BARRIERS AND CHALLENGES IN DEEPENING THE EU SINGLE MARKET

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Abstract

The Single Market represents the central element of European integration, within which the four freedoms of movement—of goods, persons, services, and capital—have been enshrined.

As an area of shared competence with Member States, this area is characterized by a significant harmonization of national legislation under the supervision of the European Commission and the control of the Court of Justice of the European Union.

However, in the context of the need to increase the EU's competitiveness, the European Commission has recently identified ten terrible barriers that hinder the deepening of the internal market.

Thus, the paper aims to analyse the challenges related to the removal of these barriers by national authorities and the risk of creating a two-speed Europe.

The evolution of the Internal Market highlights, in our opinion, how the economic component has been gradually overtaken by the political one, with the aim of achieving the common objectives of the Member States and strengthening the EU on the international stage from an economic and political point of view.

Keywords: *Internal Market, barriers, two-speed Europe, Court of Justice of the European Union, integration*.

1. Introduction. The Internal Market[1] - driver of the European integration

The Internal Market, successor to Common Market[2], represents on the symbols of the concept of the European integration, unique within the international intergovernmental organizations, which has been developed through the primary and secondary legislation and the case law of Court of Justice of the European Union[3]. As stated in French legal doctrine, the Internal Market is therefore everywhere; it is at the heart of the integration promoted by the Treaty[4].

The definition of the Internal Market is provided in the art. 26 para. 2 of the Treaty on the Functioning of the European Union (TFEU) which states that "the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital[5] is ensured in accordance with the provisions of the Treaties". The establishment of such a space could only be achieved through the Union's exercise of the shared competences[6] conferred upon it by the Treaties (art. 4 para. 2 letter a) of TFEU). It can be observed that the EU has adopted extensive legislation that has harmonized national rules with a view to implementing the four freedoms of movement[7], which has resulted in the EU's shared competence becoming an exclusive competence through its exercise.

Along with the art. 26 para. 2 of TFEU, the accomplishment of the specific objectives is ensured through the procedure laid down in the art. 114[8] of the TFEU pursuant to which "the European Parliament and the Council

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[1] See O.-M. Salomia, Piața internă a Uniunii Europene și libertățile fundamentale de circulație, C.H. Beck Publishing House, Bucharest, 2025.

[2] CJEU, judgment of 5 February 1963, NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration, case-law 26-62, ECLI:EU:C:1963:1, B: "The objective of the EEC Treaty, which is to establish a Common Market (...)".

[3] F. Martucci, Droit du marché intérieur de l'Union européenne, Presses Universitaires de France Publishing House, Paris, 2021, p. 24: For the Court of Justice the commun market represented the legal roughness on which hermeneutically relied to establish the specificity of community law.

[4] F. Martucci, op.cit., p. 42.

[5] A. Fuerea, Beneficiaries of the freedom of movement within the EU, in CKS 2024 – Challenges of the Knowledge Society Bucharest, May 17th 2024, 17th Edition, p. 283, at https://cks.univnt.ro/cks_2024.html, last time consulted on 26.03.2026: "One of the consequences producing direct effects, on short, medium and long term, generated by the quality of member state of the European Union, is that of valuing the fundamental freedoms of movement existing at the level of the European Union".

[6] M.-A. Dumitrașcu, O.-M. Salomia, Dreptul Uniunii Europene II, Universul Juridic Publishing House, Bucharest, 2020, p. 52.

[7] C. Brière, M. Dony, Droit de l'Union européenne, 9e édition, Éditions de l'Université de Bruxelles Publishing House, 2026, p. 117: The four freedoms of movement are guaranteed by the provisions of the Treaties, which are, in principle, directly applicable and impose cross-cutting limits on the legislative authority of the Member States.

