

# EUROPEAN PARLIAMENT

2004



2009

*Committee on Petitions*

5.05.2008

## NOTICE TO MEMBERS

Subject: Petition 0877/2007 by Mr. Anthony Harmattan (?), on behalf of Asociación Inmigrantes Sub-saharianos de Navarra en España, on non-transposition of EC Directive 2003/109 by Spain

### 1. Summary of petition

The petitioner asks the European Parliament to take a stance on the question of the continuous postponement of the transposition of Council Directive 2003/109/EC on the status of third-country nationals who are long-term residents by Spain. The petitioner denounces the defiance of the Spanish government which has failed to transpose the above-mentioned directive although the deadline was 23 January 2006. The petitioner argues that the non-transposition violates the rights of the long-term immigrants residing in Spain and considers that they are discriminated against in comparison with those residing in other EU Member States

### 2. Admissibility

Declared admissible on 15 February 2008. Information requested from Commission under Rule 192(4).

### 3. Commission reply, received on 5 May 2008.

The petitioner, on behalf of AISSA (Asociación Inmigrantes Sub-Saharianos de Navarra en España), complains that Spain to date has neither transposed the long-term residents Directive 2003/109/EC<sup>1</sup> nor the family reunification Directive 2003/86/EC<sup>2</sup>.

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<sup>1</sup> JO L16 of 23.01.2004, p. 44

<sup>2</sup> JO L251 of 31.02.2003, p.12

## Applicable Community law

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents had to be transposed by Member States into national law by 23 January 2006.

Spain did not by then, and has still not notified any transposition measures. The Commission therefore, following the normal procedure in Article 226 EC, launched infringement proceedings against Spain before the Court of Justice.

In its judgment of 15 November 2007 (Case C-59/07), the Court rejected Spain's arguments that its existing law dealt adequately with long-term residence of third-country nationals. The Commission is now seeking further information about how Spain intends to comply with the judgment (letter from 23 January 2008 with a 2-months deadline for Spain to reply).

The petitioner had already requested information from the Commission on 18 January 2008 on the follow-up to that judgment. By reply of 6 February 2008, he was informed that the Commission is currently seeking information from the Spanish authorities as to measures they are taking to comply with the Court judgment.

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification had to be transposed by Member States into national law by 3 October 2005. Spain has notified to the Commission full transposition of that Directive into its national law on 20 October 2005.