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*Plenary sitting*

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**A8-0262/2016**

9.9.2016

# **REPORT**

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

Committee on Legal Affairs

Rapporteur: Heidi Hautala

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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

*The European Parliament,*

- having regard to the 32nd annual report on monitoring the application of Union law (2014) (COM(2015)0329),
  - having regard to the report by the Commission entitled ‘EU Pilot Evaluation Report’ (COM(2010)0070),
  - having regard to the report by the Commission entitled ‘Second Evaluation Report on EU Pilot’ (COM(2011)0930),
  - having regard to the Commission communication of 20 March 2002 on relations with the complainant in respect of infringements of Community law (COM(2002)0141),
  - having regard to the Commission communication of 2 April 2012 entitled ‘Updating the handling of relations with the complainant in respect of the application of Union law’ (COM(2012)0154),
  - having regard to the Framework Agreement on Relations between the European Parliament and the European Commission,
  - having regard to the Interinstitutional Agreement on better law-making between the European Parliament, the Council of the European Union, and the European Commission,
  - having regard to its resolution of 10 September 2015 on the 30th and 31st annual reports on monitoring the application of EU Law<sup>1</sup>,
  - having regard to Rule 52 and 132(2) of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs and the Committee on Petitions (A8-0262/2016),
- A. whereas Article 17 of the Treaty on European Union (TEU) defines the fundamental role of the Commission as ‘guardian of the Treaties;
- B. whereas, according to Article 6(1) TEU, the Charter of Fundamental Rights of the European Union (CFREU) has the same legal value as the Treaties, and is addressed to

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<sup>1</sup> Texts adopted, P8\_TA(2015)0322.

the institutions, bodies, offices and agencies of the Union and the Member States when they are implementing Union law (Article 51(1) CFREU);

- C. whereas, according to Article 258 (1) and (2) TFEU, the Commission shall deliver a reasoned opinion to a Member State when it considers that the latter has failed to fulfil an obligation under the Treaties, and may bring the matter before the Court of Justice if the Member State in question does not comply with the opinion within a deadline set by the Commission;
  - D. whereas the Framework Agreement on Relations between the European Parliament and the European Commission provides for sharing of information concerning all infringement procedures based on letters of formal notice, but does not cover the informal EU Pilot procedure which precedes the opening of formal infringement proceedings;
  - E. whereas the Commission invokes Article 4(3) TEU and the principle of sincere cooperation between the Union and Member States in order to enforce its obligation to exercise discretion in relation to Member States during EU Pilot procedures;
  - F. whereas EU Pilot procedures are intended to make for closer and more coherent cooperation between the Commission and Member States so as to remedy breaches of EU law at an early stage in order, wherever possible, to avert the need to resort to formal infringement proceedings;
  - G. whereas in 2014, the Commission received 3 715 complaints reporting potential breaches of EU law, with Spain (553), Italy (475) and Germany (276) being the Member States that most complaints were filed against;
  - H. 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;
  - I. whereas Article 41 CFREU defines the right of good administration as the right for every person to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, and whereas Article 298 TFEU stipulates that, in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration;
1. Recalls that the Commission is, according to Article 17 TEU, responsible for ensuring the application of Union law, including the CFREU (Article 6(1) TEU), the provisions of which are addressed to the institutions, bodies, offices and agencies of the Union and to the Member States when they are implementing Union law;
  2. Recognises that the primary responsibility for the correct implementation and application of EU law lies with the Member States, but points out that this does not absolve the EU institutions of their duty to respect primary EU law when they produce secondary EU law;
  3. Stresses the Commission's essential role in overseeing the application of EU law and submitting its annual report to Parliament and the Council; calls on the Commission to

continue its active role in developing various tools to improve EU law implementation, enforcement and compliance in the Member States, and to provide data, in addition to that on the implementation of EU directives, on implementation of EU regulations in its next annual report;

