated infringement procedure.

**Digitalising the economy** may boost European companies' business perspectives in global competition, provided that emerging opportunities are identified and appropriate action is taken. **European programmes for the upgrading of high performance ICT infrastructures** are essential elements, when it comes to ensuring the viability of the EU Single Market and

the functioning of the four freedoms. With a view to the competitiveness of the European economy, broadband rollout should receive the best possible support. At the same time, EU legislation accompanying the process of digitalisation should be kept to what is necessary and proportionate. In any case, creating a **level playing field** for suppliers from Europe and elsewhere is to be regarded as the central aim, if equal opportunities and fair competition on the supply side are actually to be ensured. Finally, costly and unwieldy bureaucratic obligations should be avoided, in order to prevent competitive disadvantages for European businesses in the context of global competition.

The current **European standardisation process** (standardisation package including ICT standardisation) should be continued as before, taking into account the interests of SMEs.

The **Public Procurement Directives** (2014/24/EU and 2014/25/EU) and the **Concession Directive** (2014/23/EU) could be reduced to the EU principles of non-discrimination and transparency, as well as to the four freedoms. Furthermore, remedies are required. This measure could increase compliance and efficiency in public procurement and reduce costs considerably.

Member States should remain responsible for **Corporate Social Responsibility** (CSR) in order to not limit the scope of action for companies. Possible initiatives of the Commission should be limited to non-binding guidelines.

The White Paper on the future of Europe mentions a “Business Law Code” that could be developed by a group of countries. The objective would be, inter alia, to harmonise corporate law so that companies of all sizes can easily operate across borders. This approach should be rejected for the following reasons:

**Corporate law** is embedded in respective national legal framework. If European types of companies were established for example by a “Business Law Code”, this would easily lead to a breach in the system, as the European Company (Societas Europaea - SE) shows. Based on the current legal framework, any legal form recognized in a Member State can, in any event, operate throughout the EU. Since the legal relations between companies are largely governed by contract law, it is not clear, which benefits would result from a unified commercial law.

## 6. Deepening the Economic and Monetary Union

The rules for economic governance (Six-Pack, Treaty on Stability, Coordination and Governance, Two-Pack), which were adopted due to the financial and economic crisis, lead indeed to a better coordination of economic and fiscal policy. However, some of the provisions were not consistently applied and enforced. To make the Economic and Monetary Union (EMU) more stable, resilient and competitive, a **stronger integration of economic, fiscal and financial policy** is necessary that is also enforceable. However, a far-reaching shift of competences can only be considered, if sufficient economic and social convergence among Member States has been reached.

Europe still suffers from a lack of implementation and enforcement of necessary reforms. Insufficient fiscal and economic policy in some Member States does not only weaken their competitiveness but also jeopardizes the Monetary Union’s stability as a whole.

Therefore, Member States should strengthen their competitiveness **through implementing structural reforms** and providing a **stable economic environment**. That is the basis for investment, growth and employment, as well as sustainable financing of the European social systems. These measures should take priority over new provisions/mechanisms.

A common fiscal policy including a European treasury and a European fiscal capacity can only be considered after having successfully reached convergence in economic and social terms. A shift of competences from national to EU level is only reasonable if all Member States comply strictly and without exception with the rules of the EMU.

A common fiscal capacity is in any case not a substitute for better economic governance and does not have any disciplining effect on Member States either. Rather, the “moral hazard problem” can prevail, as soon as risks or shortcomings in structural reforms are deferred to EU level. Therefore, first of all the Member States’ individual responsibility for complying with the applicable rules should be strengthened. This should be the main focus of the next years, so that concrete measures for a possible fiscal capacity for the euro zone can be discussed at a later stage.

## 7. Social Policy

Legislation in the area of social policy is generally carried out by directives. The fact that the social *acquis* differs among Member States is taken into account by defining minimum standards. Directives allow Member States to set more favourable and therefore higher standards for employees. However, they also prohibit that existing higher standards are reduced to the level of the respective directive. As a result of the enlargement in 2004, the internal differences among the Member States have continued to grow.

Companies are less and less willing to permanently accept higher standards, if the level of other provisions are not reduced in return.

Labour and social policy is a key factor of competitiveness. Regulating this policy field at different speeds quickly leads to competitive advantages for those Member States which do not join a coalition of the willing and continue to regulate certain areas at national level. **Legislative measures** in this area must therefore **apply to the whole EU**.

However, with regard to the Economic and Monetary Union a multi-speed Europe already exists. Due to the EMU **some standards** in the field of social policy (for ex. sustainability of social security systems) have to be **converged**. This should not be achieved by legislative means but rather by determining common goals. Those should be periodically reviewed on the basis of reports and common indicators, as it is the case in the European semester.

In the field of **migration and asylum policy better cooperation** is needed. The asylum crisis has clearly shown that solutions have to be found together. A common European asylum system is needed including an effective protection of external borders, appropriate registration in the so-called hotspots and faster handling of asylum applications. In cases where neither international protection nor asylum status are granted, the return to the state of origin or to a third country, with which a readmission agreement has been concluded, must be assured. This policy field requires an approach of “doing more and more efficiently”, and certainly an **effective enforcement** of the decisions taken.