[8] E.H. Ballin E. Ćerimović, H. Dijstelbloem, M. Segers, European Variations as a Key to Cooperation, Ed. Springer Open, 2020, p. 63, at https://link.springer.com/book/10.1007/978-3-030-32893-1, last time consulted on 26.03.2026: "The Union legislator does not have a

shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market"; this provision "shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons". "However, a Member State is authorized to maintain or introduce national provisions derogating from a harmonization measure" within the Internal Market field, "the Commission shall immediately examine whether to propose some action such as an adaptation to that measure or to propose appropriate measures to the Council".

In our opinion, the legal basis for the development of the scope of the Internal Market could be also represented by the art. 352 of TFEU which provides with a flexibility clause in the case where an "action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures".

In line with the EU law sources, the integration has been qualified as positive integration which supposes the adoption of the European standards for product safety, consumer and environmental protection, social rights and the negative integration which have as objective or effect the elimination or reduction of state-imposed restrictions on free movement.

The integration within the Internal Market is not yet complete and further efforts are needed to harmonize Member States' legislation. Furthermore, it can be observed that the scope of the Internal Market has been extended to a number of new sectors and economic activities such as public procurement[9].

2. Challenges in deepening the Internal Market's integration. "Terrible Ten Single Market barriers"

"The concept of a common market as defined by the Court in a consistent line of decisions involves the elimination of all obstacles to intra-Community trade in order to merge the national markets into a single market bringing about conditions as close as possible to those of a genuine internal market. It is important that not only commerce as such but also private persons who happen to be conducting an economic transaction across national frontiers should be able to enjoy the benefits of that market"[10].

In 2025 the European Commission has published a Strategy for making the Single Market simple, seamless and strong[11] which has identified a set of "Terrible Ten" Single Market barriers, namely: 1. Overly complex EU rules; 2. Lack of Single Market ownership by Member States; 3. Complicated business establishment and operations; 4. Recognition of professional qualifications; 5. Long delays in standard-setting that weigh on innovation and competitiveness; 6. Fragmented rules on packaging, labelling and waste; 7. Outdated harmonised product rules and lack of product compliance; 8. Restrictive and diverging national services regulation; 9. Burdensome procedures for temporary posting of workers; 10. Territorial supply constraints. "However, there is more. The EU and its single market are not 'just' about removing barriers. A modern set-up of the single market and the market incentives generated by its institutions, combined with private and public funding, matter a great deal"[12].

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general mandate but must rely on the legal basis laid down in each sector in the Treaties. With regard to the internal market, the Treaties provide a broad legal basis for action, in particular in Article 114 TFEU. The question is: to what extent does the chosen legal basis influence the assessment of public interests at stake?"

[9] Available at https://single-market-economy.ec.europa.eu/single-market_en, last time consulted on 26.03.2026.

See O.-M. Salomia, D.-A. Bantaș, Aspecte generale privind competența Uniunii Europene în domeniul achizițiilor publice, "Achiziții publice. Idei noi, practici vechi", Ecaterina-Milica Dobrotă, Dumitru-Viorel Pârvu (coord.), University Publishing House, Bucharest, 2020.

[10] CJEC, judgement of 5 May 1982, Gaston Schul Douan E Expediteur Bv And Inspecteur Der Invoerrechten En Accijnzen [Inspector of Customs and Excise], case-law 15/81, para. 33.

[11] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The Single Market: our European home market in an uncertain world. A Strategy for making the Single Market simple, seamless and strong, Brussels, 21.5.2025 COM (2025) 500 final.

[12] J. Pelkmans, Empowering the Single Market. A 10-point plan to revive and deepen it, in CEPS IN-DEPTH ANALYSIS, January, 2024 – 03, p. 63, at https://cdn.ceps.eu/wp-content/uploads/2024/01/CEPS-InDepthAnalysis-2024-03_Empowering-the-Single-Market.pdf, last time consulted on 26.03.2026.