4. Recognises that the primary responsibility for the correct implementation and application of EU law lies with the Member States, and emphasises that the Member States, when implementing EU law, must also respect in full the fundamental values and rights enshrined in the Treaties and the Charter of the Fundamental Rights of the EU; recalls that the monitoring and evaluation of the implementation of EU law lies with the Commission; calls, to this end, repeatedly on the Member States to make systematic use of correlation tables, but points out that this does not absolve the EU institutions of their duty to respect primary EU law when they produce secondary EU law; is reminded of the need to make use of its implementing reports regarding sectorial legislations;
5. Acknowledges that Parliament also has a crucial role to play in this regard by exercising political oversight of the Commission's enforcement actions, scrutinising the annual reports on monitoring the implementation of EU law and adopting relevant parliamentary resolutions; suggests that it could contribute further to the timely and accurate transposition of EU legislation by sharing its expertise in the legislative decision-making process through pre-established links with national parliaments;
6. Notes that timely and correct transposition of EU law into national legislation and a clear domestic legislative framework should be a priority for the Member States, with a view to avoiding breaches of EU law while delivering to individuals and businesses the intended benefits made possible by the efficient and effective application of EU law;
7. Underlines the important role of the social partners, civil society organisations and other stakeholders in creating legislation and in monitoring and reporting shortcomings in the transposition and application of EU law by the Member States; notes the Commission's acknowledgment of stakeholders' role by launching new tools in 2014 which facilitate this process; encourages stakeholders to remain vigilant in this regard in the future;
8. Acknowledges the impact of effective application of EU law on strengthening the credibility of the EU institutions; appreciates the importance attributed in the Commission's annual report to petitions submitted by citizens, businesses and civil society organisations, a fundamental right enshrined in the Lisbon Treaty, an important element of European citizenship and an important secondary means of monitoring the application of EU law and identifying possible loopholes in it through the direct expression by citizens of their views and experiences, alongside elections and referendums which remain their primary avenue for democratic expression;
9. Considers that unrealistic implementation deadlines for legislation can result in Member States being unable to comply, providing tacit endorsement for delaying application; calls on the European institutions to agree on more suitable timetables for the implementation of regulations and directives, whereby due account is taken 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;

10. Welcomes the fact that the new Interinstitutional Agreement on better law-making contains provisions that aim to improve the implementation and application of EU law and to encourage more structured cooperation in this respect; supports the call, expressed in the agreement, for better identification of national measures that are not strictly related to Union legislation (a practice known as ‘gold plating’); stresses the importance of enhancing transposition and the need for Member States to provide notification of, and clearly indicate, national measures that supplement European directives; stresses that the Member States, when applying EU legislation, should avoid adding unnecessary burdens to EU legislation, as this leads to a misconception of EU legislative activity and increases unjustified EU scepticism among citizens; points out, however, that this in no way affects the Member States’ prerogative of adopting at national level higher social and environmental standards than those agreed on at EU level;
11. Stresses that Parliament should play a stronger role in the analysis of how accession countries and countries with association agreements with the European Union comply with EU law; proposes in this regard to provide those countries with suitable assistance, in the form of ongoing cooperation with their national parliaments in the field of the observance and application of EU law;
12. Suggests that Parliament should draft proper reports, not simply resolutions, on all candidate countries in response to the annual progress reports released by the Commission, in order to give the possibility to all committees concerned to deliver relevant opinions; believes that the Commission should continue to release progress reports for all European Neighbourhood Countries that have signed association agreements, in order for Parliament to proceed with a serious and systematic assessment of the progress made by those countries on the implementation of the EU *acquis* as it relates to the association agenda;
13. Welcomes the Commission’s 32nd ‘Annual Report on Monitoring the Application of EU Law’, and notes that environment, transport, and internal market and services were the policy areas in 2013 in which most infringement cases remained open in 2014; notes as well that, in 2014, environment, health, consumer protection, mobility and transport were again the policy areas in which the highest numbers of new infringement proceedings were instituted; encourages the Commission, in the interest of ensuring inter-institutional transparency, to afford Parliament better access to cases involving infringements of EU law;
14. Notes that according to the Annual report, ‘the number of formal infringement procedures has decreased in the last five years’, and that, according to the Commission, this reflects the effectiveness of the structured dialogue with Member States via EU Pilot; considers, however, that the decrease in recent years, and the decrease expected to occur in coming years, are mainly due to the continuing fall in the number of new Commission legislative proposals; points out that the Commission does not carry out any EU Pilot procedures when directives have been transposed late;
15. Recalls that this ex post evaluation does not absolve the Commission of its duty to monitor in an effective and timely fashion the application and implementation of EU law, and notes that Parliament could assist in reviewing the implementation of

legislation through its scrutiny of the Commission;

