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SOLVIT 2007 REPORT

Development and performance of the SOLVIT network in 2007

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1. INTRODUCTION

1.1. Background to SOLVIT¹

SOLVIT is a network created by the Commission and the Member States with the aim of solving problems that arise for individual citizens and businesses as a result of the misapplication of internal market law. All EU Member States, plus Norway, Iceland and Liechtenstein, have set up a SOLVIT centre, in most cases within their Ministries of Foreign Affairs or Economic Affairs. These centres cooperate directly via an on-line database to solve problems submitted by citizens and businesses rapidly and in a pragmatic way. The rules for cooperation within SOLVIT are set out in a 2001 Commission recommendation² that was endorsed by Council conclusions. SOLVIT has been operational since July 2002. In addition to the Recommendation, the SOLVIT centres adopted a set of common quality and performance standards in December 2003 to ensure a high quality of service throughout the network. For more details on the basic instruments for the operation of the SOLVIT network, see the first two SOLVIT annual reports of 2004 and 2005.³

1.2. Aim of the report

The aim of this report is to present a clear picture of the performance and development of SOLVIT in 2007. The recommendations at the end of the report indicate which actions need to be taken by the Commission and which by the Member States to ensure that best practices are continued and to address the problems that may prevent SOLVIT from developing its full potential.

Facts, figures and conclusions in the report are based on case handling information from the SOLVIT database and on the replies to a questionnaire that was sent to all 30 SOLVIT centres in December 2007.

1.3. Summary of the main developments in 2007

SOLVIT celebrated its fifth anniversary in July 2007 with events in Brussels and in the Member States to raise awareness about the problem solving service. Case flow increased by 75% last year, mostly as a result of the introduction of an on-line complaint form in December 2006. Resolution rates remained high, at 83%, and the average case handling time decreased slightly from 63 to 58 days. Romania and Bulgaria joined the SOLVIT network in January 2007 and these two new SOLVIT centres achieved very good results in their first year of operation.

The European Parliament confirmed its strong support for SOLVIT by creating a special budget line for promotion and development of the network.

¹ See Annex 1 for a summary of procedures and scope of SOLVIT and see www.ec.europa.eu/solvit for more detailed information in all EU languages.

² Commission Recommendation of 7 December 2001 on principles for using "SOLVIT" - the Internal Market Problem Solving Network (Text with EEA relevance) (notified under document number C(2001)3901) OJ L 331 , 15/12/2001 p. 79 - 82

³ SOLVIT 2004 report, SEC(2005)543 of 19.04.2005, SOLVIT 2005 report, SEC(2006)592 of 04.05.2006. For figures on 2006 performance, see SOLVIT 2006 report SEC(2007)585 of 30.04.2007

1.4. Five years of problem solving

When SOLVIT was launched five years ago, there was a lot of scepticism about its chances of success. Today it is generally praised not only as a successful problem solving tool, but also as a model for administrative cooperation between Member States. Between July 2002 and December 2007, 1805 problems submitted by citizens and businesses were solved by SOLVIT, which represents 80% of all problems accepted by the system. During its first year of operation, SOLVIT attracted around 12 new cases per month. In 2007 the network accepts to handle 68 new cases on average every month.

SOLVIT has demonstrated the capacity to innovate and improve administrative services to the public. The commitment of the national SOLVIT centres and the willingness of national authorities to take a different, European perspective without being forced to do so by formal measures, are essential for the success of SOLVIT. As a result many obstacles within the Single Market could be cleared within relatively short time, allowing EU citizens, self-employed workers and companies to expand their livelihoods or businesses across national borders. The pragmatic, partnership-based approach applied through SOLVIT is a prime example of the type of governance tools that will be increasingly used to deliver results for citizens and enterprises in the future.

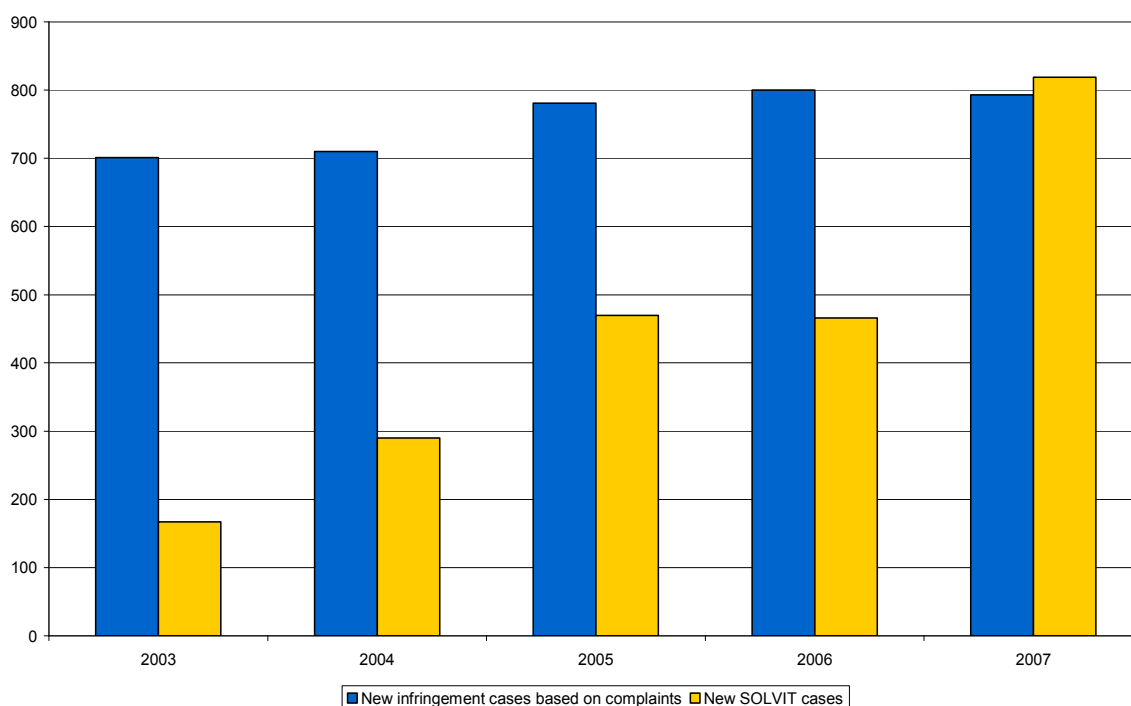
1.5. SOLVIT within the wider picture

In 2007 the Commission reviewed the functioning of the Single Market and published a communication in November of that year⁴ with actions for improving the delivery of benefits to EU citizens and enterprises. Better enforcement of single market rules is a crucial part of this strategy and SOLVIT was highly praised in this connection.

Figure 1 compares the number of infringement cases opened by the Commission on the basis of complaints in the area of single market law with the number of SOLVIT cases over the past five years. These statistics show that, in volume terms, SOLVIT has assumed an important role as an alternative, complementary instrument to ensure the enforcement of EU rules. This is good news for citizens and businesses who need to have their problems solved quickly, because the average case handling time in SOLVIT is just under two months.

⁴ Communication from the Commission – A single market for 21st century Europe, COM(2007)724 of 20.11.2007.

Figure 1 Volume of new infringement cases based on complaints received by the Commission in single market policy areas compared with SOLVIT cases⁵



Also in 2007 the Commission adopted a Communication 'A Europe of results – Applying Community law'.⁶ In it the Commission confirmed the high priority of correct application of Community law. It identified ways for the Commission and the Member States to focus on preventive action, and for the Commission to manage infringements more efficiently and to provide more information. It also suggested ways in which it can work together with the Member States to improve on current problem-solving, producing quicker and better results.

In April 2008 the Commission and 15 Member States have started a pilot project to test an improved working method between Commission services and Member States. The objective of this EU Pilot is to find quicker and better responses to enquiries and positive solutions to problems concerning questions on the correct interpretation, implementation and application of Community law for which Member States have primary responsibility. The Pilot will operate in parallel to SOLVIT which will continue to deal with cross-frontier questions of bad application of Community law in the internal market.

As part of the Single Market review, the Commission has also proposed the creation of a "one-stop shop" for access to information, assistance and problem-solving systems managed by the EU (including Europe Direct, Your Europe, SOLVIT, Citizens Signpost Service, Eures, European Consumer Centres, Eurojus and the new Enterprise Europe Network). The aim is to make it easier for citizens and business to find the right address for their query or

⁵ The figures in this graph include opened infringement cases in the following areas: free movement of persons, goods, capital and services, social security and employment rights, taxation, border controls, motor vehicle registration, transport, telecommunications, access to education, residence rights and visa.

⁶ Communication from the Commission, A Europe of results - Applying Community law, COM(2007)502 of 05.09.2007.

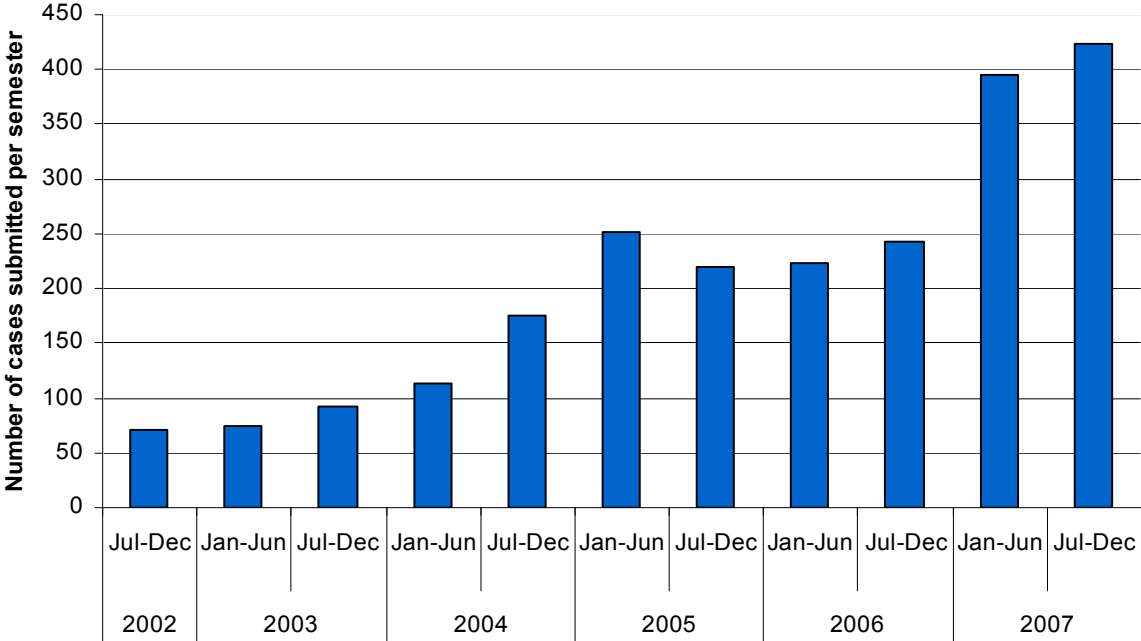
problem without first having to study closely the remits of all these services or being sent "from pillar to post". An action plan to implement this proposal has been developed.

2. PERFORMANCE AND RESULTS

2.1. Sharp increase in overall SOLVIT case flow in 2007

Although case flow in 2006 stabilised at the same level as in 2005, SOLVIT handled around 75% more cases in 2007. Part of this increase (15%) is due to extension of the network to Romania and Bulgaria, but the main sources of additional cases were awareness raising activities around SOLVIT's fifth anniversary and the introduction of a new on-line form to submit a problem in December 2006. The latter made it much easier for citizens and businesses to submit their problems to SOLVIT and also increased transparency in respect of incoming problems for the network as a whole.

