



EURinSPECT
vision document

**Simply go for it: simple and
transparent inspection and
supervision in Europe**

*Organise effective procedures at lower costs,
Improve cross-border enforcement,
Measure costs and effects first!*



Contents

1. Foreword	2
2. Summary	3
3. Background to EURinSPECT	5
4. Why this document?	6
5. Analysis: is there a problem? What is the problem?	7
6. What cross-border costs?	9
7. What do we propose?	10
8. Measure cross-border costs first!	12

1. Foreword

A few years ago, better lawmaking became a top priority in the European Union. The increasing number of Member States and a too wide range of legal instruments had put the ideal of the creation of a level playing field across Europe under pressure. European businesses and citizens may expect European legislation to be reliable and transparent. They may also require European legislation to be cost-effective. The ambitious project of Better Lawmaking also means correct implementation and enforcement of EU-legislation in the Member States. Cost-effectiveness of EU-rules – the EU project Reduction of administrative burdens – is part of Better Lawmaking. Correct implementation embraces reliable and transparent supervision on targeted application of the agreed rules by supervisory bodies in all areas where they are established. In accordance with the above strategic goals of the EU, EURinSPECT is carrying out projects aiming at improving cost-effective, reliable and transparent cross-border supervision of the application of EU-rules.

The trend in society towards more emphasis on good governance and law enforcement without loopholes and unneeded costs does not stop at national borders. On the contrary, especially the European Institutions are increasingly held accountable for barriers and rising costs of cross-border problems. Reasons for these impediments are often divergent interpretation of European rules, national administrative practices, and, most importantly, failing co-operation between national supervisory bodies. In the vision of EURinSPECT, effective enforcement of EU-rules can therefore no longer remain the exclusive prerogative of the Member States alone. Subsidiary, as a leading principle, should not hamper harmonious cross-border supervision nor effective co-operation between supervisory bodies. Accordingly, the EU as such has to get engaged in cross-border good governance as a strong pillar of cost-effective enforcement of EU-rules. In this process the focus of EURinSPECT is the analysis of cross-border supervision and its improvement.

The current very sharp economic downturn, turmoil and uncertainty require all the more attention and adequate handling in this field in order to guarantee and promote orderly and harmonious handling of cross-border delivery of goods and services to the benefit of companies and citizens.

To start with, the EU could intensify the baseline measurements of administrative costs. The cross-border effects of existing supervisory practices in various fields should also be measured separately. Based on more research and measuring in specific policy areas, the Commission could propose better rules or more effective arrangements concerning cross-border supervision practices. Meanwhile, EURinSPECT will select meaningful projects to highlight the benefits of this approach in terms of reliability, transparency and cost-effectiveness.

Joost P. van Iersel
President of the Board

2. Summary

EURinSPECT works to remove obstacles and barriers to cross-border activities and cross-border competitiveness for business, civil servants and citizens in Europe. It focuses on lifting obstacles and barriers for business as a result of differences in inspection and supervision by inspectorates and supervisory bodies.

EURinSPECT aims at more transparency and reduction of unneeded and costly differences in inspection and supervision. EURinSPECT's main goal is a more effective and efficient Europe.

Inspectorates and supervisory bodies should work together, and should highlight what they do, and when, where and why they differ. Working together must result in more co-ordination in regulation and procedures and if possible, also on harmonisation of rules in the long term.

Much more research on cross-border obstacles and barriers is highly desirable. EURinSPECT proposes to measure the costs and burdens of cross-border supervision and inspection separately, in addition to the work already done by the EC (European Commission) in the field of reducing administrative and other burdens. These costs should be measured in so called Most Effective Areas (MEAs).

EURinSPECT started in 2008 with a number of small projects in measuring the costs of national differences in cross-border supervision and in identifying obstacles to a level playing field in Europe. Based on the outcome of these projects, EURinSPECT wants to draw attention to the opportunities for better and more effective inspection and supervision in Europe without unnecessary burdens and costs.