16. Notes that the increase in the number of new EU Pilot files during the period under examination, and the decrease in the number of open infringement cases, show, according to the annual report, that the EU Pilot system has proved its usefulness, and has had a positive impact by promoting more efficient enforcement of EU law; reiterates, however, that the enforcement of EU law is neither sufficiently transparent nor subject to any real control by the complainants and the interested parties, and regrets that, despite its repeated requests, Parliament still has inadequate access to information about the EU Pilot procedure and pending cases; calls on the Commission, in this regard, to ensure greater transparency as regards information on the EU Pilot procedure, and on pending cases;
17. Is of the opinion that financial penalties for non-compliance with EU law should be effective, proportionate and dissuasive, taking into account repeated failures in the same field, and that Member States' legal rights must be respected;
18. Points out that in a European Union founded on the rule of law, and on the certainty and predictability of laws, EU citizens must, as of right, be the first to be made aware, in a clear, accessible, transparent and timely manner (via the internet and by other means), of whether and which national laws have been adopted through the transposition of EU laws, and of which national authorities are responsible for ensuring that they are correctly implemented;
19. Calls on the Commission to interlink all different portals, access points and information websites in a single gateway that will provide citizens with easy access to online complaint forms and user-friendly information on infringement procedures; calls, furthermore, on the Commission to include in its next monitoring report more detailed information on the use of those portals;
20. Points out that sincere cooperation between the Commission and Parliament is an obligation incumbent on them both; calls, therefore, for the Framework Agreement on Relations between the European Parliament and the European Commission to be revised so as to enable information about EU Pilot procedures to be supplied in the form of a (confidential) document to the parliamentary committee responsible for the interpretation and application of Union law;
21. Recalls that, in its resolution of 15 January 2013, Parliament called for the adoption of an EU regulation on a European law of administrative procedure under Article 298 TFEU, but that, despite the fact that the resolution was adopted by an overwhelming majority (572 in favour, 16 against, 12 abstentions), Parliament's request was not followed up by a Commission proposal; calls on the Commission to re-examine Parliament's resolution with a view to bringing forward a proposal for a legislative act in respect of the law of administrative procedure;
22. Deplores, more specifically, the fact that there has been no follow-up to its call for binding rules in the form of a regulation setting out the various aspects of the infringement and pre-infringement procedure – including notifications, binding time limits, the right to be heard, the obligation to state reasons, and the right for every person to have access to his or her file – so as to reinforce citizens' rights and guarantee

transparency;

23. Recalls, in this context, that the Committee on Legal Affairs has set up a new Working Group on Administrative Law which has decided to elaborate an actual draft regulation on the administrative procedure of the Union's administration as a 'source of inspiration' for the Commission, not in order to question the Commission's right of initiative, but to show that such a regulation would be both useful and feasible to enact;
24. Believes that the intent of this draft regulation is not to replace existing EU legislation, but rather to supplement this when gaps or problems arise regarding interpretation, and to bring more accessibility, clarity and coherence to the interpretation of existing rules, for the benefit of citizens and businesses and of the administration and its officials;
25. Calls, therefore, once more on the Commission to come forward with a legislative proposal on a European law of administrative procedure, taking into account the steps taken so far by Parliament in this field;
26. Recalls that the EU institutions, even when they act as members of groups of international lenders ('troikas'), are bound by the Treaties and the Charter of Fundamental Rights of the European Union;
27. Calls on the Commission to make compliance with EU law a real political priority, to be pursued in close collaboration with Parliament, which has a duty (a) to keep the Commission politically accountable and (b), as co-legislator, to make sure that it is itself fully informed, with a view to constantly improving its legislative work;
28. Supports the creation of a 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 that takes account of the fact that the relevant standing committees in Parliament monitor the application of EU law within their respective fields of competence;
29. Instructs its President to forward this resolution to the Council and the Commission, and to the Committee of the Regions, the Social and Economic Committee and the national parliaments.