Figure 2 Trend in SOLVIT case flow 2002-2007

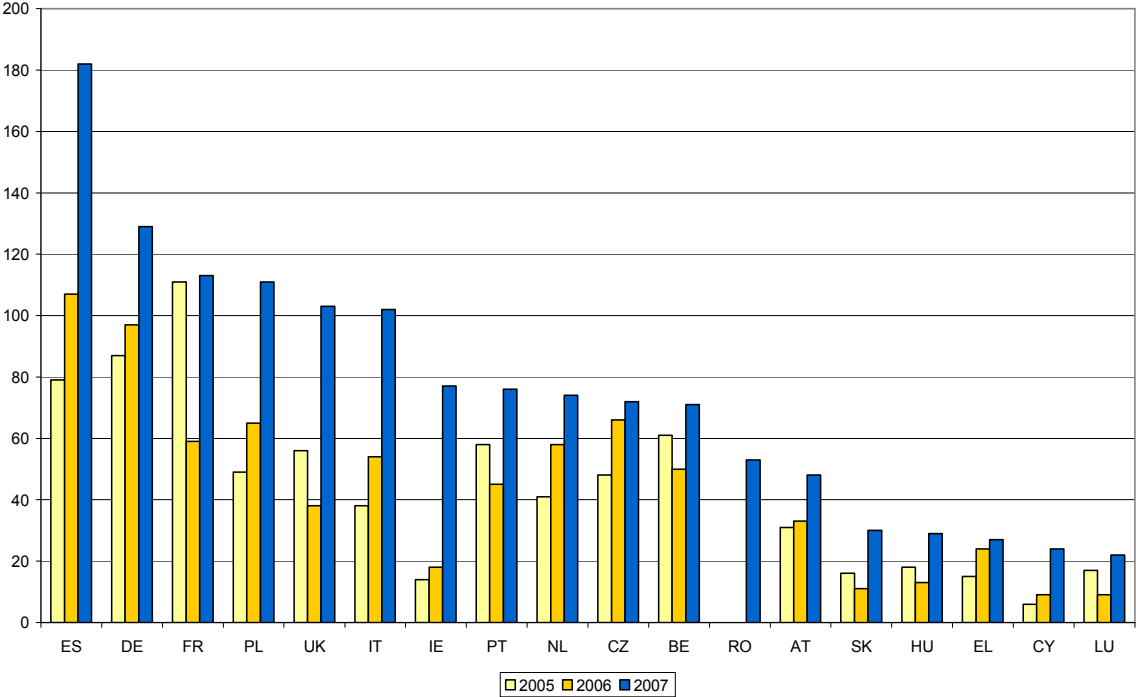


Spain, Germany, France, Poland, the United Kingdom and Italy had the highest case flow (i.e. both cases submitted to and cases received from other SOLVIT centres) in 2007. SOLVIT Ireland experienced the steepest increase in cases, up from 18 in 2006 to 77 in 2007.⁷

⁷ This is almost exclusively due to a particular problem experienced by many Polish immigrants concerning the payment of child benefits. The underlying structural problem is being addressed.

Figure 3 Total volume of cases handled 2004-2007

(SOLVIT centres with a total number of cases submitted and received of 20 or more in 2007)

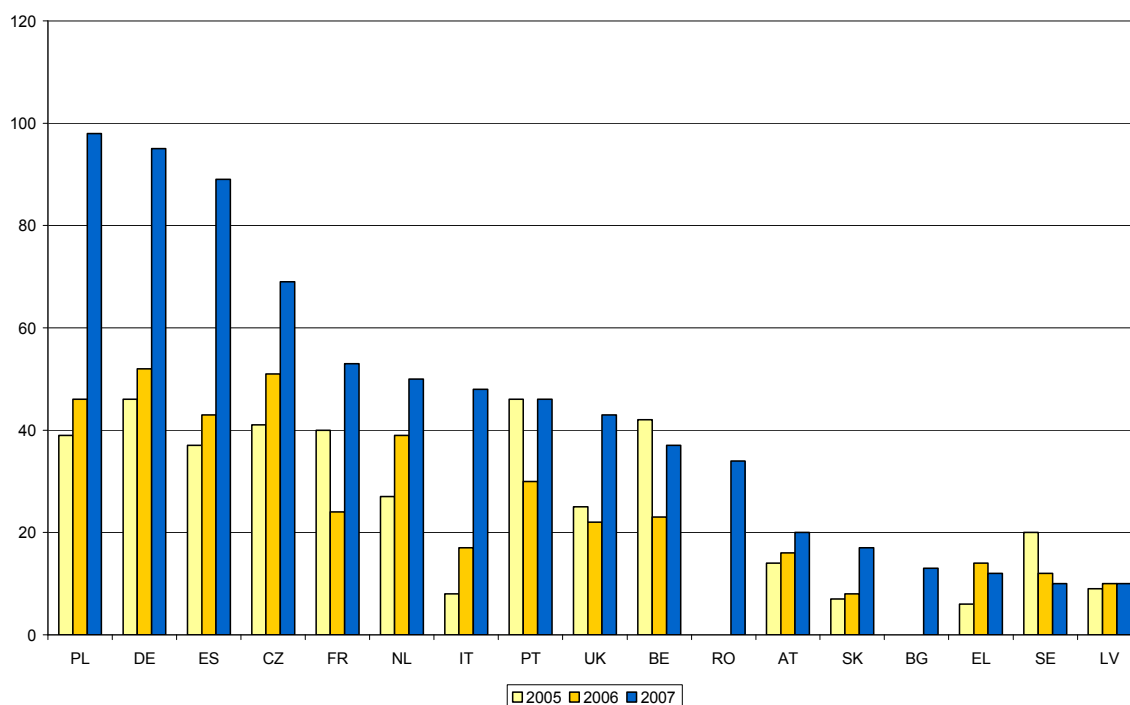


2.2. Smaller SOLVIT centres did not follow the trend of increasing case flow

SOLVIT centres in Poland, Germany and Spain submitted the highest number of cases to the system in 2007.

Figure 4 Trend in cases submitted per SOLVIT home centre 2004-2007

(SOLVIT centres which submitted 10 cases or more)



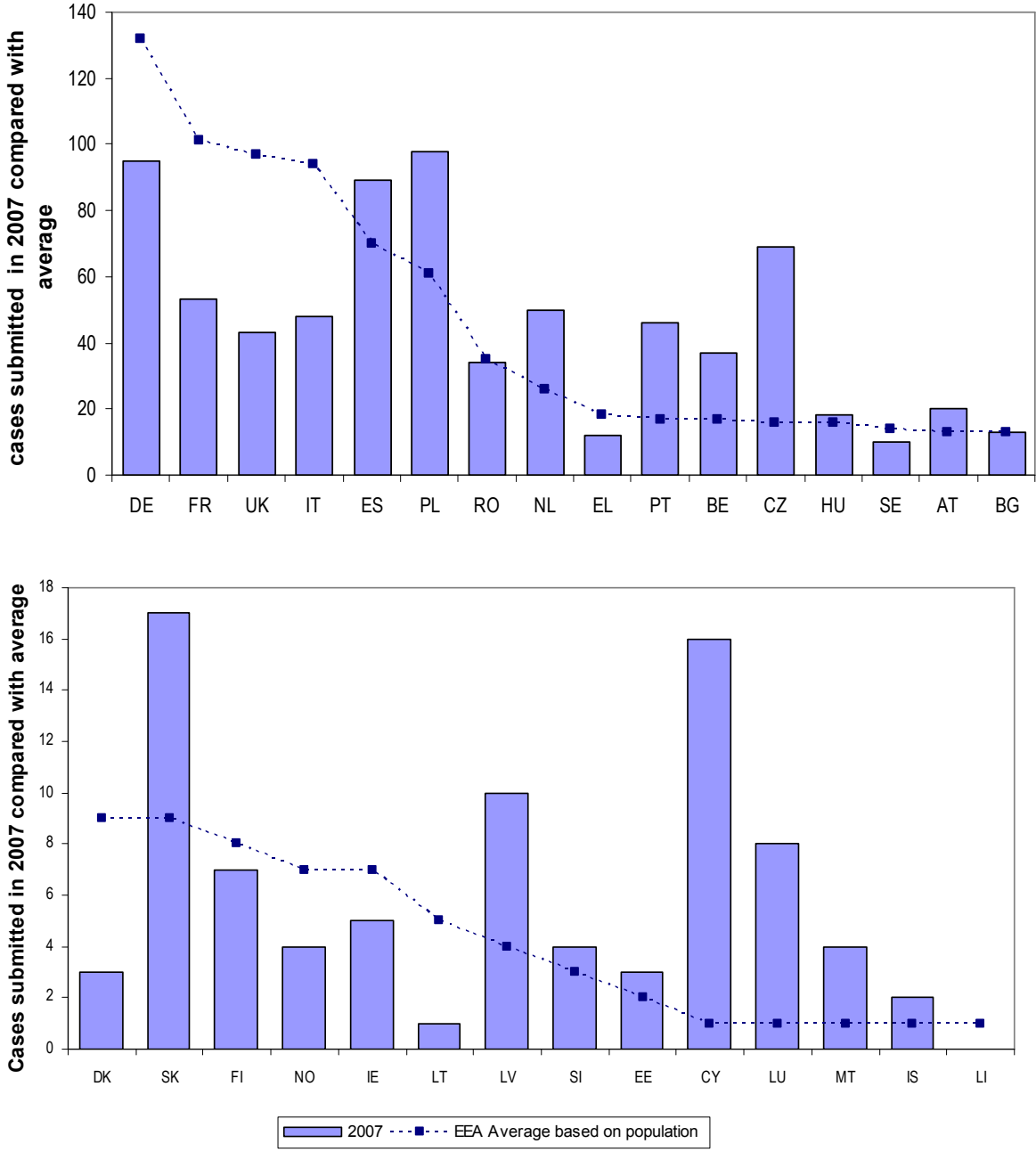
The four largest EU countries - Germany, UK, France and Italy - have considerably increased the volume of cases submitted to help their own citizens and businesses, but they still do not submit as many cases as might be expected on the basis of their population figures.⁸

Some smaller countries have not kept up with the overall growth rate of SOLVIT cases in terms of numbers of cases submitted: the countries in question are Greece, Sweden, Denmark, Finland, Norway, Ireland, Lithuania and Liechtenstein. This potentially creates a risk for the functioning of these centres. It is hard to develop a good case handling routine with very few cases, and these SOLVIT centres will find it more difficult to justify the allocation of sufficient resources, including those needed for awareness-raising. SOLVIT work may then become a marginal part of their job description, which will mean even fewer cases being handled.

SOLVIT Cyprus, on the other hand, has demonstrated that an active promotion campaign can be very effective in making the services of SOLVIT known to a wider audience, leading to a substantial increase in case flow in the smaller Member States too.

⁸ As a matter of principle, SOLVIT UK does not submit to the database cases in which it would be acting as both Home and Lead centre, but instead requests the other SOLVIT centres to submit these cases to them. So any such cases are not included in the figures for the UK.