The approach EURinSPECT wants to promote is:

- A. **Measuring cross-border costs** and burdens of unintended and unnecessary differences in enforcement of EU originating regulation by inspectors and supervisors;
- B. **Doing Research** on the outcome and the possibilities for improvement;
- C. **Proposing solutions** and improvement to the parties involved (tailor-made solutions);
- D. **Promote implementation** of the proposed solutions, together with the parties involved.

Possible solutions can include one or more of the following Top 5- solutions:

1. **More cross-border co-operation between inspectorates.** More research on creating opportunities for more effective cross-border co-operation between inspectorates and supervisory bodies, including more attention to cross-border enforcement of EU-regulation; increase of support to inspectorates and other supervisory authorities working together in Europe; training in co-ordinated action between inspection and supervisory authorities.
2. **More transparency for businesses regarding differences** at the EU level, through exchanges of information on cross-border implementation of EU-law, inspection and supervision; lifting unintended differences in implementation of EU-regulation.
3. **More mutual acceptance of national procedures** in cross-border activities; harmonised procedures through good tracing and tracking; if possible, 'single' inspection or supervision per activity; more strict use of the 'Cassis the Dijon' principle (fewer exceptions): when an interest is already protected by implementation of EU law by an exporting country, renewed implementation of similar legislation is forbidden because of the principle of reciprocal recognition. Exceptions to the Cassis de Dijon are possible in cases of imperative demands of national legislation in areas such as consumer protection, fair trade, effective fiscal control, environmental protection, protection of language, the free press and pluralism.
4. **Reduction of cross-border costs by more risk-based enforcement, inspection and supervision**, with greater effect; introduce, if proportionate, a single supervisory authority per policy area, responsible for risk-based implementation and inspection per policy area.
5. **Make e-solutions more accessible for inspectorates** in the different Member States.

EURinSpect believes that all of us will benefit from this approach if it is seriously adopted by the relevant parties (EU, Member States and inspectorates), businesses, civil servants, citizens and the EU as a whole.

In most cases of reduction of cross-border inspection the proposed solutions will be less costly by reducing obstacles. On the other hand, in some cases illegitimate profits will be reduced in Member States that do not meet the requirements of proper implementation and enforcement.

If the new European Commission, supported by the inspectorates in the Member States, finds the power and ambition to do so, this approach will reduce costs and burdens, bring benefits to all partners in terms of a safer and more transparent Europe with fewer costs. The level of good governance and the quality of legislation will improve at the same time.

EURinSPECT wants in the meantime to continue its activities in co-operation with the inspectorates in the Most Effective policy areas (MEAs), where parties will benefit most from this approach. This will probably be the case in policy areas in which:

- a. inspectorates can optimize cross-border co-operation and act more closely together with partners in other Member States;
- b. companies are being inspected on the same topics and with comparable methods by different inspectorates in the various Member States;
- c. the cross-border costs and burdens related to inspection and supervision seem to be substantial (no measurement available yet);
- d. the baseline measurement of administrative burdens (the outcome of the measurement of DG Enterprise 2009) identifies a substantial part of burdens, specifically related to inspection and supervision;
- e. a regulation is already under discussion as a result of ongoing European regulation or implementation initiatives;
- f. Remedies related to better regulation are already subject to the EU reduction programme and the costs of supervision and inspection can be reduced by reduction proposals in the field of better regulation (Regulatory Impact Assessment and proposals in the priority areas of the baseline measurement).

To find these Most Effective Areas (MEAs) of cross-border co-operation EURinSPECT continues its efforts to find projects in policy fields of:

- A. Transport: Police and Inspectorates on Transport, Inspectorates on Environment;
- B. Food Safety; Inspectorates on Food Safety;
- C. Pharmaceutical legislation; Inspectorates on Health and Pharmaceutical products;
- D. Working environment; employment relations; Inspectorates on Social working relations and Labour;
- E. Financial Services. Supervisory bodies on Banking and insurance companies, supervision of Financial Markets;
- F. Telecom Industries; where supervisory bodies have already been working for many years on implementing good practices and improving procedures of supervision and inspection;
- G. Safety; Police and Public Prosecution, Supervision of industrial safety such as mining.

