



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Constitutional Affairs

2011/2275(INI)

01.6.2012

AMENDMENTS

1 - 19

Draft opinion
Morten Messerschmidt
(PE478.571v01-00)

on the 28th annual report on monitoring the application of EU Law (2010)
(COM(2011)0588)

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PE489.456v01-00

EN

United in diversity

EN

AM_Com_NonLegOpinion

Amendment 1
Andrew Duff, Alexandra Thein

Draft opinion
Paragraph 2

Draft opinion

2. Recalls that, for more than 10 years, Parliament and the Commission have ***tried in vain*** to include in directives binding provisions on correlation tables, often rejected by the Council, and ***welcomes*** the agreement reached;

Amendment

2. Recalls that, ***despite the Council's opposition***, for more than 10 years, Parliament and the Commission have ***endeavoured*** to include in directives binding provisions on correlation tables, often rejected by the Council, and ***notes*** the agreement reached;

Or. en

Amendment 2
Andrew Duff, Alexandra Thein

Draft opinion
Paragraph 3

Draft opinion

3. Stresses that correlation tables are an invaluable tool to enable the Commission and Parliament to oversee the correct transposition of ***directives*** by the Member States because the relationship between a directive and the corresponding national provisions is often very complicated and sometimes almost impossible to trace back;

Amendment

3. Stresses that correlation tables are an invaluable tool to enable the Commission and Parliament to oversee the correct transposition ***and application of Union law*** by the Member States because the relationship between a directive and the corresponding national provisions is often very complicated and sometimes almost impossible to trace back;

Or. en

Amendment 3
Paulo Rangel

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3a. Welcomes the implementation of the tools for the management of cases related to the application of EU law (CHAP and EU Pilot) and the positive results they are producing and calls on the Commission to continue to develop them and improve its functioning;

Or. en

**Amendment 4
Paulo Rangel**

**Draft opinion
Paragraph 3 b (new)**

Draft opinion

Amendment

3b. Regrets, however, the enormous number of non-communication cases (470 pending in 2010);

Or. en

**Amendment 5
Zita Gurmai, Evelyn Regner**

**Draft opinion
Paragraph 4 – point a (new)**

Draft opinion

Amendment

(a) Points out that the petition is a proper instrument to be used by citizens, civil society organisations and enterprises to report on non-compliance with EU law by Member States' authorities at different levels; calls on the Commission, in this regard, to safeguard transparency of on-going infringement procedures by way of informing the citizens in a timely and

*appropriate manner of the action taken
on their request;*

Or. en

Amendment 6
Gerald Häfner

Draft opinion
Paragraph 4 a (new)

Draft opinion

Amendment

4a. Underlines the importance of a good administration practice also with regard to infringement procedures and calls for the establishment of a 'procedural code' in the form of a regulation under the legal basis of Article 298 TFEU, setting out the various aspects of the infringement procedure;

Or. en

Amendment 7
Andrew Duff, Alexandra Thein

Draft opinion
Paragraph 5

Draft opinion

Amendment

5. Recalls that the non-respect of a deadline for the transposition of a directive is an infringement of the Treaties, like any other non-respect of substantive provisions, and must be seen and treated accordingly; welcomes in this respect the possibility created by the Treaty of Lisbon for a lump sum payment or penalty to be imposed in such cases on the Member State concerned together with the judgment on the infringement;

5. Recalls that the non-respect of a deadline for the transposition of a directive is an infringement of the Treaties, like any other non-respect of substantive provisions, and must be seen and treated accordingly; welcomes in this respect the possibility created by the Treaty of Lisbon for a lump sum payment or penalty to be imposed in such cases on the Member State concerned together with the judgment on the infringement *under Article 260(3) TFEU*;

Amendment 8
Andreas Mölzer

Draft opinion
Paragraph 5

Draft opinion

5. Recalls that the non-respect of a deadline for the transposition of a directive is an infringement of the Treaties, like any other non-respect of substantive provisions, and must be seen and treated accordingly; welcomes in this respect the possibility created by the Treaty of Lisbon for a lump sum payment or penalty to be imposed in such cases on the Member State concerned together with the judgment on the infringement;

Amendment

5. Recalls that the non-respect of a deadline for the transposition of a directive is an infringement of the Treaties, like any other non-respect of substantive provisions, and must be seen and treated accordingly; welcomes in this respect the possibility created by the Treaty of Lisbon for a lump sum payment or penalty to be imposed in such cases on the Member State concerned together with the judgment on the infringement; ***however, in view of the difficult financial situation in many Member States, doubts whether such penalties could ever be collected in practice;***

Amendment 9
Andrew Duff, Alexandra Thein

Draft opinion
Paragraph 5 a (new)

Draft opinion

Amendment

5a. Welcomes the Commission's commitment to make use of the Article 260(3) TFEU instrument as a matter of principle in cases of failure to fulfil an obligation covered by this provision, which concerns the transposition of directives adopted under a legislative

procedure;

Or. en

Amendment 10

Paulo Rangel

Draft opinion

Paragraph 6 a (new)

Draft opinion

Amendment

6a. Stresses that European legal training is a key instrument to ensure the correct application of EU law and welcomes the Commission's initiative to prepare a Communication on this subject;