Figure 5 Volume of cases submitted as SOLVIT home centre compared with EEA average
(EEA average is around 1.6 cases per million inhabitants per year)

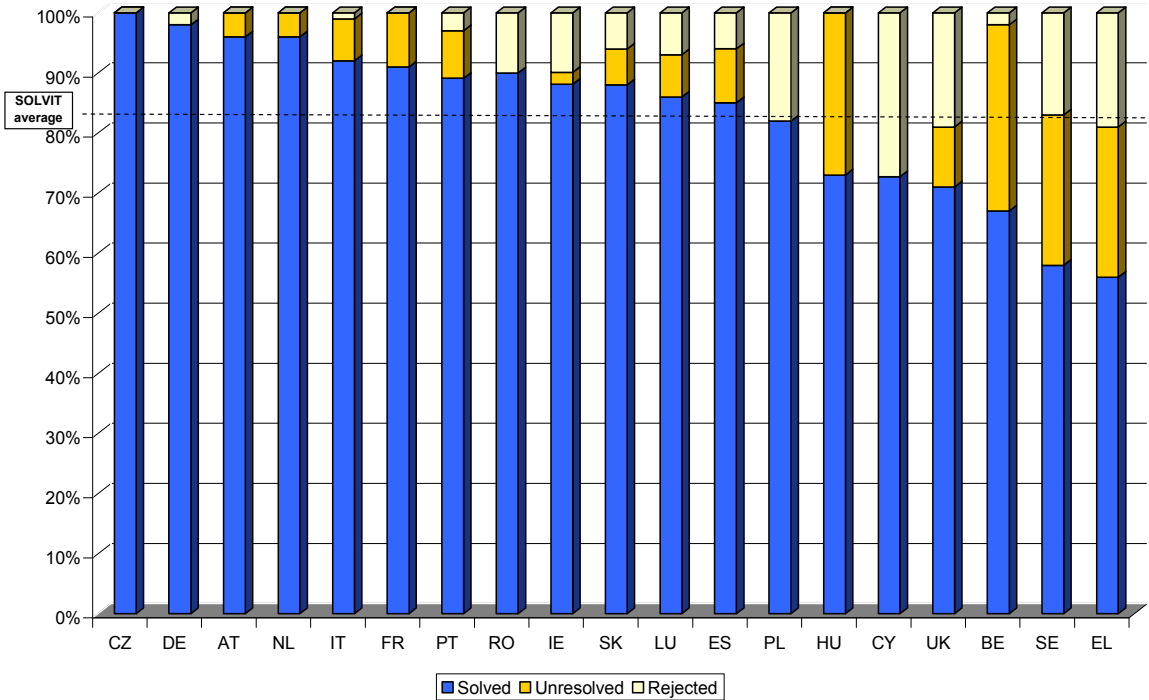


2.3. Resolution rates remain high

The network as a whole achieved a resolution rate of 83% of all cases accepted by SOLVIT. Many SOLVIT centres have managed to achieve impressive resolution rates. SOLVIT centres in the Czech Republic, Germany, Austria, the Netherlands, Italy, France, Portugal and Romania resolved more than 90% of all problems submitted to them.

Figure 6 Case resolution rates of SOLVIT lead centres 2007

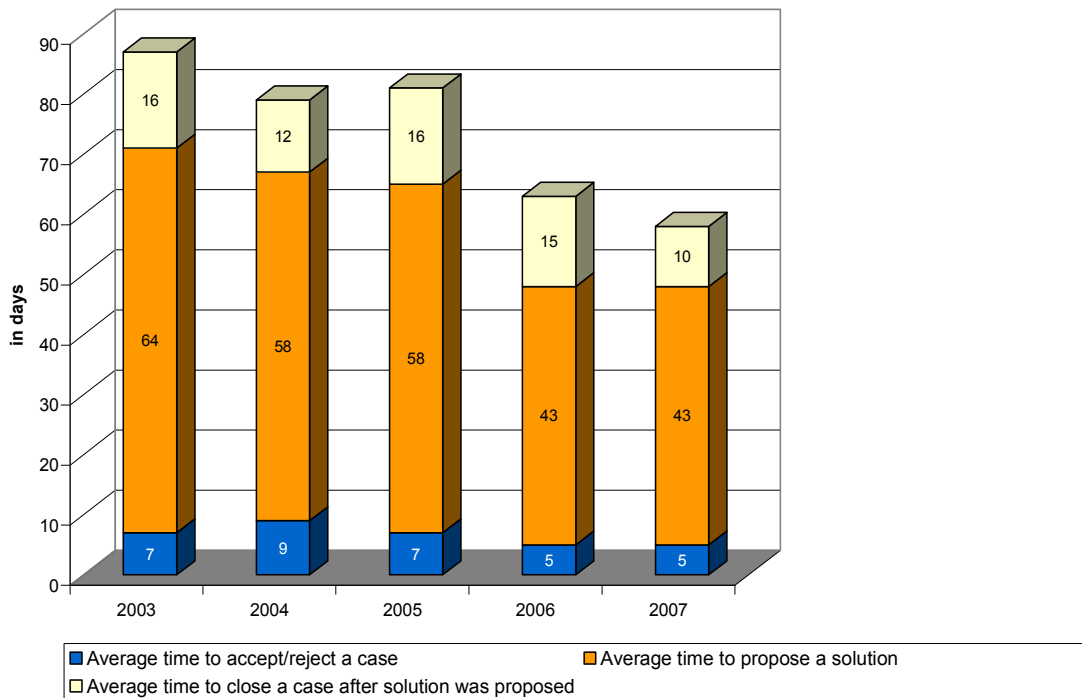
(SOLVIT centres which received 10 cases or more)



2.4. Average case handling speed has increased again

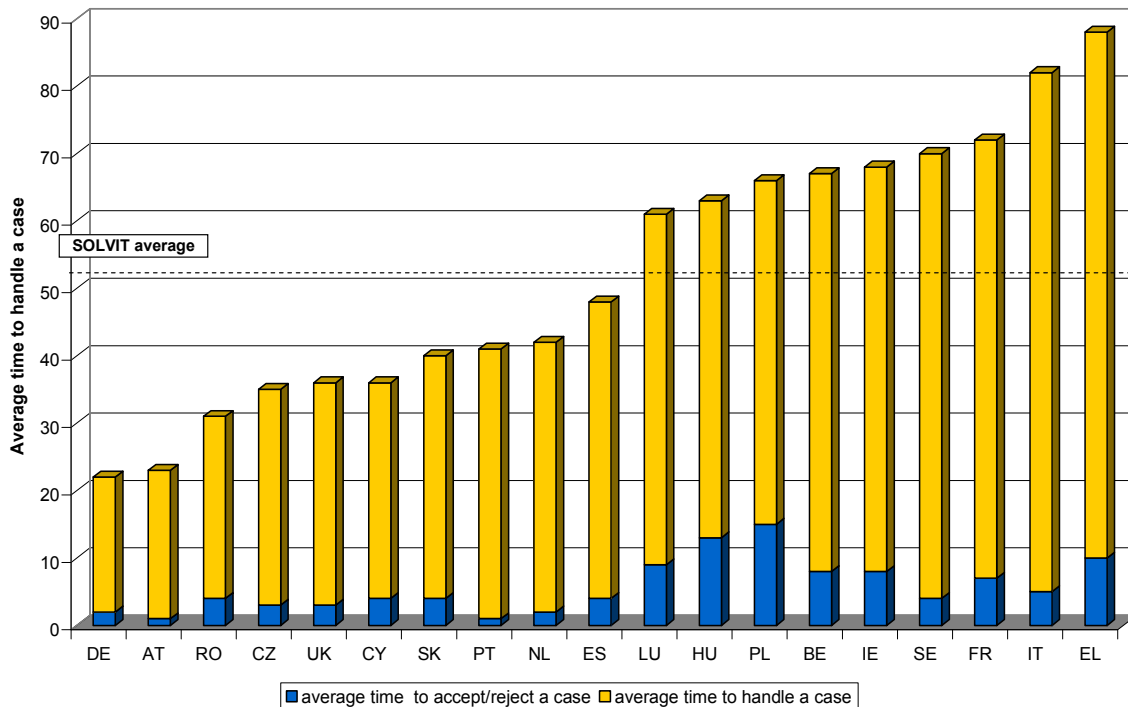
SOLVIT centres are committed to handling cases within a ten-week deadline (70 calendar days). For the network as a whole, 77% of all resolved cases were resolved within the deadline of ten weeks. For 2007, the average time to accept or reject a case was five days and the total case handling time after acceptance was 53 days. This represents a further improvement compared with 2006, when the figures were five days and 58 days respectively.

Figure 7 Evolution of average case handling time 2003 - 2006



The fastest SOLVIT centres in 2007 were those of Germany and Austria, handling cases in just over three weeks on average. Eight further SOLVIT centres stayed within seven weeks. At the other end of the spectrum, two SOLVIT centres - Italy and Greece - needed more than 11 weeks on average to deal with their cases. Nevertheless, it should be noted that Greece has almost halved its average case handling time of more than 20 weeks in 2006.

Figure 8 Average time taken by SOLVIT lead centres to accept/reject and handle cases
(SOLVIT centres that received 10 cases or more)



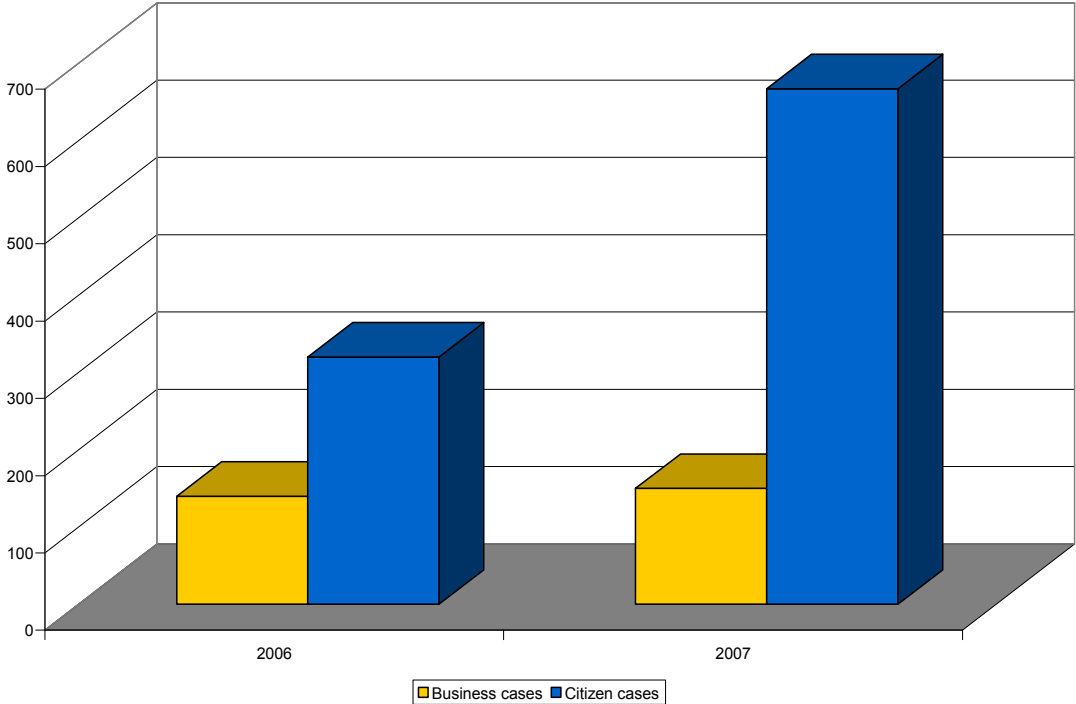
3. PROBLEM AREAS AND ORIGIN OF CASES

3.1. Relative decrease in business cases as a percentage of overall case flow

The rapid increase in SOLVIT case flow in 2007 is entirely due to citizens. The overall number of complaints from business has remained stable since 2006 at around 150 per year and thus has dropped from 31% to 18% as a proportion of the overall SOLVIT case flow. As explained in previous reports, it is not clear why businesses submit fewer cases than citizens. It may be that businesses have other established channels through which they address problems caused by incorrect application of EU law. Other reasons suggested are that, when larger sums of money are involved, businesses prefer to seek paid legal aid or work around the problem (e.g. by agreeing to subject a product to further national tests even though this is not in line with EU law) rather than complain to a governmental body. Some SOLVIT centres have reported that enterprises are reluctant to complain about authorities in other countries because they fear adverse consequences for their business.

Efforts made in 2007 by some of the national SOLVIT centres and by the Commission support team to increase awareness about SOLVIT, especially in business circles, have not had any measurable effect on case flow.