## EXPLANATORY STATEMENT

The Commission's 32nd 'Annual Report on Monitoring the Application of EU Law' contains, once again, interesting information on the actual implementation and practical application of EU law. Thus, the report shows that environment, transport and internal market & services remained the policy areas in which most infringement cases were open in 2014. The Annual report also stresses that the number of formal infringement procedures has decreased in the last five years. According to the Commission this reflects the effectiveness of the dialogue with Member States in the context of the EU Pilot procedure. However, bearing in mind that Parliament still has rather little access to information about the EU Pilot procedure and pending cases, it is difficult to evaluate to what extent the reduction in formal infringement procedures actually reflects better compliance with EU law by member States, rather than compromise solutions between the Commission and infringing Member States. A conclusion that can be drawn from the report is, therefore, that the enforcement of EU law is still not sufficiently transparent. In this context the rapporteur considers that the proposals made by the new Working Group on Administrative Law set up by the Committee on Legal Affairs could provide valuable inspiration for the Commission, as they show that a regulation on the administrative procedure of the Union's own administration would be both useful and feasible to enact. The rapporteur also believes that the European Parliament could and should play a more structured role in the analysis of how accession countries and countries with association agreements with the European Union comply with EU law and in developing appropriate support in this respect to those countries.

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

### **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 MS<sup>1</sup>;
  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;

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<sup>1</sup> 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).

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 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 transposed<sup>1</sup>;
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 B2B<sup>2</sup> payments is well above average<sup>3</sup> 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 States<sup>4</sup>; 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

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

<sup>2</sup> Business-to-business.

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

<sup>4</sup> 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](http://ec.europa.eu/atwork/applying-eu-law/docs/annual_report_32/com_2015_329_en.pdf)

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 progress<sup>1</sup>; 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 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 (BRRD<sup>2</sup>) into national law;
12. Notes that, on 22 October 2015, the Commission referred six Member States<sup>3</sup> 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)<sup>4</sup> 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 BRDD 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

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<sup>1</sup> 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.

<sup>2</sup> Commission press release of 22 October 2015 on the referral of six countries to the ECJ for failing to transpose BRRD.

<sup>3</sup> The Czech Republic, Luxembourg, the Netherlands, Poland, Romania and Sweden.

<sup>4</sup> Belgium, Cyprus, Estonia, Greece, Italy, Luxembourg, Poland, Romania, Slovenia and Sweden: Commission press release of 10 December 2015.

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 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

<b>Date adopted</b>	26.4.2016
<b>Result of final vote</b>	+: 32 -: 24 0: 0
<b>Members present for the final vote</b>	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 Kyrtos, 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
<b>Substitutes present for the final vote</b>	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
<b>Substitutes under Rule 200(2) present for the final vote</b>	Daniela Aiuto, Virginie Rozière

18.2.2016

## **OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS**

for the Committee on Legal Affairs

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

Rapporteur: Agnieszka Kozłowska-Rajewicz

### **SUGGESTIONS**

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

1. Underlines the fact that the Commission has the power and duty to oversee the application of EU law and to launch infringement proceedings against those Member States that have failed to fulfil an obligation under the Treaties; calls, nevertheless, on the Commission, before launching formal infringement proceedings, to give priority to the EU Pilot initiative and embark on a process of dialogue with the Member States; reminds the Member States that EU law is an integral part of their national law and that they have a responsibility to apply it correctly;
2. Notes that timely and correct transposition of EU law into national legislation and a clear domestic legislative framework should be a priority for the Member States with a view to avoiding breaches of EU law while delivering to individuals and businesses the intended benefits made possible by the efficient and effective application of EU law;
3. Underlines the important role of the social partners, civil society organisations and other stakeholders in creating legislation and in monitoring and reporting shortcomings in the transposition and application of EU law by the Member States; notes the Commission's acknowledgment of stakeholders' role by launching new tools in 2014 which facilitate this process; encourages stakeholders to remain vigilant in this regard in the future;
4. Highlights the fact that 3 715 new complaints were registered in 2014, with the Commission receiving its highest number of new complaints (666) in the areas of employment, social affairs and inclusion since 2011<sup>1</sup>; recalls that lack of implementation

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<sup>1</sup> 'Monitoring the application of Union law: 2014 Annual Report' (COM(2015)0329), p. 8.

and the incorrect or non-application of EU legislation by Member States render legislation ineffective, significantly reduce social and employment rights and may require further action at EU level, with full respect for the principle of subsidiarity;