Considering the fact that the EU is the second largest global economy[13], the Strategy proposed also different actions for increasing the EU competitiveness through boosting European Services Markets, digitalizing the Single Market and enforcing the respect of Single Market rules.

As for the specific measures, which are mainly of a legislative nature, the following are included: establish a new 28th regime for EU company law[14]; reduce unnecessary administrative burdens identified in Omnibus proposals; simplify and streamline the EU Public Procurement framework; explore common rules for the recognition of qualifications of third country nationals[15] and address challenges in specific services sectors such as construction, retail, delivery as well as business and industry services.

In line with the Strategy, the 2026 Work Programme[16], Commission proposed the following legislative objective:

Single Market	European Product Act
	Update of the new legislative framework of product rules (legislative, Article 114 TFEU, 2026)
	Update of rules on the market surveillance and compliance of products (legislative, Articles 33 and 114 TFEU, Q3 2026)
	Update of rules on standardisation (legislative, Article 114 TFEU, Q3 2026)

Single Market	EU Delivery Act - update of rules on postal services (legislative, Article 114 TFEU, Q3 2026)

The European executive will also focus on »the full potential of the Single Market by 2028 – removing barriers in capital, energy, services and telecoms, and enabling a "fifth freedom" for knowledge and innovation[17] through the European Research Area" «.

Among the various measures proposed, it is important to mention that Commission "has just launched the Industrial Accelerator Act which introduces 'Made in EU' and low-carbon preferences in public procurement and public support schemes to boost demand for European industrial products — cement, aluminium to net-zero technologies like batteries, solar, wind, heat pumps, and nuclear"[18].

3. Enforcement of the Internal Market's rules[19] and "two-speed Europe" debate

The application and enforcement of Internal Market rules clearly contribute to deeper integration in the relevant socio-economic sectors; in this regard, a key role is played not only by the Member States[20], but also by the European Commission and the Court of Justice of the European Union through infringement proceedings[21]. Thus," the Commission and Member States must work together to ensure EU law is correctly implemented and applied as soon as possible – this common objective is achieved through cooperation and enforcement"[22].

We would like to support the opinion saying that "Member States do not solely have a responsibility for enforcement and proper implementation vis-à-vis the Commission and other Member States, but that

[13]Available at https://ec.europa.eu/commission/presscorner/api/files/attachment/881209/Factsheet%20-%20Single%20Market%20Strategy.pdf, last time consulted on 26.03.2026.

[14] At 18 of March 2026, "the European Commission presented its proposal for EU Inc., a new single set of corporate rules, building the cornerstone and starting point for the EU's 28th regime", at https://ec.europa.eu/commission/presscorner/detail/en/ip_26_614, last time consulted on 26.03.2026.

[15] The European Commission will launch the Skills Portability Initiative, at https://ec.europa.eu/commission/presscorner/detail/en/ip_26_614, last time consulted on 26.03.2026.

[16] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Commission work programme 2026 Europe's Independence Moment, COM/2025/870 final.

[17] This idea has been launched in the Enrico Letta's report.
E. Letta, Much more than a Market, 2024, p. 7, at https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf#:~:text=ENRICO%20LETTA%20SPEED,%20SECURITY,%20SOLIDARITY%20Empowering%20the%20Single%20Market%20to).

[18] https://ec.europa.eu/commission/presscorner/detail/en/ip_26_515, last time consulted on 26.03.2026.

[19] See O.-M. Salomia, How do the European Commission, Member States and citizens interact in enforcing Internal Market rules?, in LESIJ - Lex ET Scientia International Journal nr. XXIX, vol. 2/2022.

[20] J. Pelkmans, op.cit., p. 41:" It has repeatedly been emphasized that Member States do not solely have a responsibility for enforcement and proper implementation vis-à-vis the Commission and other Member States, but that enforcement begins at home. This ought to include solid mechanisms within the administration, besides transparency".

[21] See O. Dimitriu, Procedura de infringement. Răspunderea statelor membre ale UE, C.H. Beck Publishing House, Bucharest, 2023.