## 8. Environmental Policy

In the areas of **chemical policy as well as energy, climate and waste policy** there is no need for new legislative acts at EU level. These areas are already **largely based on EU law** and also on international agreements. A differentiated perspective must be applied to “Aarhus 3”, the “access to justice” in environmental matters: here, the European Commission’s initiative to present another directive for the implementation of the third pillar of the Aarhus Convention has been overdue for years. Instead, the European Commission is criticising Member States, for example Austria, for lacking implementation. There is a significant need for harmonisation in this area due to imprecise and excessive requirements.

In the field of energy, too much legislation at EU level, as well as parallel structures, need to be avoided. For instance, the “Clean Energy” package” of November 30, 2016, provides for some new structures and organisations. In particular, in the case of emergency the question of competence and responsibility arises. As the proposals concerning the “**Energy Union**” reveal, there should be further and more intensive cooperation between Member States. This is going into the right direction, but nevertheless attention must be paid to whether such a cooperation is appropriate (especially with regard to additional structures). It is important that all Member States pursue the targets with an equally ambitious approach.

In the area of soil protection, the failed Soil Framework Directive showed clearly that the majority of the Member States, including Austria, did not see the need for a framework directive.

From an **environmental and energy perspective**, the option of closer cooperation between only a few of the Member States does not seem reasonable. If environmental standards and the security of energy supply shall be established at EU level, **a certain degree of harmonisation has to be envisaged.**

If individual Member States go ahead on their own, it would cause the opposite effect of a level playing field. For example, the 2030 goals in the area of energy and climate policy should be achieved by a fair burden-sharing among Member States. This approach should be maintained and optimised. Potentials, regarding renewable energies or energy efficiency, have to be exploited in areas where overall efficiency and cost efficiency can be achieved best. In the field of climate policy, joint action of Member States is necessary as greenhouse gas emissions do not stop at the border.

In the area of chemicals, a certain trend can be observed that some Member States or rather groups of Member States do “want more”, but cannot achieve this within the frame of EU legislative acts. Subsequently, in some situations national efforts are made apart from EU law. This leads to new fragmentation of an area, which should be harmonised to the greatest possible extent, for example by the REACH Regulation (Regulation 1907/2006), leading to a high burden for administrations and especially businesses. It causes a non-transparent legal situation, as well as additional costs to fulfil those special provisions.

Despite intensive harmonisation efforts in the environmental area, considerable **distortions of competition** still exist in subareas. A stronger implementation review of existing EU law, or rather a better implementation, is therefore necessary before new legislation can be adopted. Otherwise those Member States, which are lagging behind concerning the

implementation of EU law, will do so even more. Existing standards therefore continue to drift apart although they should be harmonised.

Concerning chemical and waste policy, the enforcement and implementation of existing legislation poses a problem. Respective standards diverge substantially in some Member States, for example in the field of achieving given waste recycling targets. Regarding chemical policy, we expect more efficiency by agreeing on significantly harmonised enforcement practices and implementation measures. These, however, have to be followed rigorously, for instance, local inspections in the Member States should be carried out by independent auditors who have the means to take necessary action.

We would like to point out that environmental standards should be adopted to the greatest possible extent in accordance with other economic powers so that the EU does not weaken itself in certain areas. For example, in the transport sector, ETS for aviation discriminates EU carriers against carriers from third countries.

## 9. Further harmonisation of the EU legal framework for the transport sector

In principle, we support further harmonisation of the EU legal framework for the transport sector, especially of existing rules, in order to prevent individual actions by Member States and to ensure a uniform legislation and enforcement. The **differing implementation and interpretation of EU-law** in this sector by the Member States leads to a **distortion of competition**, which should be prohibited. Furthermore, Member States continue to introduce new administrative obstacles despite the Single Market. The following examples show that a full harmonisation has not taken place yet:

The common rules for **access to the international road haulage market** (Regulation 1072/2009) are not clear enough, uncontrollable and interpreted differently by the Member States.

Also, with regard to **tolls** (“Eurovignette”), we support an EU framework, which is as homogenous as possible. Many optional provisions of the directive 1999/62/EC, as amended, lead at the moment to a distortion of competition in the Single Market. Austrian companies are placed at a competitive disadvantage, since the Austrian legislator has in the past often exploited the margin for implementation to the greatest possible extent (highest tolls in the EU, mark-ups in Tyrol, charging external costs for air pollution and noise since January 1st 2017).

The common rules concerning the **conditions to be complied with to pursue the occupation of road transport operator** (Regulation 1071/2009) must be applied uniformly in all Member States, which is currently not the case at all. Gold Plating in the Member States has to be prohibited. In Austria, there is a parking space requirement in the freight transport act (Güterbeförderungsgesetz) and in the occasional transport service act (Gelegenheitsverkehrsgesetz), which is not required by EU legislation for granting a concession. The Community licence is limited to five years in Austria, even though up to ten years are foreseen by EU legislation. In Austria it is obligatory to carry with you a certified true copy of your concession certificate, in addition to the obligation by EU legislation to carry a certified true copy of the Community licence. In Austria, there are also no rehabilitation measures. In this regard we call for unitary requirements at EU level.