5. Highlights the fact that in 2014 there were no significant Court of Justice rulings in the field of employment, social affairs and inclusion;
6. Points out that, of the 2 341 complaints dealt with by the European Solvit network in 2014, 1 458 concerned access to, and use of, social security rights under Regulation (EC) No 883/2004, with the highest numbers of complaints registered for cases concerning child benefits, pensions and unemployment benefits;
7. Calls on the Commission to present the long overdue revision of Regulation (EC) No 883/2004 and its implementing regulation as soon as possible, so as to ensure full enjoyment of social security rights by all; reminds the Member States of their obligation to cooperate closely on this in order to ensure that mobile EU citizens are not deprived of their rights; calls on the Administrative Commission for the Coordination of Social Security Systems, on an annual basis, to evaluate which problems recur most often, to put forward concrete suggestions for improving the situation and to publish its evaluation and suggestions;
8. Points out that the number of new late transposition infringement cases in 2014 in the area of employment (17) increased slightly compared with the previous year (13), and that all of them related to labour law<sup>1</sup>; recalls that late transposition of labour law is a persistent problem in some Member States, and prevents people from enjoying their rights and receiving the benefits of Union law; stresses that late and incorrect transposition of EU directives has a negative effect on the overall legal certainty and the level playing field of the single market; calls on the Member States to take action, including legislative action, where appropriate in order to ensure the practical and beneficial transposition of EU directives into all national legal systems;
9. Stresses that transposition delays are an obstacle to the proper functioning of the internal market and go against the interests of citizens and businesses, depriving them of some of their rights; calls, in this connection, on the Member States to transpose as quickly as possible Directive 2011/24/EU on the application of patients' rights in cross-border healthcare, in order to ensure that all Europeans have access to quality healthcare in another Member State;
10. Stresses that at the end of 2014 there were 1 347 infringement cases open, including 72 relating to employment<sup>2</sup>;
11. Welcomes the fact that the Commission, as part of its Regulatory Fitness and Performance (REFIT) programme, is paying close attention to the issue of implementation and enforcement of EU legislation, with a view to preventing and limiting the number of cases of late transposition by Member States;

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<sup>1</sup> Commission staff working document entitled 'Part I – Policy areas' (accompanying the document 'Monitoring the application of Union law: 2014 Annual Report'), p. 40.

<sup>2</sup> 'Monitoring the application of Union law: 2014 Annual report' (COM(2015)0329), p. 15.

12. Notes that the reasons for late transposition of directives vary from country to country; urges the Commission to conduct in-depth analyses in Member States in order to gain comprehensive knowledge in this area, and to combat late transposition in the future by providing solutions which are compatible with the legal contingencies of particular Member States;
13. Welcomes the fact that the Commission has made an effort to decrease the number of formal infringement procedures in the last five years through effective structured dialogue with Member States, initiated via EU Pilot before a formal infringement procedure is launched;
14. Urges the Commission, when drafting and assessing legislation, to take account of the potential benefits and burden, including for SMEs, which account for 99 % of European businesses and create 85 % of new jobs; stresses, in this connection, the need to apply the 'Think Small First' principle; underlines the need to assess not only the short-term effects but also the long-term value of legislation; stresses, however, that all employees have the right to enjoy the highest possible level of protection as regards health and safety at work, regardless of the size of the company which employs them;
15. Calls for further measures to ensure effective monitoring and enforcement of legislation, including timely transposition and compliance with the objectives of that legislation, and to address damaging loopholes where they arise; stresses the need for clearly worded legislation in order to facilitate compliance;
16. Stresses, however, that EU legislation sets only minimum standards, which can be improved by Member States in their national legislation;
17. Believes that impact assessments should include SME and competitiveness tests in order to ensure that companies, and in particular SMEs, are not overburdened by new legislation;
18. Welcomes the efforts made by the Commission in recent years, and acknowledges the range of measures put in place to assist the Member States with implementation, such as correlation tables, an annual scoreboard and guidelines; welcomes the fact that the Commission provides implementation plans to make it easier to apply Union law effectively and without delay; points out the importance of the Commission monitoring the use of implementation plans by Member States;
19. Notes the Commission's ongoing revision of the existing legislation through its Better Regulation Agenda, which is aimed at ensuring the high quality of EU legislation in terms of transparency, public consultation, implementation and compliance with the principle of subsidiarity; calls on the Commission, therefore, to coordinate its efforts with those of the Member States and the European Parliament at an earlier stage of the legislative process with a view to ensuring that future EU law can be implemented more effectively, since deregulation, overregulation or non-regulation may cause greater harm to business and employment; points out, however, that such coordination must be without prejudice to the prerogative of the legislators and must fully respect the ordinary legislative procedure and the democratic legitimacy of the Member States;
20. Stresses that the principle of equal treatment and non-discrimination is well established in