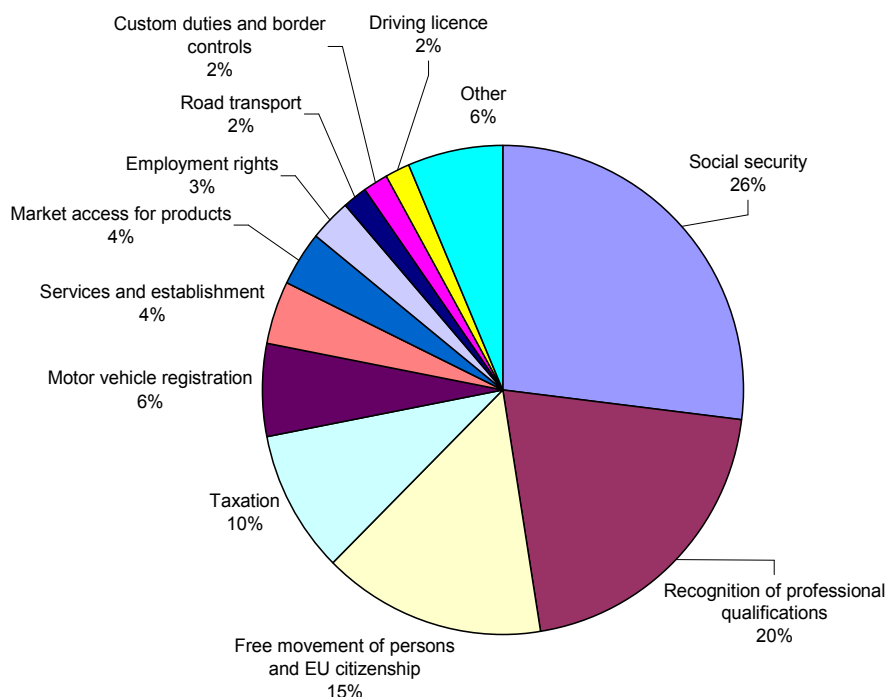
Figure 9 Cases submitted by citizens and businesses 2006-2007



3.2. Social security and professional qualifications remain the biggest problem areas

Social security remains the largest single problem area in SOLVIT case volume. In addition, SOLVIT received many more complaints regarding professional qualifications in 2007.

Figure 10 Cases handled in 2007 by problem area



In the area of free movement of persons (residence rights and visas) SOLVIT centres have had to refuse to handle a large number of complaints because the narrow interpretation of the Residence Rights Directive⁹ by many countries has considerably reduced the margin for solving problems informally (see also Annex 6 on unresolved problems). Some SOLVIT centres reported that they had difficulties in explaining to citizens that their expectations of the new Residence Rights Directive unfortunately could not be met.

3.3. On-line complaint form successful

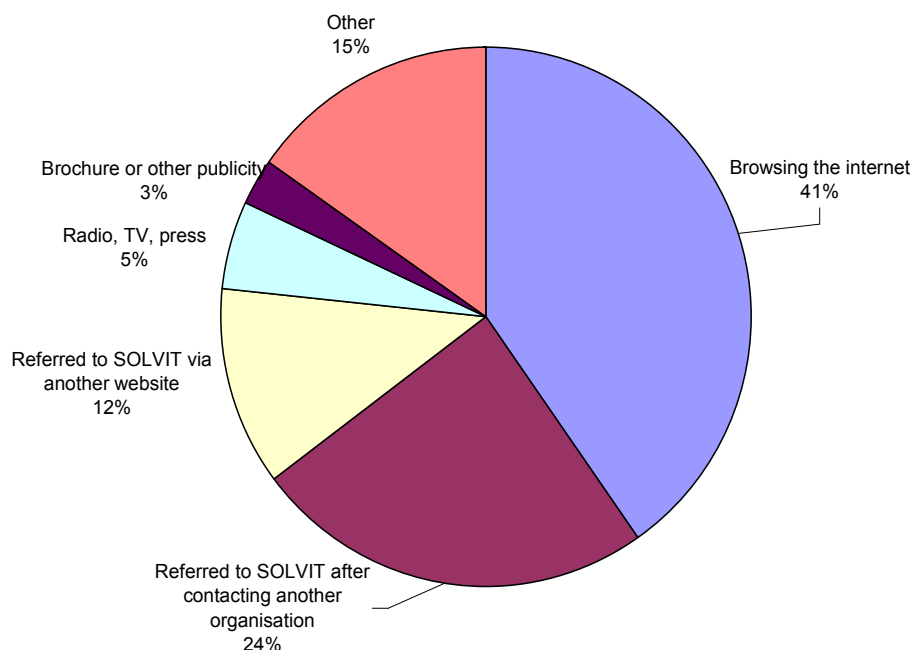
Since December 2006 it has been possible for citizens, businesses and intermediaries to submit problems directly to the SOLVIT database. In 2007, 1 225 complaints were submitted by webform, of which only 20% were accepted by the SOLVIT centres for processing. The remaining 80% were deemed to fall outside the scope of SOLVIT for various reasons (no infringement of EU law, consumer-to-business problems, national problems, requests for information etc.). The percentage of non-SOLVIT cases submitted to SOLVIT centres has not increased as a result of the complaint form, but it has become easier for the centres to refer non-SOLVIT issues to other instances, as they can use the database tools to reply to complainants.

About one third of all cases have been submitted using the on-line form; the remaining 70% have reached SOLVIT centres via other channels. Around half of all citizens and businesses who use the on-line complaint form have found SOLVIT by browsing the internet or via a

⁹ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, (OJL229, 29.6.2004, p.35).

link on a website they visited. Another 24% were referred to SOLVIT by another organisation.

Figure 11 How do complainants find their way to SOLVIT?



4. FUNCTIONING OF THE NETWORK

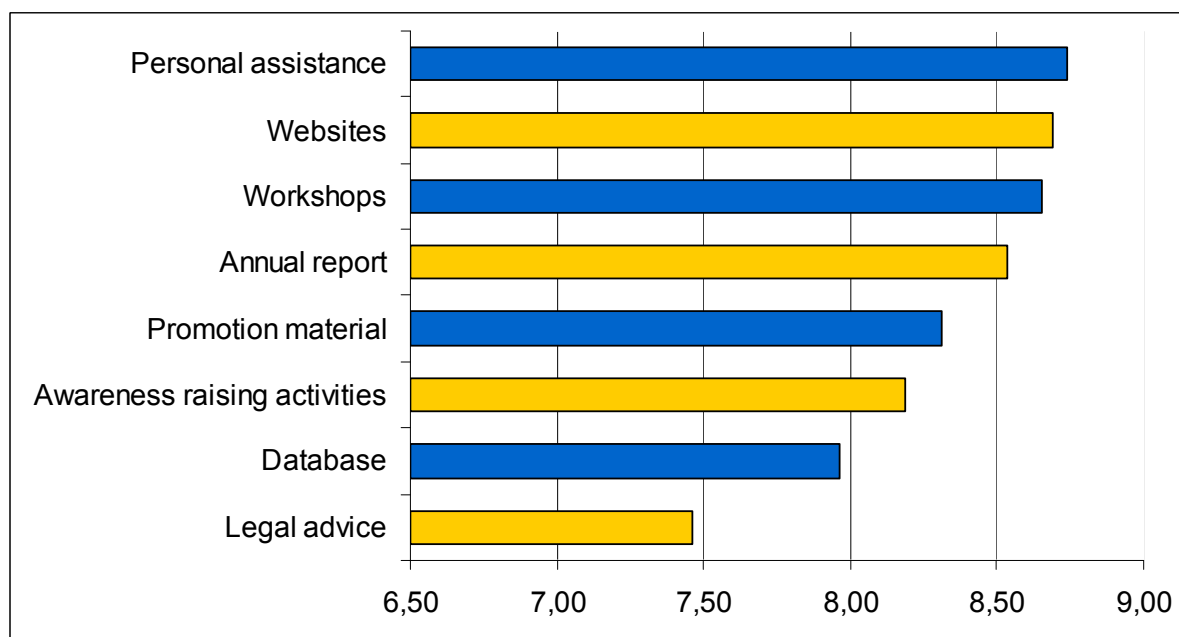
4.1. Cooperation within the SOLVIT network is very good

SOLVIT centres are generally positive about relations with other SOLVIT centres (rated 8.3 on a scale of 10). Open and constructive relations between SOLVIT centres, based on mutual trust and respect, are a key element in the success of the network. The two or three annual workshops where SOLVIT centre staff meet to discuss common approaches, to share experience and expertise and to discuss further development of the network are essential for maintaining and developing team spirit. SOLVIT centres have rated these workshops organised by the Commission at 8.4 on a scale of 10 in their replies to a questionnaire from the Commission. During 2007, workshops were hosted by the Commission in Brussels (April) and by SOLVIT Poland in Warsaw (October).

4.2. SOLVIT centres take a positive view of the services of the EC support team

The Commission SOLVIT support team had six full-time equivalents at its disposal in 2007 and is part of the unit in DG Internal Market and Services that deals with legal issues and infringement procedures. The team provides the SOLVIT centres with day-to-day assistance regarding legal, technical and procedural issues; it maintains and develops the database and the websites, implements promotional activities and develops promotional instruments, monitors quality and performance and organises regular workshops.

Figure 12 Services provided by the EC SOLVIT team as rated by the SOLVIT centres

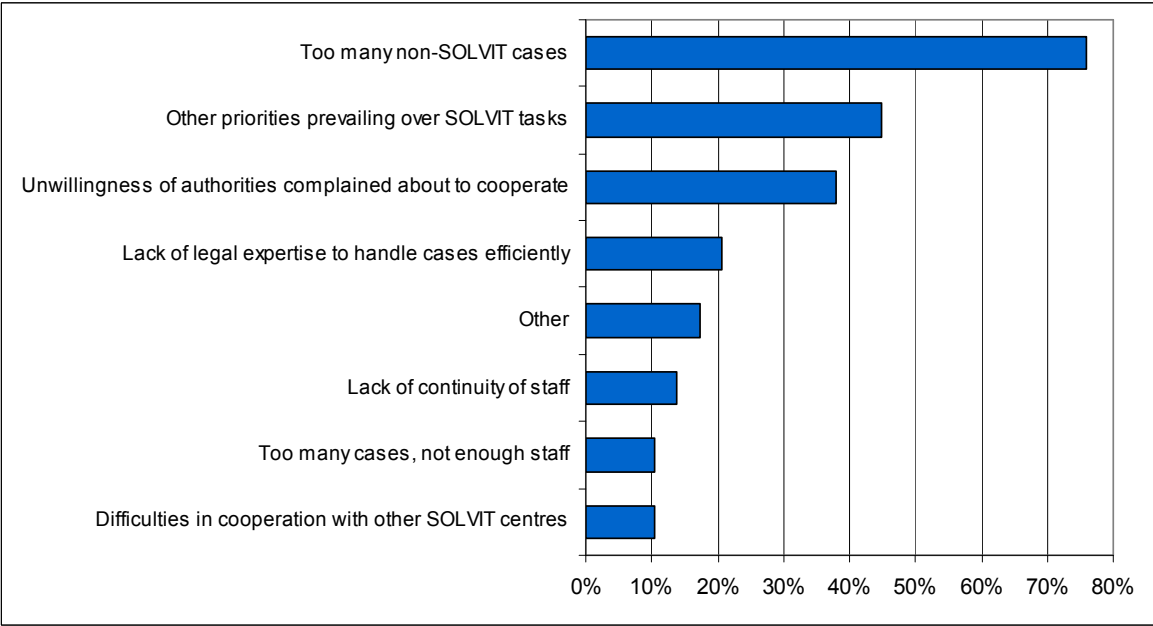


SOLVIT centres continue to be satisfied with the services provided by the Commission (rated 8.3 on a scale of 10). However, while some have noted an improvement in the provision of legal advice in 2007, many SOLVIT centres are still not happy about the timeliness of such advice on specific SOLVIT cases. The centres often request an informal legal opinion from the Commission in cases where they disagree about the correct interpretation of EU law or where such an opinion is needed in order to persuade the authority about whom the complaint has been made to change its policy or decision. In view of the ten-week deadline for handling SOLVIT cases, the centres cannot afford to lose time waiting for Commission opinions; however, advice can take several weeks to arrive, especially during holiday periods. The Commission support team depends on experts within other services of the Commission to provide legal advice on SOLVIT cases, and mostly this is delivered within a reasonable time. However, SOLVIT requests can suffer if the overall workload is too high. Internal measures have recently been taken to improve the service, in particular by raising the profile of work related to SOLVIT. Progress will be monitored.