By endorsing this approach the EU, supported by the inspectorates in the Member States, can address the feeling of European citizens and businesses that cross-border enforcement, inspection and supervision can be improved substantially without extra costs by promoting more co-operation and a quantitative approach to measuring the cross-border costs of inspection supervision and oversight in the above Most Effective Areas.



3. Background to EURinSPECT

EURinSPECT is a non-profit organisation inspired by the ideas of Better Regulation and the reduction of obstacles and costs for business in Europe. EURinSPECT aims at more transparent, co-operative and effective cross-border inspection and supervision in Europe. EURinSPECT is experienced in measuring administrative burdens and burdens of supervision and inspection.

EURinSPECT started in 2008 with a number of small projects to measure the costs of national differences in cross-border implementation of EU law, inspection and supervision in order to identify barriers and obstacles to a European level playing field for business and to promote competitiveness.

EURinSPECT is now working on projects in a broad range of different policy areas such as health, mining, accounting, police and public prosecution, transport and environment (see: www.EURinSPECT.eu).

The result is meant to benefit businesses, civil servants and citizens in Europe as well as Europe as a whole.

EURinSPECT is an independent organisation. It works on a project basis. The stakeholders in the different projects are asked to give both financial support and support in kind.

The organisation as a whole is supported by various governmental and non-governmental organisations. Contributions are based on a membership fee.

In return, EURinSPECT supports cross-border activities on behalf of its members by organising contacts, events, conferences and other information exchanges between parties in Europe and between members of EURinSPECT.

EURinSPECT uses its network to connect interested parties in one sector with counterparts in another. EURinSPECT also promotes its objectives by organising exchanges of ideas, identification of good and bad practices and co-operation between the parties involved.



4. Why this document?

This document is intended to assist policymaking for:

- a. The national inspectorates in the Most Effective Areas;
- b. The policymakers in the Member States involved in better regulation;
- c. The European Commission (DGs in all policy areas, the DG Enterprise as supporting the Stoiber-group and the Secretariat General);
- d. The people (business, inspectorates, individuals) who want to participate in the EURinSPECT projects.

EURinSPECT will discuss this document with the parties concerned to get support from organisations and individuals which want to be involved in projects with EURinSPECT to measure the cost and burdens in policy areas where effective results are foreseeable. These organisations and individuals will be asked to take part in projects and/or become a member of the EURinSPECT support organisation.

EURinSPECT, in return, will support activities organised by Members.

EURinSPECT will use this document also as a starting point for more scientific research in the fields of co-operation between inspectorates, analysing new or relatively new instruments such as:

- Better co-operation between inspectorates in Europe;
- Research on cross-border risk-based inspection as an opportunity to reduce costs and improve the quality of enforcement;
- Stricter application of the Cassis de Dijon approach;
- More research into self-regulation, as used in the tax enforcement regulation;
- More know-how on the psychological approach to correct implementation and trust;
- Better use of 'countervailing powers' as an instrument for implementation;
- More research into promoting interconnectability of inspectorates;
- Better use of ICT and e-solutions for the effective exchange of information.

In addition, this document provides a basic philosophy for the EURinSPECT projects. The philosophy and the resulting discussions with inspectorates in specific policy areas will be used as building blocks for the preparation of specific projects to make visible where the problems really lie, how big the problems are (quantitative analysis) and how the problems can be solved in co-operation with the inspectorates and the partners in the EU (qualitative analysis).



5. Analysis: is there a problem? What is the problem?

The interaction and interconnectability of people and businesses has expanded fast across Europe and will continue to do so. The European market is developing in a way that makes unnecessary differences in implementation, and cross-border supervision and inspection less and less acceptable for citizens and businesses.

