



2015/2326(INI)

28.4.2016

OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on Legal Affairs

on monitoring the application of Union law: 2014 Annual Report
(2015/2326(INI))

Rapporteur: Ramon Tremosa i Balcells

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SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas in 2014, the Commission received 3 715 complaints reporting potential breaches of EU law, Spain (553), Italy (475) and Germany (276) being the Member States that most complaints were filed against;
 - B. whereas in 2014, the Commission launched 893 new infringement procedures, with Greece (89), Italy (89) and Spain (86) being the Member States with the highest number of open cases;
 - C. whereas between 2010 and 2014, 3 550 infringement cases were opened owing to the late transposition by Member States of 439 directives, with an average of eight Member States infringing every directive approved during that period; Belgium (36), Romania (34) and Slovenia (26) where the most affected MS¹;
- 1. Considers that the effectiveness of EU law is systematically undermined by its unsatisfactory application by Member States and unsatisfactory follow-up action by the Commission; notes that the lack of implementation and enforcement plays an important role in a number of European crises, creates an uneven playing field within the single market and stresses that improving the implementation of EU legislation can enhance trust and confidence in the aims and objectives of the European Union among its citizens;
 - 2. Considers that unrealistic implementation deadlines for legislation can lead to an inability of Member States to comply, which provides tacit endorsement for delaying application; calls on the European institutions to agree on more suitable timetables for implementation of regulations and directives, taking due account of necessary scrutiny and consultation periods; believes that the Commission should deliver reports, reviews and legislative revisions on the dates agreed by co-legislators and as laid down in the relevant legislation;
 - 3. Calls on the Commission in the case of each directorate-general to dedicate a webpage to listing those Member States that have failed to transpose directives or that have not complied with decisions and regulations; considers that it should be updated on a monthly basis and should detail which directives have not been transposed and/or which decisions and regulations have not been complied with;
 - 4. Considers that the Commission should tackle cases of improperly transposed directives more actively in order to cover cases of both involuntary and of voluntary action by Member States;
 - 5. Considers it the duty of the Commission to oppose the two legislative branches of decision making at the European level, which leave substantive elements to be decided through delegated acts/implementing acts during the co-decision process owing to the

¹ Data from Recitals A, B and C come from the Commission Report on 'Monitoring the application of Union law 2014 Annual Report' (9.7.2015).

legal uncertainties and potential risks, dangers and complications which can result;

6. Notes with concern that 11 directives in the area of banking and finance legislation have still not been transposed by at least one or more Member States, with Germany being the only country to have transposed all existing legislation in this field, and Austria being the only other Member State with fewer than three directives still to be transposed¹;
7. Points out that the Late Payments Directive has not been properly implemented in 11 Member States, and that the situation is worst in Italy, Cyprus, Spain, Portugal and Greece, where the delay in B2B² payments is well above average³ causing additional problems for SMEs;
8. Points out furthermore that the Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, the Directive on requirements for budgetary frameworks of the Member States and the Directive on consumer rights have not yet been transposed by all Member States⁴; calls on the Commission to undertake closer monitoring of tax and customs related State aid cases as it is one of the four policy fields where most infringement cases were opened in 2014;
9. Recalls that non-compliance with the Maastricht criteria, and the lenient and discretionary enforcement of the Stability and Growth Pact (SGP) rules by the Commission and the Council contributed to the emergence of the European sovereign debt crisis that followed the global financial crisis; is concerned at the persisting non-compliance and inconsistent enforcement of the SGP rules, while noting that current rules have to be applied by making use of its existing flexibility clauses; asks the Commission and the Council to adopt a more proactive stance as regards the enforcement of the macroeconomic imbalances procedure and in particular when it comes to the effective prevention of severe macroeconomic and financial imbalances;
10. Points out that in 2014 only 10 of the 157 main recommendations made to Member States in the framework of the European Semester were fully implemented or showed substantial progress⁵; calls, in this context, for the recommendations on the European Semester in the Five Presidents' report on deepening the EMU to be followed, namely: more concrete and ambitious Country-Specific Recommendations (CSRs) and a clearer focus on defined priorities while leaving the necessary room for manoeuvre to Member States in the implementation of CSRs, as well as a more systematic use of reporting, peer review and the 'comply-or-explain' approach in order to ensure proper implementation as well as a greater public debate leading to greater national ownership;
11. Highlights that for Member States which are part of the euro area or which participate in the Banking Union, transposition of the BRRD is indispensable in order for the Single

¹ Particularly worrying are the infringement cases in Poland (10), Luxembourg (9) and Slovenia, Spain and Estonia (8 each).

² Business-to-business.

³ See 'Transposition and implementation of the Directive on Late Payments in Commercial Transactions', European Parliamentary Research Service.