4.3. SOLVIT attracts a large volume of non-SOLVIT cases

SOLVIT continues to attract a large volume of problems and queries that are outside the scope of SOLVIT. Even more SOLVIT centres than last year (76%) mention this as one of the main bottlenecks affecting the smooth operation of their service. Statistics relating to the on-line complaint form show that, of all cases submitted via this route, only 20% are eventually accepted for treatment. The remaining 80% are not 'SOLVITable' and are handled outside the database or signposted to other bodies.

Figure 13 Main bottlenecks encountered by SOLVIT centres



The large number of enquiries outside the scope of SOLVIT indicates that it is still quite difficult for citizens and businesses to find the right address within the complicated landscape of EU assistance and information services.

4.4. Shortage of staff in SOLVIT centres is still a problem

On average, SOLVIT centres spent 16.5 man-months on SOLVIT tasks in 2007, the same as in 2006. As in the previous year, almost half of all SOLVIT centres report that they need more personnel or have experienced continuity problems in 2007. Furthermore, while a SOLVIT centre may have sufficient staff 'on paper', they often have to combine their SOLVIT tasks with other, high(er) priority work (see figure 13). In such situations there is obviously a strong incentive to keep SOLVIT work within limits and not to attract more cases through awareness-raising. In most cases staff shortages have not resulted in lower resolution rates or longer case handling times, but they do seem to have an impact on case handling quality and are slowing down the further expansion of SOLVIT. The majority of SOLVIT centres report that they would like to do more about awareness-raising, but that they do not have the staff for it.

Table 1 Staffing levels in SOLVIT centres during 2007

<i>Adequate</i>		<i>Low</i>	
Bulgaria	Liechtenstein	Austria	Lithuania
Belgium	Luxembourg	Cyprus	Malta
Czech Republic	Netherlands	Finland	Norway
Denmark	Portugal	France	Poland
Estonia	Slovakia	Germany	Romania
Greece	Spain	Ireland	Slovenia
Hungary	Sweden	Italy	
Iceland	United Kingdom		
Latvia			

4.5. Authorities about whom complaints are made are not always cooperative

The SOLVIT method - which is based on a fast, pragmatic and non-bureaucratic approach to problem solving - frequently comes up against considerable resistance in other parts of the national administration. Almost 40% of all SOLVIT centres report that they regularly encounter difficulties in persuading the authorities about whom complaints have been made to apply EU law correctly. An additional problem is convincing these authorities to propose solutions in time within the 10-week deadline. Nevertheless, one third of SOLVIT centres state that cooperation with authorities which have been the subject of complaints is improving. As SOLVIT becomes better known and as the number of cases grows, it becomes easier to establish good working relationships with these authorities. As a result, the larger SOLVIT centres generally have better channels for solving problems than those with a limited case load.

But, even with fewer cases, it is still important to build good relations within the national administration. SOLVIT Ireland, for instance, remarked that its job is not only solving problems, but also reaching out systematically to authorities involved in applying EU rules, to ensure that problems are avoided.

In general, SOLVIT centres need strong political support to be able to overcome the reluctance of other authorities, not only to apply EU rules correctly, but also to do so without formal procedures. A good example of a SOLVIT centre that has benefited from considerable political support is SOLVIT Portugal, which has become an official part of the Portuguese administration under a special law passed in 2007. This has boosted SOLVIT Portugal's authority in persuading other parts of the administration to cooperate within the rules of the SOLVIT procedure.

5. FURTHER DEVELOPMENT OF SOLVIT

5.1. Promotion of SOLVIT

SOLVIT centres spend an average of 10% of their time on awareness-raising activities. Almost all centres have been involved in promoting SOLVIT within their administration to develop internal networks that are essential for solving problems. In addition, a majority of SOLVIT centres were engaged in external promotion, but there were seven SOLVIT centres who reported that they had not done any external awareness-raising in 2007. Almost all SOLVIT centres would like to spend more resources on awareness raising activities, but staff and budget shortages prevent this.

Table 2 External awareness raising activities undertaken by the SOLVIT centres in 2007

	Many	Some	None
SOLVIT centres	Bulgaria	Austria	Denmark
	Cyprus	Belgium	Estonia
	Czech Republic	Finland	France
	Hungary	Germany	Iceland
	Italy	Greece	Liechtenstein
	Lithuania	Ireland	Netherlands
	Malta	Latvia	Norway
	Poland	Luxembourg	
	Portugal	Slovakia	
	Romania	Slovenia	
	Sweden	Spain	
		United Kingdom	

The Commission's SOLVIT team organised various events to celebrate the 5th anniversary of SOLVIT in 2007, which resulted in a fair amount of additional publicity for SOLVIT. Nevertheless, more needs to be done, especially in those countries where the volume of cases submitted is below average (see figure 5), but also in other Member States where the true potential of SOLVIT has not yet been reached. Further efforts are particularly necessary in order to bring the benefits of SOLVIT to the business community.

5.2. Cooperation with other networks

Both at EU and at national level there has been progress in strengthening the ties between SOLVIT and other networks. SOLVIT centres are frequently in contact with the Commission offices in the capitals, the Euro Info Centres and the European Consumer Centres. SOLVIT

Ireland has set up an information exchange group in which all EU information and assistance services in Ireland meet on a regular basis.

A majority of SOLVIT centres regularly receive queries referred to them by the Citizens Signpost Service. A direct link was created in 2006 between the Citizens Signpost Service (providing customised legal advice to citizens) and the SOLVIT database, but this has not been used as often as might be expected. Owing to data protection concerns, direct transfer of 'SOLVITable' cases from CSS to SOLVIT is not possible. Therefore, the transfer has to be activated by the complainant, but in practice the message explaining this procedure seems to create confusion and needs to be improved.

As part of the Single Market review, the Commission services are implementing an action plan to increase and streamline cooperation between all EU networks involved in providing information and assistance services to the public with regard to their rights and opportunities in the single market. The action plan covers a wide range of existing services, namely Europe Direct, European Consumer Centres, Enterprise Europe Network, Eures, Citizens Signpost Service, Eurojus, SOLVIT and the Your Europe web portal.

Lastly, in April 2008 the Commission launched the pilot project¹⁰ for a new problem-solving and information exchange mechanism to operate between the Commission and Member States. The pilot will cover issues raising a question concerning the correct application of Community law or the conformity of the law in a Member State with Community law. These will be issues on which further factual or legal information is required for a full understanding or which could be resolved through Commission / Member State collaboration. The EU Pilot differs from SOLVIT in two respects: first, the EU Pilot does not deal with cross-frontier issues of bad application of Community law in the internal market; and, second, the EU Pilot operates between the Commission and Member States. The Commission, together with the EU Pilot Central Contact Points, will cooperate closely with the SOLVIT centres to ensure the smooth functioning of the two systems.

5.3. Expanding the scope of the SOLVIT approach

SOLVIT centres have continued to pursue cases that require a change in national law, guidelines or other formal implementing provisions: these are known as the SOLVIT+ cases. While SOLVIT's mandate allows them to refuse such cases because they are difficult to solve by informal means or within ten weeks, many SOLVIT centres have done excellent work in not only solving the individual problem at hand, but also preventing similar problems in the future by insisting on structural solutions. In 2007, 13 SOLVIT centres (Belgium, Bulgaria, Cyprus, Czech Republic, Hungary, Ireland, Luxembourg, Latvia, the Netherlands, Portugal, Romania, Slovakia, Slovenia) took on a total of 26 SOLVIT+ cases; 19 of those cases were eventually solved (see Annex 5 for examples) and seven are still pending. It is encouraging to see that the vast majority of SOLVIT centres are prepared in principle to take on SOLVIT+ cases. Only three SOLVIT centres - Germany, Denmark and Liechtenstein - refuse to handle such cases as a matter of principle.

Furthermore, many SOLVIT centres have demonstrated great flexibility in also handling cases that do not fall within the scope of SOLVIT, such as cross-border problems that do not concern EU law. Last year a special category for 'non-SOLVIT' cases was created in the

¹⁰ Communication from the Commission: A Europe of results - Applying Community law, COM(2007)502 of 05.09.2007

database to record the useful work done by SOLVIT centres in providing assistance outside the scope of the SOLVIT terms of reference. In 2007, SOLVIT centres handled 163 of these 'non-SOLVIT' cases.

5.4. Using SOLVIT experience to provide feedback for policy development

After five years of experience with SOLVIT, the network has gained important insights in the functioning of the internal market. The most frequent hurdles to cross-border mobility for citizens occur in the areas of social security and professional recognition. The complexity of legislation in these areas and the wide margin of discretion for the authorities implementing EU rules make it very difficult for citizens to understand their rights and to insist that they are granted. In both areas, SOLVIT encounters many cases that cannot be resolved in a satisfactory way because EU law does not contain sufficiently detailed provisions. Furthermore, in such situations, authorities have a tendency to adopt the most restrictive interpretation permitted under EU law, often leaving complainants very disappointed about the workings of the internal market. In addition, SOLVIT centres are also regularly confronted with cases they cannot solve due to loopholes in EU law. Annex 6 includes a list of examples of such cases.

It would be of interest to use the information compiled in the SOLVIT case-handling database in a more systematic way to provide feedback for policy development, where possible in cooperation with other assistance networks that operate in the same policy areas. How this can be done will be examined as part of the Single Market assistance services action plan already referred to in Chapter 1.4 and 5.2.

6. CONCLUSIONS

1. The staffing situation has improved slightly in some SOLVIT centres but deteriorated in others. Across the board no additional staff have been made available for SOLVIT tasks in spite of a 75% growth in case volume.

- Various SOLVIT centres urgently need more staff or the possibility to free up existing staff to spend more time on SOLVIT

Action: Austria, Cyprus, Finland, France, Germany, Ireland, Italy, Lithuania, Malta, Norway, Poland, Romania, Slovenia.

2. Awareness raising activities are crucial to ensuring that SOLVIT can reach out to citizens and business within the countries with 'SOLVITable' problems. Some SOLVIT centres are so busy solving problems for complainants from other countries that they have no time left to promote the service to their own citizens and businesses.

- Member States should ensure that their SOLVIT centres are encouraged to spend more time and effort on awareness raising activities and that they have enough resources for this purpose.

Action: Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Latvia, Liechtenstein, Luxembourg, Netherlands, Norway, Slovakia, Slovenia, Spain, United Kingdom.

3. Resolution rates and case handling times for the SOLVIT network as a whole are very satisfactory. However, some SOLVIT centres are experiencing problems in this respect which may be due to lack of cooperation from other parts of the administration.

- Some SOLVIT centres need to examine and address the causes of relatively long case-handling times and low resolution rates.

Action: Belgium, Denmark, Greece, Italy, Sweden.

4. Convincing other parts of the administration that they should change their decision or position in order to solve a practical problem in compliance with EU law is never an easy task. Moreover, authorities that are complained about are often not used to working fast enough to meet the SOLVIT deadlines. Some SOLVIT centres have encountered serious difficulties and need stronger political support for this task.