EURinSPECT refers to cross-border effects of supervision and inspection when a person or company doing business in another EU Member State meets differences in behaviour and implementation of EU law between inspectorates and supervisors which also cause unintended or unnecessary costs and burdens. In the next paragraph (6) we distinguish three different types of cross-border costs for business.

At the moment, national inspection and supervision varies not only between the Member States, but sometimes also between provinces, federal states and other regional areas. It may even differ from town to town. Moreover, there is often a lack of transparency.

In EU legislation, the task of inspection and supervision of cross-border activities is mainly assigned to the national inspectorates and the national supervisory bodies. Cross-border co-operation is therefore mainly based on voluntary and self-imposed co-operation between supervisory bodies themselves. Problems arise with the separate judicial structures and various competences.

This is also the case in areas such as Food and Safety, where a single European supervisory authority is working side by side with the national supervisors.

Even in areas such as supervision of accountancy firms, banks and insurance companies, where regulation and practice of supervision is more advanced than in most other sectors, the costs and risks of national attitudes and procedures are often huge. For instance in the accountancy sector, the big supra-national firms can – in a large number of cases - not use a single internal standard procedure because of differences in enforcement of EU laws and regulations by differences in treatment and requirements of the various supervisory bodies in various EU countries.

This problem of cross-border differences, interpretations and behaviour of supervisors is not solved in policy areas with a single European supervisory body, such as in the Food and Safety sector. In the case of Food and Safety, there is a strict distinction between the national inspectorates and the European supervisor. Co-operation between those bodies is not always simple and transparent. The result is that cross-border inspection seems to have the same problems as in sectors with just one national inspectorate at work. Even more co-ordination is needed with the extra level of EU supervision.

The problem is also not solved by proposing harmonisation of the EU legislation. Although in some cases, some adjustment of legislation might be necessary to improve cross-border co-ordination of inspectors and supervisors, harmonisation or adjustment of legislative procedures is not a final solution to the problem of cross-border costs of inspection and supervision.

In policy areas such as supervision of accountancy firms, where the rules are 99% of European origin, the supervisory bodies are of national origin. Differences in interpretation, behaviour and culture have meant that in recent years, a large amount of differences came into being, leading to rising costs and barriers to competitiveness.

Quantitative research and measuring of these cross-border costs is a starting point for increasing the political focus on these costs.



6. What cross-border costs?

What kind of cross-border costs are we talking about?

The cross-border costs for businesses can be distinguished into various types:

1. A **'one nation located company'** is located in one EU country and also does business in another. To do business, the company has to comply with the locally enforced EU regulation, local regulation and local supervisors in both countries. In many cases, the rules themselves are of EU origin (Regulations or Directives), but because of national traditions, national inspectorates and the subsidiarity principle they are often implemented and enforced in different ways. As a result of these differences, the company has to comply twice (or more) with basically the same rules and the same reporting requirements, inspection examinations and enforcement procedures. Consequently, the cross-border costs rise purely as an effect of differences in implementation and enforcement. If the procedures were harmonised, if inspectorates co-operated effectively or the procedures were mutually recognised, the administrative burdens and costs for the company would on average be about half of what they are now. In doing business in 27 EU Member States, the administrative burdens can rise to a maximum of 27 times, depending on the extent of harmonisation and co-operation between the countries. Moreover, the effectiveness and safety of the procedures will probably also be affected, because compliance by the same company with a number of different systems usually undermines transparency. All this causes more harm than good.
2. A **'partner company'** is part of or connected with a larger company that works in several EU countries. This is for instance common practice in the accountancy sector (large accountancy firms), but also in the mining and in the banking sector. The company has to work with partners and colleagues within the same firm, but it is not allowed to harmonise the internal procedures itself, because of national differences in procedures. In this case, the company cannot streamline its internal procedures. These have to be duplicated for each country concerned which, again, leads to unnecessary costs and a lack of transparency. In some cases, non-transparent procedures can bring about safety risks because of loopholes and difficulties in supervision and inspection.
3. A **'goods transporting company'** can be located in or outside the EU but sells its products in the EU and moves its business from one country to another. This is common practice in, for instance the transport sector. Different inspection procedures cause costs, a lack of a level playing field and safety risks.
4. **Not only companies, but also citizens** are subject to cross-border costs of inspection or supervision. The above three types are sometimes also apply to them, but most of the time the inspectors and supervisors concentrate on businesses and do not impose many inspections on individuals. But there are very many exceptions where various inspectors, supervisors and enforcement procedures also affect individuals, such as:
 - cross-border workers who want their work permits and experience recognised in different countries,
 - patients who want to use cross-border health care,
 - doctors and other health workers who want to work in different countries,
 - students who want to move cross-border and want their grades accepted in different Member States; students who want admission to education or training facilities.
 - Dentist, pharmacists and other academics who want to co-operate with colleagues in different Member States but are not subject to the same rules and procedures.