[22] Available at https://single-market-scoreboard.ec.europa.eu/enforcement-tools_en, last time consulted on 26.03.2026.

enforcement begins at home. This ought to include solid mechanisms within the administration, besides transparency”[23].

In this regard, a Single Market Enforcement Task Force (SMET) was set up by the Action plan for better implementation and enforcement of single market rules adopted in March 2020 as part of the European Industrial Strategy[24].

The European Commission has also established the Single Market and Competitiveness Scoreboard which “tracks the functioning of the Single Market and the state of EU competitiveness”. The Scoreboard supports the “EU institutions, Member State policymakers and stakeholders in the business community with trendspotting, progress tracking and identification of new priorities for business policy”[25]. The Scoreboard includes more than 160 indicators giving information on enforcement tools, business framework condition and competitiveness.

For this year, “the number of Single Market infringement cases has risen slightly. It is now reaching 664 cases, 1% more than the previous year. Comparing to numbers of 5 years ago, a more intensive use of the pre-infringement dialogue explains overall lower numbers”. In addition, the average time to comply with CJEU rulings in the Single Market area has worsened. The time for compliance has increased from 61.3 months last year to 64 months in December 2025”[26]. The action for failure to fulfil by a Member State its obligations based on the EU Treaties is provided for in the art. 258-260 from TFEU and it represents, in our opinion, one of the most efficient European legal instruments for ensuring the respect of the Internal Market rules by the national authorities. The “pre-infringement dialogue” between European Commission and the respective Member State (art. 258-259 from TFEU) is use in order to “efficiently check and clarify transposition issues and to gather additional factual or legal information from Member States. Out of the 286 dialogues closed between January and November 2025, more than 20% have been initiated in 2025. This shows that the pre-infringement dialogue has the potential to achieve swift results and to efficiently collect information”[27]. In 2025, “the number of Single Market infringement cases has risen slightly. It is now reaching 664 cases, 1% more than the previous year. Comparing to numbers of 5 years ago, a more intensive use of the pre-infringement dialogue explains overall lower numbers”[28].

If the Member State continues to fail to fulfil its obligations following the dialogue with the Commission, the Commission may decide to bring an action against that Member State before the Court of Justice. The Commission may propose to the Court to impose financial sanctions on that Member State in two situations: (1) if the national authorities have not taken the necessary measures to comply with an earlier judgment of the Court finding an infringement of EU law - art. 260 para. 2 TFEU, or (2) where the national authorities have failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure - art. 260 para. 2 TFEU.

The principles and method used by the Commission to calculate the proposed financial sanctions were established in its Communication 2023 Financial sanctions in infringement proceedings. In the 2025 Communication, the Commission establishes that the Member States’ capacity to pay or n factor should rely solely on Member States’ GDP (Gross Domestic Product).

On 12 of march 2026[29], the European Commission has established that the flat-rate amount for the penalty payment is fixed at EUR 3 560 per day and the flat-rate amount for the lump sum payment is fixed at EUR 1 190 per day. The n factor for Romania is 0,53. The reference lump sum used for calculating the minimum lump sums per Member State is set at EUR 3 323 508. The minimum lump sums correspond to the reference lump sum multiplied by the n factors. For Romania, the minimum lump sum is set at 1 761 000 EUR.” The average time to comply with Court rulings in the Single Market area has worsened. The time for compliance has increased from 61.3 months last year to 64 months in December 2025”[30].

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[23] J. Pelkmans, op.cit., p. 48.

[24] “As a high-level forum where the Commission and EU countries work together, SMET is best placed to identify how to deal with barriers, jointly devise and implement solutions, ensure a consistent approach and act rapidly” at https://single-market-economy.ec.europa.eu/single-market/single-market-enforcement-taskforce_en, last time consulted on 26.03.2026.