EU law, and should therefore be taken into consideration and respected in the drafting of EU legislation;

21. Calls on the Commission to strengthen its cooperation with the Member States in order to speed up the correction of breaches of EU law where necessary; stresses that this cooperation must be transparent and open to parliamentary scrutiny;
22. Calls on the Commission to review the framework under which Member States provide supporting information about their transposition of directives into national law;
23. Calls on the Commission to give the Member States greater support for the implementation and correct application of EU law by providing tailor-made tools, such as detailed implementation plans and guidance documents, which are the result of enhanced and mutual cooperation between the Commission and Member States from an early stage in the legislative process; believes that regular dialogue with the social partners is also an essential way in which Member States can ensure effective implementation of EU labour law;
24. Stresses that strengthening the Member States' labour inspectorates is essential in order to ensure effective implementation of EU labour law in the Member States;
25. Welcomes the tools developed by the Commission to provide support to stakeholders, such as Your European Portal, Solvit and CHAP, but deplors the fact that these tools are still little known and little used;
26. Calls on the Member States to provide the Commission with clearer and more detailed information about the transposition of directives, in order to allow a better review.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	17.2.2016						
<b>Result of final vote</b>	<table style="width: 100%; border: none;"> <tr> <td style="width: 100px;">+:</td> <td style="text-align: right;">44</td> </tr> <tr> <td>–:</td> <td style="text-align: right;">10</td> </tr> <tr> <td>0:</td> <td style="text-align: right;">0</td> </tr> </table>	+:	44	–:	10	0:	0
+:	44						
–:	10						
0:	0						
<b>Members present for the final vote</b>	<p>Laura Agea, Guillaume Balas, Brando Benifei, Mara Bizzotto, Vilija Blinkevičiūtė, Enrique Calvet Chambon, David Casa, Ole Christensen, Jane Collins, Martina Dlabajová, Lampros Fountoulis, Elena Gentile, Arne Gericke, Marian Harkin, Czesław Hoc, Danuta Jazłowiecka, Agnes Jongerius, Jan Keller, Ádám Kósa, Agnieszka Kozłowska-Rajewicz, Kostadinka Kuneva, Jean Lambert, Jérôme Lavrilleux, Patrick Le Hyaric, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Thomas Mann, Dominique Martin, Joëlle Mélin, Elisabeth Morin-Chartier, Emilian Pavel, João Pimenta Lopes, Marek Plura, Terry Reintke, Sofia Ribeiro, Maria João Rodrigues, Claude Rolin, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Ulrike Trebesius, Marita Ulvskog, Renate Weber, Jana Žitňanská</p>						
<b>Substitutes present for the final vote</b>	<p>Amjad Bashir, Tania González Peñas, Miapetra Kumpula-Natri, António Marinho e Pinto, Tamás Meszerics, Neoklis Sylikiotis, Ivo Vajgl</p>						

22.4.2016

## OPINION OF THE COMMITTEE ON PETITIONS

for the Committee on Legal Affairs

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

Rapporteur: Cecilia Wikström

### SUGGESTIONS

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

1. Reiterates that the problems of implementation and enforcement of EU law have been longstanding, and supports the effective application of common EU rules in the Member States, which is vital to strengthening the credibility of the Union and to meeting citizens' expectations of the benefits that the EU can bring them;
2. Stresses the Commission's essential role in overseeing the application of EU law and submitting its annual report to Parliament and the Council; calls on the Commission to continue its active role in developing various tools to improve EU law implementation, enforcement and compliance in Member States, and to provide data, in addition to that on the implementation of EU directives, on implementation of EU regulations in its next annual report;
3. Acknowledges that Parliament also plays a crucial role by exercising political oversight of the Commission's enforcement actions, scrutinising the annual reports on monitoring the implementation of EU law and adopting relevant parliamentary resolutions; suggests that Parliament could contribute further to the timely and accurate transposition of EU legislation by sharing its expertise in the legislative decision-making process through pre-established links with national parliaments;
4. Recalls the importance of petitions and questions received by Parliament under Article 227 TFEU, which often trigger infringement procedures initiated by the Commission against a Member State; stresses that individual citizens' complaints are one of the main sources for determining weaknesses and detecting shortcomings and breaches of EU law by the Member States and a source of information for the Commission; notes that, in 2014, members of the public, businesses, NGOs and other organisations remained very active in reporting potential breaches of EU law and, as a result, in 2014 the total number