7. What do we propose?

The above analysis does not result in a plea for more European supervision in all policy areas or a plea for concentration of supervision in one European hand. Although this might be a good solution in some cases, the more general strategy of EURinSPECT and its partners should be:

- **Measure cross-border costs** and burdens of unintended and unnecessary differences in enforcement of regulation of EU origin by inspection and supervision;
- **Do Research** on the outcome and the possibilities for improvement;
- **Work together** with all inspectorates and parties involved;
- **Propose solutions** and improvement to the parties involved.

STEPS to be taken:

I. Most effective Areas (MEAs),

The first step towards measuring of all costs and burdens on a European level, should be **measuring costs of cross-border differences in enforcement inspection and supervision in the Most Effective Areas (MEAs)**, where we think parties will benefit most of this approach.

This will probably be the case in policy areas in which:

- a. inspectorates can optimize cross-border co-operation and act more closely together with partners in other Member States;
- b. companies are being inspected on the same topics and with comparable methods by different inspectorates in the various Member States;
- c. the cross-border costs and burdens related to inspection and supervision seem to be substantial (no measurement available yet);
- d. the baseline measurement of administrative burdens (the outcome of the measurement of DG Enterprise 2009) identifies a substantial part of burdens, specifically related to inspection and supervision;
- e. a regulation is already under discussion as a result of ongoing European regulation or implementation initiatives;
- f. Remedies related to better regulation are already subject to the EU reduction programme and the costs of supervision and inspection can be reduced by reduction proposals in the field of better regulation (Regulatory Impact Assessment and proposals in the priority areas of the baseline measurement).

These MEAs (not yet measured) can probably be found in the policy fields of:

- A. Transport: Police and Inspectorates on Transport, Inspectorates on Environment;
- B. Food Safety; Inspectorates on Food Safety;
- C. Pharmaceutical legislation; Inspectorates on Health and Pharmaceutical products;
- D. Working environment and safety; employment relations; Inspectorates on Social working relations and Labour;
- E. Financial Services; Supervisory bodies for financial institutions and financial markets;
- F. Telecom Industries; Supervisory bodies in this sector have already co-operated closely for many years in implementing EU regulation, in exchanging good practices and in improving procedures;
- G. Safety; Police and Public Prosecution, Supervision of industrial safety such as mining.

II. Tailor-made solutions

The second step will be looking for tailor-made solutions in co-operation with the parties involved (inspectorates and public authorities in the MAEs) and will lead to proposals for tailor-made solutions to all parties involved (including better regulation and enforcement).