[25] “The Scoreboard results show that a lot of work remains to be done so that the EU citizens and businesses can ripe all the benefits from the Single Market freedoms” in https://single-market-scoreboard.ec.europa.eu/, last time consulted on 26.03.2026.

[26] Available at https://single-market-scoreboard.ec.europa.eu/enforcement-tools_en, last time consulted on 26.03.2026

[27] Available at https://single-market-scoreboard.ec.europa.eu/enforcement-tools_en, last time consulted on 26.03.2026.

[28] Available at https://single-market-scoreboard.ec.europa.eu/enforcement-tools_en, last time consulted on 26.03.2026.

[29] Communication from the Commission, Annual update of data used for calculation of financial sanctions proposed by the Commission to the Court of Justice of the European Union in infringement proceedings (C/2026/1653).

[30] Available at https://single-market-scoreboard.ec.europa.eu/enforcement-tools_en, last time consulted on 26.03.2026.

On the other hand, if Member States are not committed to applying European Union law, the possibility of a two-speed Europe has been considered. It should be noted that this possibility was also influenced by the fact that certain Member States did not support, from the negotiation stage onward, the adoption of certain initiatives launched by the European Commission. In the Commission's opinion "a strong Single Market gives Europe a strong voice globally and the EU remains a strong and reliable partner for like-minded countries both globally and within the region".

The discussions on the two-speed Europe were taken up at informal European Council held at the beginning of the year. It is considered that "a two-speed Europe and the so-called 'European preference' moved from the margins to the center of political debate (...) Several EU leaders, including von der Leyen, French president Emmanuel Macron and German chancellor Friedrich Merz, have now backed a so-called "two-speed" Europe proposal, which tactically aims to advance reforms by bypassing unanimity — seen as an obstacle to competitiveness in a world shaped by strategic rivalry with the US and China"[31].

The Member of the European Parliament "Lukas Sieper (NI[32]/DEU) provides the institutional answer to why multi-speed Europe shouldn't be controversial: it's written into the treaties"[33]. Article 20 from the Title IV Provisions on enhanced cooperation on the Treaty on European Union mentions that "enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States[34], in accordance with Article 328 of the Treaty on the Functioning of the European Union". The application involves the Member States wishing "to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences" which "may make use of its institutions and exercise those competences by applying the relevant provisions of the Treaties".

Pursuant the procedure, "the decision authorizing enhanced cooperation shall be adopted by the Council as a last resort". The Treaty provides with the fact that "acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the acquis which has to be accepted by candidate States for accession to the Union".

In the field of Internal Market, "the President of the European Commission, Ursula von der Leyen, did not rule out enhanced cooperation between Member States to put in place a 28th regime designed to facilitate the cross-border expansion of businesses within the internal market"[35].

Other European leader appreciated that «"enhanced cooperation is not an issue," António Costa dials back two-speed Europe debate, saying unity among member states will prevail. António Costa, the president of the European Council, watered down expectations of a two-speed Europe as a magic bullet to break the impasse on economic reforms»[36].

«Delivering on competitiveness will require unity, speed of delivery and determination by all actors – "we need everyone in our Union" to move forward» (the President of the European Commission)[37].

4. Conclusions

The integration, defined as having an economic character, was at the same time a political project that the Court of Justice of the European Union consolidated by establishing the characteristics of Community/European

[31] E. Sánchez Nicolás, W. van Gaal, Brussels, 'Two-speed Europe' and 'Made in EU' form core conclusions of leaders' retreat, 12 February 2026, at https://euobserver.com/202873/two-speed-europe-and-made-in-eu-form-core-conclusions-of-leaders-retreat/, last time consulted on 26.03.2026.

[32] NI/DEU – Non-Inscrits, Deutschland.

[33] S. Dempsey, Two-speed Europe? Germany's proposal only formalises existing reality, experts say, 7 February 2026, in https://euperspectives.eu/2026/02/germanys-two-speed-proposal/, last time consulted on 26.03.2026.