- Member States should ensure that their SOLVIT centre has strong political support so that it can persuade the authorities about which complaints are made to cooperate actively with the SOLVIT procedure and within the deadlines.

Action: Belgium, Denmark, France, Greece, Hungary, Ireland, Italy, Lithuania, Malta, Norway, Poland, Spain, Sweden.

5. In order to ensure that solutions are compatible with EU law, SOLVIT centres need sound legal advice on the legal merits of problems submitted and solutions proposed. For this they often turn to the Commission. However, the Commission does not always provide legal advice in time to meet the SOLVIT deadlines. Moreover, SOLVIT centres should also have good access to legal advice either within their centre or within the administration to which they belong.

- The Commission should speed up the provision of informal legal assessments to SOLVIT centres on request. Member States should ensure that SOLVIT centres have good access to legal expertise within their administration.

Action: Commission, France, Lithuania, Malta, Slovenia.

6. The high volume of non-SOLVIT cases submitted to SOLVIT centres takes up a considerable amount of time and effort in signposting to other bodies.. Moreover, it suggests that citizens and business are finding it difficult to work out which EU assistance service they should turn to with a particular query or problem. Being sent from pillar to post is not a positive experience for citizens and businesses seeking help.

- Improve filtering of queries/complaints to ensure that they are directed immediately to the right address by implementing the Single Market Assistance Services action plan.

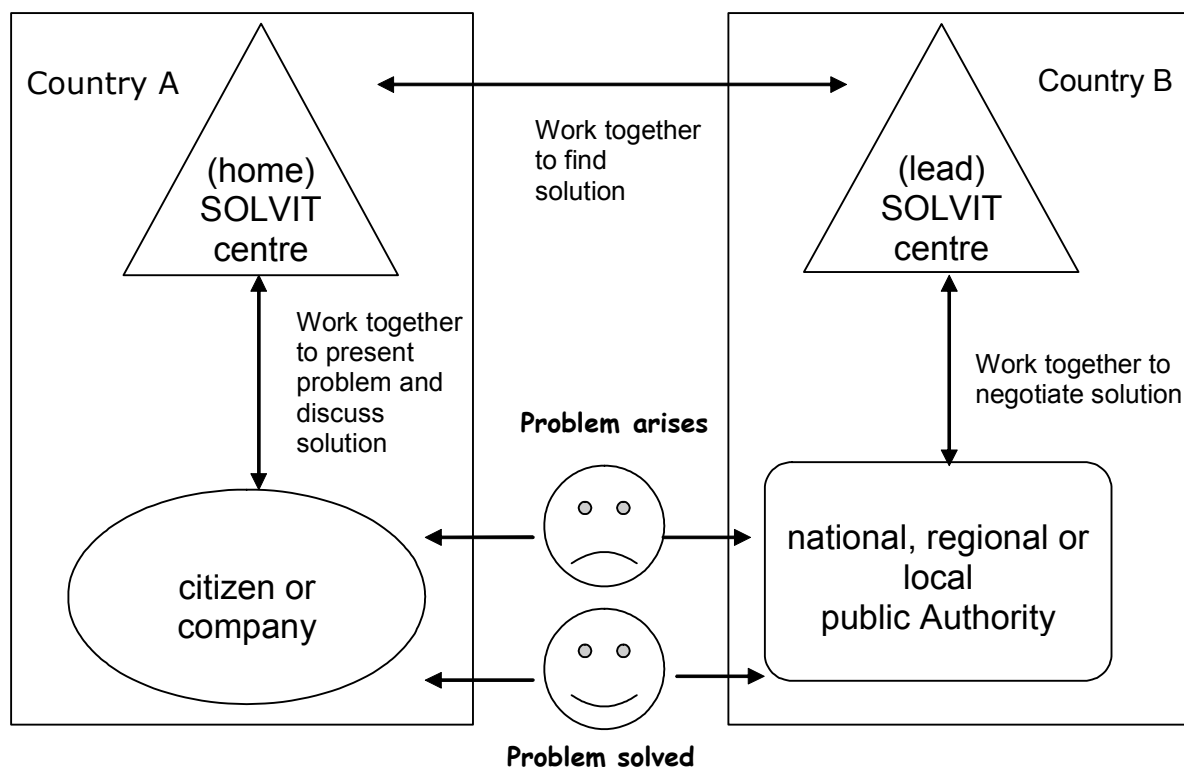
Action: Commission.

ANNEX 1 – PROCEDURE AND SCOPE OF SOLVIT

A. HOW SOLVIT WORKS

When a citizen or business submits a case to SOLVIT, the local SOLVIT centre (known as the SOLVIT "home" centre) will first check the details of the application to make sure that it does indeed concern the misapplication of Internal Market rules and that all the necessary information has been made available. It will then input the case into an on-line database system, and the case will be forwarded automatically to the SOLVIT centre in the other country where the problem has occurred (known as the SOLVIT "lead" centre).

The SOLVIT lead centre should confirm within one week whether or not it will take on the case. This will largely depend on whether it considers that the case is well-founded and whether there is a good chance that it can be resolved pragmatically. In some cases, it is not only the application of the rule, but the rule itself that may be the problem. If the solution to a problem requires the repeal of a particular rule, this may take many months, if not longer – and may well require formal legal action. In such cases, there is little that SOLVIT can do, although a Member State which has agreed that it will change a contested rule may well decide to waive its application.



The target deadline for finding a solution to the problem is 10 weeks. The two SOLVIT centres will work together to try to solve the problem and the complainant will be kept informed of progress and the solution proposed by the SOLVIT home centre. Nevertheless, if a problem goes unresolved, or the complainant considers that the proposed solution is unacceptable, he/she can still take legal action through a national court or lodge a formal complaint with the European Commission.

B. WHERE SOLVIT CAN HELP

SOLVIT deals, in principle, with any cross-border problem between a business or a citizen on the one hand and a national public authority on the other, and which concerns the possible misapplication of EU single market law.

The policy areas SOLVIT has mostly dealt with so far are: recognition of professional qualifications and diplomas, access to education, residence permits, voting rights, social security, employment rights, driving licences, motor vehicle registration, border controls, market access for products, market access for services, establishment as self-employed, public procurement, taxation, free movement of capital or payments. This list is not exhaustive. SOLVIT will consider any case that meets the above criteria.

However, since SOLVIT is an informal approach to problem solving, it should not be used in situations where legal proceedings are already underway. Moreover, SOLVIT does not deal with business-to-business or consumer-to-business problems.

ANNEX 2 - OVERALL PERFORMANCE OF ALL SOLVIT CENTRES IN 2007

Please note that the case handling speed and resolution rates in this table indicate how fast and how well each SOLVIT centre managed to solve the problems in their country, submitted by citizens and businesses from other countries. Only the first column concerns the work done by each SOLVIT centre on behalf of their own citizens and businesses by submitting cases to other SOLVIT centres.

	Cases submitted to the system compared with country size (1)	Size of SOLVIT centre based on overall case load (submitted and received) (2)	Case handling speed (3)	Resolution rates (4)	Staffing level (5)
Austria	high	large	high	high	low
Belgium	high	large	low	low	low
Bulgaria	average	medium	-	-	adequate
Cyprus	high	medium	high	average	low
Czech Republic	high	large	high	high	adequate
Denmark	low	small	low	low	adequate
Estonia	average	small	-	-	adequate
Finland	average	small	-	-	low
France	low	very large	low	high	low
Germany	low	very large	high	high	low
Greece	low	medium	low	low	adequate
Hungary	average	medium	average	average	adequate
Iceland	low	small	-	-	adequate
Ireland	low	large	low	average	low
Italy	low	very large	low	high	low
Latvia	high	small	average	average	low
Liechtenstein	low	small	-	-	adequate
Lithuania	low	small	-	-	low
Luxembourg	high	medium	average	average	adequate
Malta	high	small	-	-	low

Netherlands	high	large	high	high	adequate
Norway	low	small	-	-	low
Poland	high	large	average	average	low
Portugal	high	large	high	high	adequate
Romania	average	large	high	high	low
Slovakia	high	medium	average	average	adequate
Slovenia	average	small	-	-	low
Spain	high	very large	high	average	adequate
Sweden	low	medium	low	low	adequate
United Kingdom	low	large	high	average	adequate

- (1) The average number of cases submitted to SOLVIT during 2007 was +/- 1.6 per million inhabitants. A rate of 25% less than the average relative to the country size is designated as 'low', 25% more than the average is designated as 'high'. Where a SOLVIT centre has submitted only two cases or fewer in 2007, this is considered 'low' regardless of country size.
- (2) On average, a case handled as Lead Centre takes twice as long as a case submitted as Home Centre to another Centre. Cases received have therefore been double-counted in the assessment of the overall case load for each of the SOLVIT centres. Indications of size are as follows: small: 0-25 cases; medium 26-75 cases; large 76-175 cases; very large 176-375 cases.
- (3) Average time to accept/reject a case was five days, average time to handle a case as from acceptance was 53 days (= 58 days). An average case handling speed of 48 days or less is considered high; an average speed of 68 days or more is considered low. For Centres with less than 10 cases received as Lead Centre in 2007 no indication of case handling speed can be given, except for Denmark and Latvia where the combined case load of 2006 and 2007 was taken as a basis. The remaining nine SOLVIT centres did not have at least ten cases in 2006 and 2007 combined.
- (4) Average resolution rate is 83%. Less than 70% is considered low, 90% or more is considered high. There are no indications for centres with less than 10 cases as Lead Centre in 2007, except for Denmark and Latvia, where the combined case load of 2006 and 2007 was taken as a basis. The remaining nine SOLVIT centres did not have at least ten cases in 2006 and 2007 combined.
- (5) Experience shows that even a small SOLVIT centre should have at least 6 man-months available on an annual basis. The medium-sized SOLVIT centres need at least 18 months at current levels of case load. The large centres require at least 24 man-months, and the very large centres 36 man-months. Figures are based on time spent on SOLVIT tasks in 2007 as reported by the SOLVIT centres.

