

**Question for written answer P-011005/2012  
to the Commission  
Rule 117  
Csaba Sándor Tabajdi (S&D)**

**Subject:** Ex post facto legislation in the Member States

Since its election to power in 2010 the Hungarian government has approved ex post facto legislation on a number of occasions. In 2010 the government imposed a 98% tax, with retroactive effect over the previous five years, on severance payments of more than two million forints paid out in the public sector, in spite of the fact that this was declared unconstitutional by the Constitutional Court. In 2011 it changed, with retroactive effect, the pension entitlement of hundreds of thousands of mainly police officers, who had been compensated during their working lives for their work in exceptional circumstances with early retirement rather than pay supplements, by bringing to an end early retirement and transforming it into the form of benefits, which – unlike pensions – may be cut or even withdrawn completely. The review of disability allowance, on which the Hungarian government also passed a decision in 2011, similarly revised a large number of pension entitlements to the disabled in Hungary and divested them of their acquired rights with retroactive effect. Ex post facto laws were banned in Hungary by the Constitution, which came into force before 2012; however, this prohibition no longer appears in the 'Basic Law', which came into force on 1 January 2012.

One of the fundamental principles of European Union law is the requirement for a guarantee of legal certainty, which includes the prohibition of ex post facto legislation. This can also be seen in the case law of the Court of Justice of the European Union. There is also an explicit ban on ex post facto law in Article 7 of the European Convention on Human Rights and in Article 15 of the International Covenant on Civil and Political Rights. Since, under Article 6 of the convention, the European Convention on Human Rights is a signatory to the Treaty and the fundamental principles which it contains form part of EU law, the ban on ex post facto law can also be regarded as a requirement of the rule of law laid down in Article 2 TEU. Ex post facto legislation may also violate citizens' right to effective legal redress and a fair trial, which is laid down in Article 47 of the Charter of Fundamental Rights of the European Union.

1. Does the Commission agree that ex post facto legislation is unacceptable in a Member State, since the fact of its being unacceptable is a keystone of EU legislation?
2. Taking into account the proposal made on 12 September 2012 by Commissioner for Fundamental Rights Viviane Reding concerning a review of how the Member States' judicial systems operate, is the Commission planning to take action against ex post facto laws, which constitute legislation which violates the fundamental values of the EU?
3. In the Commission's view, is it acceptable for Member States to violate the fundamental principles of EU law either when formulating their own legislation or when transposing EU law?