of open complaints increased by approximately 5.7 %, and 1 208 new EU Pilot files were opened; acknowledges at the same time the number of processed complaints and EU Pilot files in 2014 and appreciates the 75 % resolution rate of EU Pilot files as a quick and effective problem-solving method;

5. Acknowledges the impact of effective application of EU law on strengthening the credibility of the EU institutions; appreciates the importance attributed in the Commission's annual report to petitions submitted by citizens, businesses and civil society organisations as an important secondary means of monitoring the application of EU law and identifying possible loopholes in it through direct expression by citizens of their views and experiences – in addition to their primary avenue for democratic expression: elections and referendums, a fundamental right enshrined in the Lisbon Treaty and an important element of European citizenship;
6. Points out that differences in the implementation and transposition of EU law by the Member States create continuous obstacles for businesses and citizens, in particular those who want to benefit from the achievements of the internal market and live, work, do business or study in another Member State; stresses that delays in transposition also have a negative impact on legal certainty; reiterates its position that the Commission should make compliance with EU law a genuine political priority through effective cooperation with the institutions, with special regard to the Council, in particular by means of systematic recourse to correlation tables, and with Member States and other interested parties; underlines the primary responsibility of the Member States to implement and apply EU law correctly;
7. Acknowledges the administrative guarantees granted to complainants, such as the timely provision of information, and notification, in respect of their complaints, as also requested by the Committee on Petitions in its 2015 opinion on the aforementioned report; regrets, however, the delays in receiving responses from the Commission regarding numerous petitions when it is asked to give an opinion, and urges the Commission to improve its current practices in order to inform citizens in a timely and appropriate manner of any actions and steps taken in response to processing their complaints; stresses that the quality of its treatment of petitions on a case-by-case basis should not in any case be undermined by a higher volume of petitions received;
8. Notes the positive impact of the EU Pilot project on the exchange of information between the Commission and the Member States, and on the resolution of problems relating to the application of EU law at national level, and asks the Commission to pay special attention to the actual enforcement and internal review of decisions taken during the EU Pilot process; stresses that this can also provide valuable information for pending petitions, and invites the Commission to involve the petitioners in the process of EU Pilot cases deriving from petitions, inter alia in order to facilitate dialogue between petitioners and the national authorities concerned; welcomes the Member States' increasing efforts to settle infringement cases before the court procedure stage; notes that preliminary rulings help clarify questions on application of EU law and can prevent infringement procedures;
9. Calls for Parliament, and in particular the Committee on Petitions, to promote awareness-raising campaigns on the citizens' complaint system for breaches of EU law, the EU Pilot project and infringement procedures, enhancing broader use and facilitating public access

to information through Parliament's website;