Or. en

Amendment 11

Andrew Duff, Alexandra Thein

Draft opinion

Paragraph 7

Draft opinion

Amendment

7. Draws attention to the direct applicability of provisions of directives when they are sufficiently precise and unconditional ('direct effect'), suggests that the Commission ***refer*** to such provisions in its justification for a directive ***and is of the opinion that the legal profession should be made more aware of them;***

7. Draws attention to the direct applicability of provisions of directives when they are sufficiently precise and unconditional ('direct effect'), suggests that the Commission ***refers*** to such provisions in its justification for a directive;

Or. en

Amendment 12

Paulo Rangel

Draft opinion
Paragraph 7

Draft opinion

7. Draws attention to the direct applicability of provisions of directives when they are sufficiently precise and unconditional ('direct effect'), **suggests that the Commission refer to such provisions in its justification for a directive and is of the opinion that the legal profession should be made more aware of them;**

Amendment

7. Draws attention to the direct applicability of provisions of directives when they are sufficiently precise and unconditional ('direct effect'), **according to the consolidated case law of the Court of Justice;**

Or. en

Amendment 13
Andreas Mölzer

Draft opinion
Paragraph 7

Draft opinion

7. Draws attention to the direct applicability of provisions of directives when they are sufficiently precise and unconditional ('direct effect'), suggests that the Commission refer to such provisions in its justification for a directive **and** is of the opinion that the legal profession should be made more aware of them;

Amendment

7. Draws attention to the direct applicability of provisions of directives when they are sufficiently precise and unconditional ('direct effect'), suggests that the Commission **explicitly** refer to such provisions in its justification for a directive **in order to make the directive easier to apply;** is of the opinion that the legal profession should be made more aware of them;

Or. de

Amendment 14
Evelyn Regner

Draft opinion
Paragraph 7

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Draft opinion

7. Draws attention to the direct applicability of provisions of directives when they are sufficiently precise and unconditional ('direct effect'), suggests that the Commission refer to such provisions in its justification for a directive and is of the opinion that the legal profession should be made more aware of them;

Amendment

7. Considers the choice of legal instrument to be a decisive element in good law-making, as the conditions of national systems of law can be taken into account during transposition into national law, so that European law can be incorporated more effectively into national law; draws attention to the direct applicability of provisions of directives when they are sufficiently precise and unconditional ('direct effect'), suggests that the Commission refer to such provisions in its justification for a directive and is of the opinion that the legal profession should be made more aware of them;

Or. de

Amendment 15

Andrew Duff, Alexandra Thein

**Draft opinion
Paragraph 8**

Draft opinion

8. Calls on the Commission to evaluate in each single case whether, in view of the enormous number of non-communication cases (470 pending in 2010), the choice of a regulation instead of a directive is more appropriate; notes that this would at the same time resolve the problem of Member States going beyond the standards required by a directive, entailing a protectionist effect ('gold-plating');

Amendment

deleted

Or. en

Amendment 16
Paulo Rangel

Draft opinion
Paragraph 8

Draft opinion

8. Calls on the Commission to *evaluate in each single case whether, in view of the enormous number of non-communication cases (470 pending in 2010), the choice of a regulation instead of a directive is more appropriate; notes that this would at the same time resolve the problem of Member States going beyond the standards required by a directive, entailing a protectionist effect ('gold-plating');*

Amendment

8. Calls on the Commission to *give preferential use to regulations, whenever possible under the Treaties and the principle of subsidiarity;*

Or. en

Amendment 17
Andreas Mölzer

Draft opinion
Paragraph 8

Draft opinion

8. Calls on the Commission to evaluate in each single case whether, in view of the enormous number of non-communication cases (470 pending in 2010), the choice of a regulation instead of a directive is more appropriate; notes that *this* would at the same time resolve the problem of Member States going beyond the standards required by a directive, entailing a protectionist effect ('gold-plating');

Amendment

8. Calls on the Commission to evaluate in each single case whether, in view of the enormous number of non-communication cases (470 pending in 2010), *the relevant question could not be better regulated at national level or, vice versa, whether* the choice of a regulation instead of a directive is more appropriate; notes that *the latter* would at the same time resolve the problem of Member States going beyond the standards required by a directive, entailing a protectionist effect ('gold-plating');

Or. de

Amendment 18
Zita Gurmai, Evelyn Regner

Draft opinion
Paragraph 8

Draft opinion

8. Calls on the Commission *to evaluate in each single case whether*, in view of the enormous number of non-communication cases (470 pending in 2010), the *choice of a regulation instead of a directive is more appropriate; notes that this would at the same time resolve the problem of Member States going beyond the standards required by a directive, entailing a protectionist effect ('gold-plating');*

Amendment

8. Calls on the Commission, in view of the enormous number of non-communication cases (470 pending in 2010), *to make more regular use of its powers under Article 260(3) TFEU to bring a case before the Court of Justice asking to impose on a Member State the payment of a lump sum or penalty where that Member State has failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure;*

Or. en

Amendment 19
Paulo Rangel

Draft opinion
Paragraph 8 a (new)

Draft opinion

8a. Calls on the Commission and Member States to act jointly and consistently to tackle the problem of 'gold-plating';

Amendment

Or. en