ANNEX 3 – STATISTICS ON CASE FLOW OF ALL SOLVIT CENTRES

Figure 11 Cases submitted and received in 2007

(SOLVIT centres who have submitted and/or received more than 20 cases)

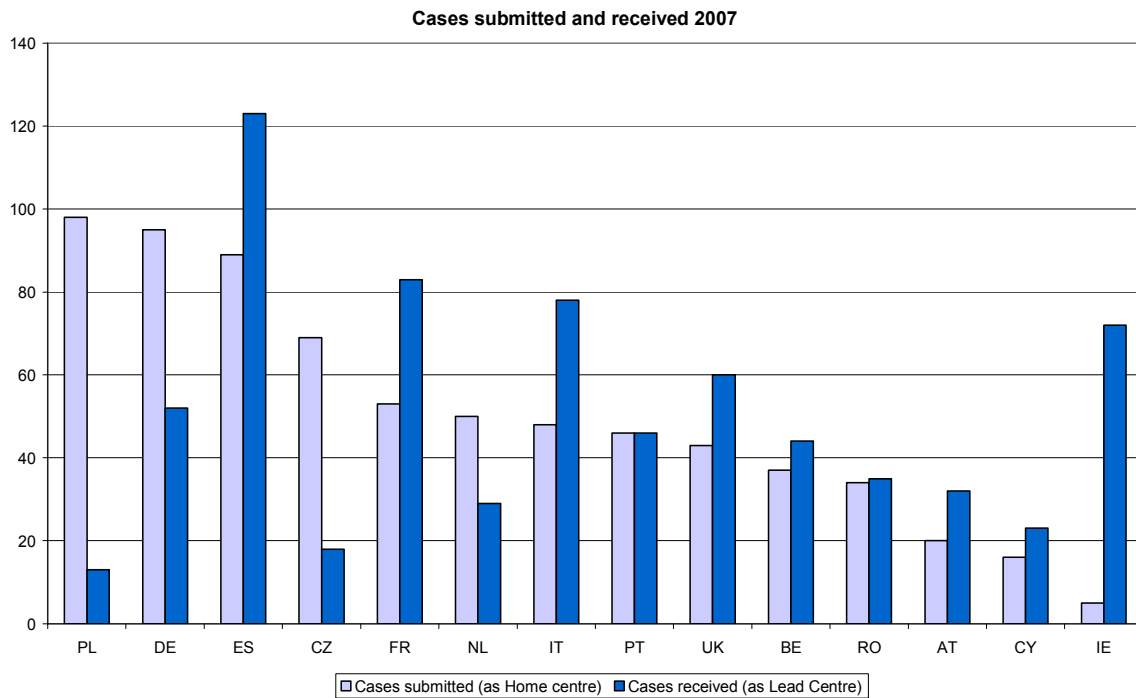
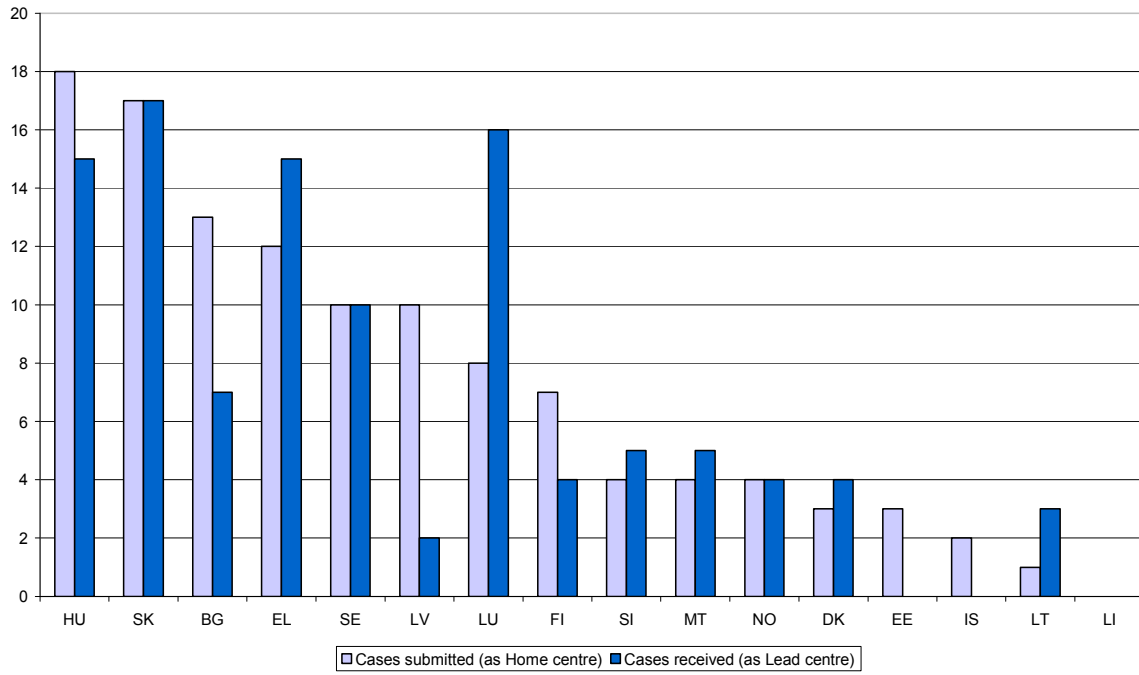


Figure 12 Cases submitted and received in 2007

(SOLVIT centres who have submitted and received less than 20 cases)

Cases submitted and received 2007



ANNEX 4 - SOLVIT SUCCESS STORIES IN 2007

FREE MOVEMENT OF PERSONS

SOLVIT helps UK newlyweds to put icing on the cake

A British couple officially married in the United Kingdom invited their friends and relatives to join them for their wedding celebrations in Portugal. The bride's father, an Iranian national married to a British citizen for over 25 years, and living and working in the UK, applied for a two-week visa to Portugal. He provided all necessary documents, but the visa was nonetheless refused for 'Immigration issues.' The groom contacted SOLVIT, which worked with the relevant authorities to grant the bride's father a visa in time for the celebrations in Portugal. The groom exclaimed in gratitude, "This good news has come as such a relief and I am happy to say that my wedding celebration will now be a time of happiness." **Solved within two weeks.**

SOLVIT facilitates Austrian visa for Russian mother of a Lithuanian citizen

A Lithuanian national and her Russian mother, both legally resident in Lithuania, wished to travel to Austria together. The Austrian Embassy in Vilnius requested the mother to submit a visa application and various additional documents concerning her place of residence in Austria, an invitation to Austria, financial documents, health insurance and more. SOLVIT Austria requested an accelerated procedure, which was granted after certain conditions regarding the process had been clarified between both parties. **Solved within three weeks.**

SOCIAL SECURITY

SOLVIT helps Portuguese citizen to obtain her Italian pension

A 82-year-old Portuguese citizen received a pension from the Italian system. Italian authorities requested her to send a 'proof of life' which she did by registered mail immediately after receiving the request. However, at the same time, the Italian authorities stopped payment of her pension. This put her in a very difficult situation since this pension was her only means of subsistence. SOLVIT intervened to clarify the situation and was able to arrange rapid payment of the amount due. **Solved within two weeks.**

SOLVIT defends rights of Portuguese researcher in Greece

A Portuguese chemical researcher was working on a doctoral thesis at a university in Greece. Since she was eligible for benefits under the university's health insurance scheme, she applied for an exemption from the national social security system. However, the Greek authorities refused to grant such an exemption because she was Portuguese. SOLVIT advanced the non-discrimination principle and managed to convince the Greek authorities to reconsider their decision and agree to the requested exemption. **Solved within one week.**

RECOGNITION OF PROFESSIONAL QUALIFICATIONS

SOLVIT helps Latvian nurse to work in Malta

A Latvian nurse had moved to Malta after marrying a Maltese national. Her diploma as a registered nurse was not recognised as valid for work, due to alleged discrepancies in her certificate and period of employment. SOLVIT Malta intervened to clarify that the Latvian diploma should be recognised under EU rules, allowing her to be issued with the necessary nursing certificate required for her job in Malta. **Solved within 10 weeks.**

FREEDOM TO PROVIDE SERVICES

SOLVIT lets tourists charter German yachts in Italy

A German enterprise chartered four yachts under German flag to tourists in Italy. The business-owner was fined for not having registered its commercial yachts with local port authorities in accordance with recent Italian regulations. Five months later, after repeated efforts to obtain registration, the business-owner was told that registration would only be possible if the business was established in Italy. SOLVIT stepped in to make it clear that this condition was not in line with EU law and that the authorities should accept the registration in the German Chamber of Commerce. All four yachts were registered and charter licences were issued. **Solved within 9 weeks.**

SOLVIT helps Luxembourg architect to work in France

An architect from Luxembourg applying to become a member of a regional order of architects in France was refused because the insurance company covering his professional liability risks was not registered in France. The order insisted that the architect should take out French insurance. SOLVIT made it clear that this condition was not in line with EU law, as the architect's Luxembourg insurance company was duly registered with the Luxembourg authorities. This enabled the architect to register with the French order and exercise his profession in France. **Solved within 13 weeks.**

FREEDOM OF ESTABLISHMENT

SOLVIT helps Italian company to establish in Germany

An Italian entrepreneur wished to establish his company in Germany and submitted the necessary documents. However, German authorities refused the documents because they were not in the same format as the relevant European forms. After several fruitless attempts to obtain the documents in the requested form, the businessman turned to SOLVIT for help. SOLVIT Italy was able to intervene to clarify what were the requirements from the German authorities, which resulted in the issuing of the correct documents by the Italian authorities. **Solved within 8 weeks.**

MARKET ACCESS FOR PRODUCTS

SOLVIT releases Romanian washbasins for the Slovak market

A Czech company distributes construction products in Slovakia, including washbasins from Romania. The products were imported into the Czech Republic and tested by an authorised Czech body. However, the Slovak authorities ordered the products to be withdrawn from the market unless the company submitted a certificate of conformity issued by the Romanian producer. SOLVIT convinced the authorities that the Czech certificate of conformity would be sufficient for selling the washbasins in Slovakia. The products were released for sale immediately. **Solved within one week.**

SOLVIT "tips the scales" for UK company in France

A British company manufacturing medical scales wished to expand its market in France. The company was already marketing its product in the United Kingdom and a number of other EU countries, and thus conformed to EU rules. However, the French authorities refused to accept the product on their market and requested additional testing. For over a year, the company tried to have their product accepted and in the end asked SOLVIT for help. The company and SOLVIT worked closely together to successfully market the product in France in a matter of weeks. According to the company, SOLVIT helped them avert a considerable loss. **Solved within 11 weeks.**

SOLVIT clears the way for Finnish vitamins in the Czech Republic

A Finnish company applied for permission to launch dietary supplements on the market in the Czech Republic. The Czech authorities claimed that under national legislation the products exceeded the limits for vitamin B and could be harmful for the consumers if marketed as dietary supplements. Even after a year of discussions, the authorities still considered the imported products as pharmaceuticals. SOLVIT managed to convince the authorities that the products were not pharmaceuticals and could be marketed as food supplements, if correctly labelled. **Solved within 5 weeks.**

Marketing obstacles removed for marine communication products in Germany

A UK company which manufactured marine communication products launched a new VHF product used on board non-SOLAS vessels. Although the product was fully in compliance with EU law on radio equipment, the German licensing authorities told the company that customers would not be granted radio station licences to use the product unless it was approved by the competent authority. This re-testing meant that the company had to use additional resources and increased the burden on business. Due to SOLVIT's efforts, the German authorities changed the regulation on the re-testing of such product types and accepted that the principle of mutual recognition took precedence. **Solved within 9 weeks.**

ACCESS TO EDUCATION

SOLVIT helps Spanish student to start her studies in Belgium

A Spanish student wanted to start her university studies in Belgium. However, she could not present an original copy of her secondary education diploma because it had not yet been issued by the Spanish authorities. The Belgian university refused to accept a provisional certificate from the Spanish ministry and insisted on the presentation of the original diploma by December. This meant that the student would miss an entire academic year if the diploma

did not arrive in time and so she turned to SOLVIT for help. SOLVIT's intervention resulted in a closer examination of existing rules, which granted additional deadlines in such cases. In the event, the student was granted an extension until May of the following year, renewable for a further year. **Solved within 2 weeks.**

SOLVIT helps Albanian partner of Italian national to study in the Netherlands

The Albanian partner of an Italian working in the Netherlands wanted to study at a public university. The university asked for payment of the non-EU residents' tuition fee, which is about three times more than the regular fee. After SOLVIT contacted the Ministry of Education, which then contacted the university, the university changed its position and asked the Albanian woman to pay the standard tuition fee. **Solved within 7 weeks.**

ACCESS TO THE LABOUR MARKET

SOLVIT helps Romanian citizen to obtain EU work permit in Spain

A Romanian national who was a legal resident of Spain before Romania's accession to the EU contacted SOLVIT regarding his Romanian wife. She had also been a legal resident of Spain before Romania's accession, but did not possess a work permit. When she applied for an EU citizen's residence card with free access to the labour market, her application was denied for reasons unspecified. After SOLVIT's intervention, Spanish authorities acknowledged that their decision was not compatible with EU rules on the accession of Bulgaria and Romania to the European Union. The applicant's spouse was invited to re-apply for the permit, this time with a positive outcome. **Solved within 3 weeks.**