⁴ European Commission - Monitoring the application of Union law 2014 Annual Report, pp. 19-20 - http://ec.europa.eu/atwork/applying-eu-law/docs/annual_report_32/com_2015_329_en.pdf

⁵ Success rate of around 6.5%: Zsolt Darvas and Alvaro Leandro, 'The Limitations of Policy Coordination in the Euro Area under the European Semester', Bruegel, November 2015.

Resolution Mechanism to function, as in many cases decisions of the Single Resolution Board must be implemented based on the transposition of the Bank Recovery and Resolution Directive (BRRD¹) into national law;

12. Notes that, on 22 October 2015, the Commission referred six Member States² to the Court of Justice of the EU for failing to transpose the BRRD;
13. Is very concerned by the fact that 10 Member States have still not implemented the Directive on Deposit Guarantee Schemes (DGSD)³ and calls on the Commission to ensure that it is implemented; calls therefore for timely implementation of existing Banking Union legislation and enhanced dialogue with sector experts and consumer organisations to evaluate the impact and effectiveness of adopted legislation;
14. Welcomes the Commission's first proposals in the area of the Capital Markets Union and stresses the importance of encouraging more investments in the real economy;
15. Believes that it is the lack of proper exchange of information under the Directive on administrative cooperation in the field of taxation (DAC) that led to the malpractice that was at the root of the LuxLeaks case and other abusive tax practices in other Member States;
16. Calls on the European Banking Authority to evaluate whether the banking systems of Member States that do not comply with the BRRD and the DGSD are suffering a competitive disadvantage;
17. Notes with disappointment that, owing to the inability of the European Securities and Markets Authority (ESMA) and of the Commission to draft and adopt the necessary level 2 measures within the timeframe that was set, the Commission has found it necessary to propose delaying by one year the entry into force of the Markets in Financial Instruments Directive (MIFID II) and of its accompanying regulation, MIFIR, as well as to likewise delay the implementation of some provisions within the Market Abuse Regulation (MAR) and the Central Securities Depositories Regulation (CSDR);
18. Calls on the Commission to open infringement proceedings against Member States which have openly refused to give effect to the obligations arising from Council Decisions (EU) 1601/2015 and (EU) 1523/2015, of 14 and 22 September 2015 respectively, which introduce a system of mandatory quotas for the reception of refugees;
19. Believes that the Commission should, where possible and proportionate, propose more regulations and fewer directives in order to ensure a level playing field among the Member States vis-à-vis legislation, particularly in the case of EU law related to the Single Market, while taking into account that the form legal texts take must correspond to the objectives and aims of the proposals;
20. Is of the opinion that financial penalties for non-compliance with EU law should be

¹ Commission press release of 22 October 2015 on the referral of six countries to the ECJ for failing to transpose BRRD.

² The Czech Republic, Luxembourg, the Netherlands, Poland, Romania and Sweden.

³ Belgium, Cyprus, Estonia, Greece, Italy, Luxembourg, Poland, Romania, Slovenia and Sweden: Commission press release of 10 December 2015.

effective, proportionate and dissuasive, take into account reoccurring failure in the same field and that Member States legal rights must be respected;

21. Considers that the number of formal infringement procedures also decreased as a result of the effectiveness of the structured dialogue with Member States via the EU Pilot application;
22. Welcomes the Commission's efforts to improve access to information on the application of the Union law; encourages further efforts to enhance transparency;
23. Supports the creation of a standard structured process within Parliament for monitoring the application of EU law in the Member States that is able to analyse the issue of non-compliance in a manner that is country-specific and takes account of the fact that the relevant standing committees in Parliament monitor the application of EU law within their respective fields of competence.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	26.4.2016
Result of final vote	+: 32 -: 24 0: 0
Members present for the final vote	Gerolf Annemans, Hugues Bayet, Pervenche Berès, Esther de Lange, Markus Ferber, Jonás Fernández, Elisa Ferreira, Neena Gill, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Cătălin Sorin Ivan, Othmar Karas, Georgios Kyrtzos, Alain Lamassoure, Philippe Lamberts, Werner Langen, Sander Loones, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Fulvio Martusciello, Bernard Monot, Luděk Niedermayer, Stanisław Ożóg, Dimitrios Papadimoulis, Sirpa Pietikäinen, Dariusz Rosati, Pirkko Ruohonen-Lerner, Alfred Sant, Molly Scott Cato, Peter Simon, Theodor Dumitru Stolojan, Paul Tang, Ramon Tremosa i Balcells, Ernest Urtasun, Marco Valli, Cora van Nieuwenhuizen, Jakob von Weizsäcker, Pablo Zalba Bidegain, Marco Zanni
Substitutes present for the final vote	Matt Carthy, Philippe De Backer, Mady Delvaux, Marian Harkin, Ian Hudghton, Sophia in 't Veld, Syed Kamall, Krišjānis Kariņš, Paloma López Bermejo, Emmanuel Maurel, Siôn Simon, Romana Tomc
Substitutes under Rule 200(2) present for the final vote	Daniela Aiuto, Virginie Rozière