10. Welcomes the commitment shown by Commission services to strengthening the exchange of information with the Committee on Petitions, and reiterates its requests for improved communication between the two parties, in particular with regard to the initiation and conduct of infringement procedures by the Commission, including the EU Pilot procedure, and for efforts to be made to provide the Committee on Petitions with information within a reasonable timeframe, thus allowing it to respond to citizens' requests more effectively; recalls its repeated request to the Commission to take into account in its monitoring and legislative work the reports and findings of the Committee on Petitions;
11. Welcomes the improved provision of information by the Commission to citizens about their rights and about suitable mechanisms of redress through webpages, databases, simpler complaint forms and online problem-solving tools, which aim at increased transparency; welcomes in this regard the better online accessibility of the decisions on infringements and the renewed 'Applying Union law' web section of the Europa portal and 'Europa portal Your rights', which gives citizens relevant information about how EU law has been applied in the Member States and about how to file a complaint; stresses that further measures are needed to provide better access to information on the application of EU law and problem-solving instruments and improve the handling of complaints from EU citizens and businesses about breaches of EU law;
12. Calls on the Commission to interlink all different portals, access points and information websites in a single gateway that will provide citizens with easy access to online complaint forms and user-friendly information on infringement procedures; calls furthermore on the Commission to include in its next monitoring report more detailed information on the use of those portals;
13. Regrets that petitions submitted by EU citizens still refer to violations of EU law; stresses that petitions mainly concern alleged breaches of EU law in the fields of fundamental rights, including the rights of people belonging to minorities and people with disabilities, discrimination, including discrimination based on nationality, the internal market, free movement, transport, the environment, education, employment and health care; considers that these petitions attest to the fact that there are still frequent and widespread instances of late or incomplete transposition, or of misapplication, of EU law, and stresses that the Member States should implement and execute EU law effectively and should legislate with full respect for the fundamental values and principles enshrined in the Treaties and the Charter of the Fundamental Rights of the EU; calls on the Member States to make a substantive improvement in the quality of information exchange with the Committee on Petitions and the clarifications provided; emphasises the need for presence and balanced dialogue with the representatives of the Member States on the petitions concerned during the meetings of the Committee on Petitions; suggests incorporating preventive mechanisms more effectively;
14. Recalls that the area of police and judicial cooperation in criminal matters (previously known as the 'third pillar') is frequently addressed in petitions by natural persons; notes that persistent shortcomings such as long delays in national court proceedings concerning matters involving EU law are often identified in the treatment of several petitions; underlines the usefulness and appropriateness of preliminary rulings by the European

Court of Justice as guidance for these cases, and regrets the scarce use of such a provision by national courts; welcomes, therefore, the expansion of the Commission's competences to include police and judicial cooperation as of 1 December 2014; recalls that the examination and treatment of petitions is independent and of a different nature from that of national judiciary procedures;

15. Underlines the importance of implementation plans adopted by the Commission with the aim of assisting and guiding Member States in the timely, clear and correct transposition of EU directives, which is necessary for the EU to operate effectively and viably; welcomes the importance attributed to the Better Regulation agenda, and takes note of the monitoring of EU regulatory fitness through the REFIT programme in the annual report on monitoring the application of Union law; calls on the Commission to actively involve all stakeholders, including social partners, consumer organisations, NGOs and businesses, in the impact assessment of EU legislation, to run the proportionality and subsidiarity check (at ex-ante stage) and to monitor implementation (at ex-post stage); invites the Commission to include in its assessment the measuring and reduction of administrative burdens faced by citizens and to take into account the broader economic, social and environmental impact of EU legislation, and to consider the benefits and values of EU legislation; reminds the Commission to apply the principles of equal treatment of Member States and impartiality when scrutinising the application of EU law; looks forward to improved quality in EU legislation and a hopefully positive impact on the number of petitions submitted;
16. Emphasises that a more courageous approach should be taken by the Commission when examining petitions raising fundamental rights issues, while bearing in mind the principle of subsidiarity.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	19.4.2016
<b>Result of final vote</b>	+: 26 -: 0 0: 4
<b>Members present for the final vote</b>	Marina Albiol Guzmán, Margrete Auken, Alberto Cirio, Pál Csáky, Miriam Dalli, Rosa Estaràs Ferragut, Eleonora Evi, Peter Jahr, Rikke Karlsson, Jude Kirton-Darling, Notis Marias, Edouard Martin, Roberta Metsola, Marlene Mizzi, Julia Pitera, Gabriele Preuß, Eleni Theocharous, Jarosław Wałęsa, Cecilia Wikström, Tatjana Ždanoka
<b>Substitutes present for the final vote</b>	Enrique Calvet Chambon, Kostadinka Kuneva, Miltiadis Kyrkos, Jérôme Lavrilleux, Julia Reda, Ángela Vallina, Rainer Wieland
<b>Substitutes under Rule 200(2) present for the final vote</b>	José Blanco López, Martina Dlabajová, Zbigniew Kuźmiuk

## RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	5.9.2016
<b>Result of final vote</b>	+: 16 -: 2 0: 1
<b>Members present for the final vote</b>	Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Therese Comodini Cachia, Mady Delvaux, Mary Honeyball, Dietmar Köster, Gilles Lebreton, Evelyn Regner, Pavel Svoboda, Axel Voss, Tadeusz Zwiefka
<b>Substitutes present for the final vote</b>	Pascal Durand, Heidi Hautala, Sylvia-Yvonne Kaufmann, Stefano Maullu, Virginie Rozière, Cecilia Wikström