From our experience in the different projects and from the result of research in the past, we know that there are many different solutions to implement more effective cross-border supervision and inspection. Potential solutions include:

1. **More cross-border co-operation between inspectorates** Intensified research into possibilities for more effective cross-border co-operation between inspectorates and supervisory authorities including more attention to better cross-border regulation and enforcement; Visible support for inspectorates and other supervisory authorities that effectively work together in Europe; More training of inspectorates and supervisory authorities;
2. **More transparency for businesses regarding differences** at the EU level through exchanges of information on cross-border enforcement, inspection and supervision; Harmonise differences in implementation of EU regulation;

3. **Increased mutual recognition of national procedures** in cross-border activities and promotion of harmonised procedures through good tracing and tracking; Where possible accept single inspection or supervision per activity; Stricter utilization of the 'Cassis de Dijon' principle (fewer exceptions); The principle of mutual recognition should imply that if an interest is already duly covered by correctly implemented supervision or inspection in country A, a new inspection or supervision procedure in country B should be forbidden. Exceptions to the Cassis de Dijon are possible in the event of imperative demands of national interest in areas such as consumer protection, fair trade, effective fiscal control, environmental protection, protection of language, the free press and pluralism;
4. **Reduction of inspection by more risk-based supervision and inspection**, with greater effect; Introduce if proportionate a single supervisory authority per policy area, responsible for reduction of cross-border costs of supervision and inspection in Europe by introducing more risk-based inspections per policy area, and;
5. **Make e-solutions more accessible for inspectorates** in the different Member States.

III. Implementation The third and last step will be to promote solutions to all parties involved and to introduce improvement measures.

But...to get all this done, there has to be co-operation between all parties involved. The problem is that the different parties (the Member States, inspectorates and supervisory bodies) as well as the European Commission have to work together and fully accept each other. Only such co-operation and mutual acceptance can lead to a more transparent European system of inspection and supervision. EURinSPECT believes that for various reasons, the time has come to put this problem of cross-border differences in inspection and supervision on the map. Therefore, the parties must start to see how much effective inspection and supervision can be gained by more co-operation and a substantial reduction of differences in implementation and enforcement across Europe. That means: measure first!



8. Measure cross-border costs first!

If we want to make the possible improvement of reducing cross-border costs visible, we have to look more closely at the quantitative aspects of the cross-border costs.

So far, the European Commission, national governments and national institutions have focused mainly on the national effects of European regulation, national implementation and national enforcement through inspection and supervision in the different Member States. Cross-border costs and effects are no special item and are not considered separately in the measurement activities of Member States, inspectorates and the EU.

A reliable indication of the total costs of the cross-border costs is not possible at present, because these costs are not yet measured separately.

At the moment we can only explain the extra costs by a qualitative description.

Businesses suffer from substantial compliance and transaction costs in cross-border traffic. Without harmonisation or effective co-operation between inspectorates and supervisors, the costs of inspection / supervision can be multiplied by the number of times the different inspection / supervision procedures are applied in the various European countries. Even in cases where the national authorities do work together in cross-border procedures (for instance police / justice departments), there are many duplications and complex procedures that are not yet harmonised or linked to each other.

Small divergences in these procedures can lead to high costs. This will especially be the case if there is a lack of transparency. It is not always a problem to comply with different rules if the differences are transparent and visible in advance. Unexpected differences or changing requirements, by contrast, create much higher costs and, moreover, lead to unnecessary obstacles and irritation.

So if we want to know what is going on for businesses and citizens, we will have to measure the costs. This can be done with the so called Standard Cost Model for Measuring Costs of Inspection, based on the more common Standard Cost Model (SCM) (see:<http://www.administrative-burdens.com>).

A good start could be made with the so called Most Effective Areas (MEAs) such as:

- Transport: Police and Inspectorates on Transport, Inspectorates on Environment;
- Food Safety; Inspectorates on Food Safety;
- Pharmaceutical legislation; Inspectorates on Health and Pharmaceutical products;
- Working environment; employment relations; Inspectorates on Social working relations and Labour;
- Financial Services; Supervisory bodies for financial institutions and financial markets;
- Telecom Industries;
- Safety (police and public prosecutors and supervision of industrial safety such as mining).

Taking into account the outcome of measurement in the MEAs, an extension of European baseline measurement to broader fields of cross-border costs of inspection and supervision might be considered desirable.







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