SOLVIT enables Bulgarian consultant to work in Luxembourg

A Bulgarian citizen with a French diploma was offered a job in a consultancy firm in Luxembourg. The company had made the necessary arrangements to obtain a work permit for its new employee. However, the procedure was taking much longer than the expected one to three months, jeopardising the Bulgarian citizen's chances of getting the job. Following SOLVIT's intervention, the applicant received his work permit and was able to start his professional career in Luxembourg. **Solved within 8 weeks.**

CAR REGISTRATION

SOLVIT facilitates German car registration in Slovakia

A Slovakian citizen contacted SOLVIT because he could not get his German car registered in Slovakia. The Slovakian authority rejected the client's application because the car allegedly did not meet Slovak requirements in respect of noise and pollution levels, brakes and electromagnetic compatibility. However, the authorised importer confirmed that the client's car fulfilled all conditions laid down by the EC. SOLVIT confirmed that the Slovakian authority was acting contrary to EU law. After a further registration request, the client was eventually able to get his car registered. **Solved within 3 weeks.**

Dutch car registered in Portugal

A Dutch national purchased a car in the Netherlands and then moved to Portugal, where she wanted to register her car. As the registration procedure was unusually lengthy and she was asked repeatedly for additional information, she contacted SOLVIT for help. SOLVIT discovered that the problem had to do with an exemption from car tax: according to Portuguese law, EU citizens are exempt from this tax under specific circumstances. Assessing whether she could be exempt took time, and she also had to present some vital additional documents, such as proof of residency and a statement on the CO₂ emissions of her car,. Once all the documents were approved, the car was able to be registered with full tax exemption. **Solved within 6 weeks.**

ROAD TRANSPORT

Polish company receives reimbursement from Spanish authorities

While transporting goods from Spain to Ukraine, the driver of a lorry operated by a Polish transport company was stopped for a road inspection in Spain. Due to a discrepancy in the completion of the driver's record sheet, the road inspector confiscated the driver's documents and imposed a fine of EUR 3000, which was paid on the spot. Further proceedings fixed the final amount of the fine at EUR 2300. The Polish company had been waiting for their refund for seven months when they contacted SOLVIT. SOLVIT discovered that the authorities did not have the IBAN code of the Polish bank account, but had failed to request it from the company. The misunderstanding was cleared up and the money, including interest due to delay, was reimbursed. **Solved within one week.**

Estonian truck driver gets unjustified fine reimbursed in Poland

An Estonian truck driver was passing through Poland on his way back to Estonia. He was stopped by a Polish inspection officer and a fine was imposed because the papers he was carrying were in Estonian not in Polish. Since these papers are harmonised under EU law and have a common format for all EU Member States, insisting on a Polish version was contrary to EU rules. SOLVIT Poland convinced the inspection services that they had made a mistake and the fine was reimbursed. **Solved within 2 weeks.**

DISCRIMINATION

SOLVIT ensures non-discriminatory entry fees to Romanian monasteries

A French citizen complained about discriminatory entry fees for tourists to Romanian monasteries. The ticket price for non-Romanians was twice that paid by Romanian citizens. As this policy was contrary to EU principles, the Romanian SOLVIT centre persuaded the church authorities to set non-discriminatory entry fees for the monasteries. **Solved within 9 weeks.**

SOLVIT helps Dutch sailor to embark in Spain

A Dutch client lived in Spain and worked on a Spanish commercial vessel. The Spanish authorities refused to give her an international seafarers identity document (ISID), because she was not a Spanish national. The Dutch authorities did not issue an ISID because she did not work on a ship registered in the Netherlands. Without an ISID, sailors need to deal with piles of paperwork in order to embark on an international ship for work, which is often not possible because of short-term contracts. Taking a practical approach, SOLVIT Netherlands resolved the impasse, and persuaded the Dutch authorities to issue an ISID. **Solved within 7 weeks.**

DRIVING LICENCE

SOLVIT helps Slovenian citizen obtain a new driving licence in Spain.

A Slovenian citizen resident in Spain had had his driving licence stolen. This caused serious inconvenience since he needed to drive a car for professional reasons. Five months after he

had applied for a new driving licence in Spain, he had still not received a reply. SOLVIT investigated the case and found that the hold-up was due to a language problem. The citizen was informed that he had to provide the police with a copy of the declaration of theft in order to obtain his new licence. Once the document was sent, he received a provisional driving licence, and shortly afterwards his permanent driving licence was sent to his home address.
Solved within 2 weeks.

ANNEX 5 - SOLVIT + CASES 2007

1. Bulgaria adapts law to ensure recognition of EU driving licences

A Bulgarian citizen obtained his driving licence in Bulgaria and, while studying in Germany, had it replaced by a German driving licence, because Bulgaria at that time was not an EU member state. When the person returned to his home country, the police in Bulgaria refused to recognise his valid driving licence and he was therefore unable to drive any motor vehicle. SOLVIT Bulgaria contacted the competent authorities to solve the matter. In June 2007 new legislation on the mutual recognition of driving licences issued by Member States came into force in Bulgaria. **Solved within two months (32001/07/BG).**

2. University of Latvia abolishes discriminatory fees

The Syrian spouse of a Latvian national had to pay considerably higher fees for studies at the University of Latvia by comparison with EU citizens, with varying charges for courses, final examinations and the use of laboratory facilities. Such discriminatory fees were not in line with Article 24(1) of Directive 2004/38/EC. Following this complaint, SOLVIT Latvia prepared a package of suggestions to amend the University's regulations. The legal service of the University agreed with the recommendations and changed its regulations to ensure non-discriminatory fees for Latvian citizens, EU citizens and their family members, and also EC long-term residents and their family members. **Solved within two months (39905/07/LV).**

3. Portugal adapts system for converting the grades of medical diplomas obtained in other EU Member States

A German doctor applied for an internship at a public hospital in Lisbon. However, since the German grading scale was different from that in Portugal, and since his certificate did not include any final mark, he would receive only 10 points on a scale of 20. Thus, he was put at disadvantage compared with other applicants, as the actual marks he had achieved in his studies would not be converted to the Portuguese grading system. Since grades were a fundamental part of passing the pre-selection procedure, the German doctor asked SOLVIT Portugal for help. SOLVIT Portugal persuaded the Ministry of Science and Higher Education to change the procedure for converting the grades of diplomas issued by the universities of other EU Member States. The decree-law changing the system was adopted in October 2007. **Solved within one month (28301/07/PT).**

4. Ireland brings rules for the recognition of occupational therapists into line with EU law

SOLVIT received two complaints from a Polish citizen and a German citizen who were trying to have their professional qualifications as occupational therapists recognised in Ireland. The Association of Occupational Therapists of Ireland (AOTI) was barring EU citizens from applying for recognition of their qualifications unless the college or university from which they had graduated was approved by the World Federation of Occupational Therapists (WFOT) at the time of graduation. However, such an additional requirement for recognition of qualifications was not in line with EU legislation. SOLVIT Ireland contacted the ministry responsible and persuaded them that the Association should accept the applications for recognition. SOLVIT also managed to secure the removal of the reference to affiliation to the

WFOT - which had been a pre-condition for recognition - from the AOTI website and application forms. **Solved within 5 months (32384/07/DE and 30941/07/PL).**

ANNEX 6 – UNRESOLVED CASES

Examples of problems that remained unresolved due to loopholes or lack of clarity in EU law

1. Third country spouses and family members of EU nationals still cannot rely on visa-free travel within the EU in many situations

No EU law on recognition of marriage certificates

Community law in the area of free movement (Directive 2004/38/EC) obliges Member States to grant third-country spouses of EU nationals every facility to obtain the necessary entry visas and to decide on the application on the basis of an accelerated procedure. However, when an Irish citizen living in Serbia wanted to visit his mother, who was resident in another EU country, together with his Serbian wife and child, the authorities of that country refused to process the visa request under EU law since they did not recognise the Serbian marriage certificate. As a result, the couple had to produce a huge amount of paperwork and the visa granted was not valid for the length of time they had requested. SOLVIT could not help because there is no EU law on the recognition of marriage certificates. As a result, obtaining a simple visa for travel may turn out to be a very cumbersome and lengthy affair, instead of the accelerated procedure intended in the Residence Rights Directive.

Family members of EU citizens residing in their own country may encounter problems with visas

A German national with a Russian wife, legally resident in Germany, wanted to go to another non-Schengen EU member state on holiday. According to Directive 2004/38/EC the spouse does not need a visa for travel within the EU provided that (s)he holds a residence card issued by a Member State in which the EU citizen resides. However, as the Directive applies only to situations where the EU citizens have made use of their right to move and reside freely in a Member State other than that of their nationality, it did not exempt the Russian spouse from the visa requirement. Should the German national and his Russian wife be legally resident in any EU member state other than Germany, they would be entitled to visa-free travel. As long as they continue to live in Germany, many Member States will not allow them to take a holiday within their territory without a visa.

Registered partnerships are only recognised in certain countries

A British national wanted to travel to another EU member state with his homosexual partner with whom he had a registered partnership in his country of residence. They were refused a visa free of charge and they were also unable to benefit from an accelerated procedure in the member state of destination. Even though this member state also has a system of registered partnerships, these do not provide the same rights as marriage and therefore the member state is not obliged to treat the partner as a family member. As a result, any holiday travel within that Member State will require a visa under the procedures applicable to third country nationals.

2. Taking your car from one EU member state to another is no easy matter

Lack of clarity about the criteria for determining the place of normal residence to decide where a car has to be registered

SOLVIT centres often receive complaints from citizens who are caught between differing interpretations by the authorities of two member states about the rules for establishing the normal residence of a person. As a result, both authorities claim that the car should be registered in their country.

One example concerned a citizen of a country who worked in another country. He was not a frontier worker, but he travelled to his place of employment every Monday and returned on Fridays. His wife and family remained in his country of origin. He had a house in both countries and spent all holidays in his country of origin.

There are no EU rules specifying in which Member States a motor vehicle should be registered. It is widely accepted, however, that a motor vehicle should be registered in the Member State of residence which, in certain cases, cannot be easily determined. Often the competent authorities seek to determine the residence on the basis of the jurisprudence of the European Court of Justice in taxation matters, by analogy. According to this jurisprudence, where a person has personal and occupational ties in two different member states, his normal residence, determined in the context of an overall assessment of all the relevant facts, is where the permanent centre of interests of that person is located. If this overall assessment does not result in a clear determination, primacy must be given to personal ties. However, if one of the authorities involved is of the view that the overall assessment of other criteria leads to a determination of the main centre of interest, whereas the other disagrees and claims that personal ties must therefore prevail, this results in a stalemate situation for the citizen. In such situations, every case has to be assessed on its own merits, with an uncertain outcome.

3. Workers' mobility is not always a positive experience

Problems with invalidity pensions

While the system for EU cooperation on pension rights works well in general, there are problems for mobile workers who become incapable of working and need to claim an invalidity pension from different member states. Under Regulation 1408/71, Member States are not obliged to mutually recognise the level of incapacity to work that has been assessed by a medical doctor in another Member State. This has the effect that invalidity pensions concerning the same individual vary from one country to another or are even denied entirely because one or more Member States refuse to accept any degree of invalidity. As a result, the invalid worker may have to survive on a very low monthly income.

No unemployment benefits for a worker who worked outside the EU for an EU-based organisation

A Portuguese doctor who had worked in Africa for the Belgian branch of 'Médecins sans Frontières' returned to Portugal after his contract finished. However, under EU law he was not entitled to unemployment benefits in Portugal since his employer had paid social security contributions in Belgium, not in Portugal. According to EU law, an unemployed worker should reside in the country that pays the benefits. In this

case, this would mean that the Portuguese doctor would have to move to Belgium even though he had never worked there, had no link with Belgium other than the fact that his former employer was established in Belgium, and would have fewer prospects of finding a new job there than in Portugal.