The **EU social provisions for the transport sector** are particularly problematic. A large number of EU legislative acts, which are hardly manageable and partially linked, leave the Member States too much scope for implementation, interpretation and enforcement. Regarding the employment of the drivers, a unitary legal framework for all Member States is necessary. Provisions, which allow stricter national rules, should be deleted.

The **Posting of Workers Directive** (Directive 96/71/EC) does not match the realities of the transport sector that is often characterised by short-term cross-border services. A different approach is urgently required, otherwise, the freedom to provide services, which is granted by the EU Treaties, would be restricted. The transport sector needs specific rules that take account of the regular mobility of workers and do not impede daily business by placing additional administrative burden on companies. It would be desirable that certain transport services (primarily touristic passenger transport with closed travel groups as well as journeys by taxi and rental car) would be excluded from the Posting of Workers Directive, so that international trade is not needlessly constrained. Practicable provisions on minimum wages by the Member States should be examined without excessive administrative burden (such as documentation requirements or the obligation to carry documentation in the vehicle).

Another area, where harmonisation should also be considered, is an EU-wide unitary classification of exhaust fumes in environmental zones. The increasing number of “stickers” on the windscreen could for example be avoided by a unitary badge, which is recognised in all environmental zones.

However, in our view there is **no need for regulation at EU level** regarding a number of proposals. These include in the transport sector, for example, the proposals for a regulation on cross-border parcel delivery services (COM(2016)285) and the proposal for a directive on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (COM(2015)615).

## **10. More enhanced integration in the field of research and innovation**

In the fields of research, technical development and innovation, the performance of European actors in the global competition depends directly on the quality of the Single Market, a strong integration of markets, knowledge and the four freedoms of the EU. As small open economy, Austria can't expect to be strong in all fields of innovation and technology. To further develop its competences and potentials Austria has to intensify the exchange with European partners, clients, suppliers, employees, researchers and innovators.

From an economic point of view, economies of scale, like those facilitated by a strong integration, play an important role. Therefore, bearing the advancing digitalisation in mind, **more enhanced integration in the field of research and innovation** is necessary. A continuation of the approach of “carrying on” would hardly allow further development, deepening and new definition of Europe's role as innovator in the global economy.

## **11. Regional Development Policy**

To strengthen cohesion within the EU, it is necessary to further support poorer regions so they can catch up. In case more prosperous regions should continue to receive support, the focus has to be on **competitiveness, innovation and SMEs**.

**Simplification and less administrative burden** are important objectives regarding the structural funds.

## 12. Trade Policy

Back in 1957 it was the Treaty on the European Economic Community that stipulated one common trade policy for all the Member States. This principle has been repeatedly confirmed and further developed in the course of several revisions of the EU Treaties, including the Lisbon Treaty. Common EU trade policy covers modifications of tariffs, the conclusion of customs and trade agreements including trade in goods and services, trade aspects of intellectual property rights, foreign direct investment, achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies.

The European Commission estimates that around 90% of global economic growth will be generated outside Europe soon. Over 30 million jobs in the EU depend on exports.

The Austrian Federal Economic Chamber underlines the **importance of improving economic and trade relations with our partner countries**. This will strengthen the competitiveness of Austria's companies and ensure equal treatment with competitors on foreign markets as well as growth, employment and prosperity in Austria and the EU.

Efforts to modernise the multilateral trading system of the WTO should certainly be pursued. However, comprehensive, ambitious and well-negotiated EU trade agreements of the new generation can complement the multilateral trading system and are the best way to shape and further develop the legal and economic framework conditions together with our trading partner countries. This can best be achieved by gradually opening markets to one another and by modernising trade rules. Important trade related issues like investment, investment protection or sustainable development are, for example, not regulated at WTO level, but by EU trade agreements only.

## 13. Balanced Consumer Protection

The Austrian Federal Economic Chamber commits to efficient consumer protection, but in the future a fair balance between consumers' interests on the one hand and companies' interests on the other hand has to effectively be ensured.

The so called "mature and responsible" consumer concept, as shaped by the European Court of Justice, must be used as a benchmark when legislation is adopted. With regard to businesses, in particular small and medium-sized enterprises should be the main focus, as these represent the backbone of the European economy. The **"Think-Small-First" principle** must actually be taken into account in the real legislative process. When legislation in the field of consumer protection is adopted, the Small Business Act must not remain a lip service only.

Excessive information requirements for businesses have to be rejected. Moreover, criminal sanctions against companies in the fields of civil law or consumer protection law are considered inappropriate.

Too strict rules, which confine the freedom of contract, limit the scope of action of businesses to voluntarily grant more favorable conditions than the law foresees. Therefore, the Austrian Federal Economic Chamber underlines the importance of "entrepreneurial freedom" for a healthy competition, which is also in the interest of consumers.

A fast review and practical revision of the Consumer Rights Directive, which has created enormous burdens especially for SMEs, is urgently required.

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