[34] S. Dempsey, op.cit.: "Enhanced Cooperation mechanisms allow member states "who want to progress the European project, but know that they cannot get the majority on board, to do it with a smaller group as long as it does not contradict the general trajectory of the Union," MEP Sieper said".

[35] P. Denys, Europe seeks unity, without ruling out enhanced cooperation, Europe Daily Bulletin No. 13808, at https://agenceurope.eu/en/bulletin/detail/13808, last time consulted on 26.03.2026.

[36] J. Liboreiro, António Costa dials back two-speed Europe debate, says it's a 'non-issue', 13/02/2026, at https://www.euronews.com/my-europe/2026/02/13/antonio-costa-dials-back-two-speed-europe-debate-says-its-a-non-issue, last time consulted on 26.03.2026.

[37] Available at https://ec.europa.eu/commission/presscorner/detail/en/ac_26_413, last time consulted on 26.03.2026.

Union law, namely immediate application, direct application, and direct effect, as well as priority of application[38] (or supremacy). The Common Market and, later, the Internal Market represents the most emblematic element, largely regulated at the European level which is based on the art. 26 and art. 114 (former art. 95 from the Treaty of the European Community)[39] from the TFEU. It should be noted that French legal doctrine holds that the internal market is fundamentally based on what is known as the logic of negative integration[40].

In a dynamic international context, the concept of a two-speed Europe could be abandoned in favour of unity and coordination at the European level.

Deepening the Internal Market requires constant efforts on the part of Member States, but should be supported by the simplification of legislation adopted by EU institutions and by ongoing dialogue with the European Commission during the implementation phase, not only within the framework of infringement proceedings.

Ultimately, compliance with and enforcement of Internal Market rules must be ensured by the Court of Justice of the European Union, both through the action provided for in art. 260 from the TFEU and through dialogue between the European Court and national courts via preliminary rulings (art. 267 from the TFEU).

A legal and economic analysis should demonstrate that the removal of these" Ten Terrible Barriers" would clearly contribute both to the deepening of the internal market and to the well-being of the peoples of Europe.

The current omnibus-style simplification may also be subject to legal analysis in terms of proportionality, appropriateness, effectiveness and the characteristics of European Union law.

Furthermore, the constitutional issues surrounding the concept of a" two-speed Europe" will be addressed from the perspective of a possible revision of the EU Treaties.

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[38] See R.-M. Popescu, Interpretation and enforcement of article 148 of the Constitution of Romania republished, according to the decisions of the Constitutional Court, in Challenges of the Knowledge Society, Bucharest, 17th - 18th May 2019, 13th Edition, at http://cks.univnt.ro/articles/14.html, last time consulted on 26.03.2026.

[39] CJEC, judgement from 10 December 2002, The Queen v Secretary of State for Health, ex parte British American Tobacco (Investments) Ltd and Imperial Tobacco Ltd, case-law C-491/01, ECLI:EU:C:2002:741, para. 179: It is to be noted, as a preliminary, that the principle of subsidiarity applies where the Community legislature makes use of Article 95 EC, inasmuch as that provision does not give it exclusive competence to regulate economic activity on the Internal Market, but only a certain competence for the purpose of improving the conditions for its establishment and functioning, by eliminating barriers to the free movement of goods and the freedom to provide services or by removing distortions of competition.

[40] G. Marti, Les grandes notions du droit de l'Union européenne, Presses Universitaires de France Publishing House, Paris, 2021, p. 208. This negative integration was supposed to be accompanied by a positive integration that has not yet fully taken effect.

- Augustin Fuerea, Beneficiaries of the freedom of movement within the EU, in CKS 2024 – Challenges of the Knowledge Society Bucharest, May 17th 2024, 17th Edition, at https://cks.univnt.ro/cks_2024.html, last time consulted on 26.03.2026;
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