



EUROPEAN PARLIAMENT

2014 - 2019

Committee on Petitions

2014/2253(INI)

20.5.2015

OPINION

of the Committee on Petitions

for the Committee on Legal Affairs

on the 30th and 31st Annual Reports on monitoring the application of EU law
(2012 - 2013)
(2014/2253(INI))

Rapporteur: Rosa Estaràs Ferragut

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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. Notes that the implementation and transposition of EU law remain uneven across Member States, which, combined with linguistic problems, excessive bureaucracy and a knowledge deficit, has created a Union that is not citizen-friendly; notes that citizens who wish to live, work or do business in another Member State face the daily reality of ongoing difficulties arising from the uneven implementation of EU law in the legal systems of the Member States;
2. Reiterates its view that Article 17 of the Treaty on European Union (TEU) defines the Commission's fundamental role as guardian of the Treaties; calls on the Commission to continue with its active monitoring of the application of EU law in order to ensure timely and correct implementation and proper transposition;
3. Points out that in order to improve the transposition, application and enforcement of EU law, the Commission should make compliance with EU law a real political priority by building a strong partnership and collaboration among all stakeholders involved in shaping, implementing and enforcing such legislation and in particular with Parliament and the Member States;
4. Notes that the right to petition Parliament is one of the pillars of European citizenship, as laid down in Article 44 of the Charter of Fundamental Rights of the European Union and Article 227 of the Treaty on the Functioning of the European Union (TFEU); points out that this right provides the necessary, but insufficient, tools for increasing public participation in the European Union's decision-making process and plays an important role in identifying and assessing potential loopholes and violations in the implementation of EU legislation by Member States and informing the EU institutions of these; underlines, in the light of the above, the crucial role of the Committee on Petitions as the effective juncture between EU citizens, Parliament, the Commission and national parliaments;
5. Stresses the vital role of citizens, businesses, NGOs and other stakeholders in monitoring shortcomings in the transposition and application of EU law by Member State authorities; acknowledges in this regard the important role of petitions to Parliament, complaints to the Commission and questions from Members of the European Parliament, which are among the first signs that problems exist in the implementation of EU law and help draw attention to misapplication and potential violations of EU law;
6. Points out that citizens, businesses, NGOs and other organisations frequently file complaints with the Commission, and that in 2013 the Commission received more new complaints (3 505) than in any of the previous three years, increasing the total number of open complaints by 19 %; calls on 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 processing their complaints, including giving prior notice to the complainant before closing a file;

7. Welcomes the fact that the Commission is attaching ever more importance to petitions as a source of information on citizens' complaints against public authorities, including the European Union, and potential infringements of EU law in its actual implementation, as evidenced by the fact that the two annual reports paid particular attention to petitions; notes that this has been accompanied by a corresponding increase in the number of petitions that were forwarded by the Committee on Petitions to the Commission with requests for information; finds regrettable, however, the Commission's delay in responding when asked to give an opinion in the case of numerous petitions;
8. Notes also the need for a constructive dialogue with the Member States within the Committee on Petitions and asks the Member States concerned by the relevant petitions to send representatives to address the Committee during its meetings;
9. Points out that petitions submitted by EU citizens or residents of a Member State refer to violations of EU law, particularly in the fields of fundamental rights, home affairs, justice, the internal market, health, consumers, transport, taxation, agriculture and rural development and the environment; considers that petitions give evidence of the fact that there are still frequent and widespread instances of incomplete transposition and a lack of adequate enforcement, effectively leading to a misapplication of EU law; stresses that such a situation calls for increased efforts from Member States and ongoing monitoring by the Commission; highlights in particular the large number of petitions submitted which report the existence of discrimination and barriers against people with disabilities;
10. Points out that there continue to be difficulties in dialogue with some Member States and regions, which are reluctant to provide the documents or explanations requested;
11. Welcomes the Commission's acknowledgment of the vital role played by the complainant in helping it detect infringements of EU law¹;
12. Reiterates that reducing late transposition has long been, and should remain, one of the Commission's top priorities; notes the lower number of directives to be transposed in 2013 (74) in comparison with the 2011 figure (131); highlights, nevertheless, the fact that there were more directives to be transposed in 2013 than in 2012 (74 as against 56 in 2012);
13. Points out that, despite the low number, late transposition of directives remains a persistent problem, hindering the delivery of tangible benefits for citizens; notes that although timely transposition of directives continues to be a challenge in many Member States, Denmark, Latvia and Malta have maintained a very low number of late transposition infringement cases over the past three years;
14. Notes that the four policy areas in which the latest transposition infringement proceedings were launched continue to be the environment, health and consumer rights, the internal market and services, and transport; is of the opinion that, having identified the problematic areas, the Commission and the Member States should set out the actions to be taken to ensure the full and prompt transposition of EU law in each area;

¹ COM(2012)0154 final.

15. Stresses that the Commission should more closely monitor the transposition of directives prior to the transposition deadline and, where a risk of late transposition exists, provide clarification of the legal framework in these fields in order to help Member States improve implementation in ways which bring concrete benefits to the daily lives of citizens;
16. Notes that timely transposition of EU legislation is essential for the smooth functioning of the EU, but so is the proper implementation of EU law; stresses that very often deficiencies and inconsistent standards arise from the fact that Member States transpose EU laws in different ways; calls on the Commission, therefore, to implement a better review mechanism to examine how EU rules apply in practice at all levels in the Member States, and how citizens and businesses are empowered to exercise their rights;
17. Notes that a total of 731 infringement cases were closed because the Member State in question had demonstrated its compliance with EU law; points out that the Court of Justice delivered 52 judgments under Article 258 TFEU in 2013, of which 31 (59.6 %) were handed down against Member States; to put these statistics into perspective, recalls that, to date, 3 274 (87.3 %) infringement judgments delivered by the Court have been in favour of the Commission; asks the Commission to pay special attention to the actual enforcement of all these judgments;
18. Notes that the four policy areas in which the most recent late transposition infringement procedures were launched in 2013 were the environment (168 procedures), health and consumer rights (58), the internal market and services (47) and transport (36); highlights a direct and proportional link between the number of petitions received and the infringement procedures opened by the Commission;
19. Notes the high number of infringement cases closed in 2013 before reaching the Court of Justice, with only approximately 6.6 % of all cases being concluded by court ruling; considers it essential, therefore, to continue to carefully monitor Member State actions, taking into consideration the fact that some of the petitions still refer to problems that persist even after the matter has been closed;
20. Reiterates the need for the Commission to focus on effective problem solving, effective management and preventive measures, but suggests that it should also think of new ways, other than formal infringement procedures, of improving the transposition and enforcement of EU law;
21. Notes that the gradual phasing-in of Member States to the EU Pilot system finished in June 2012 when Malta and Luxembourg signed up, and that since then the EU Pilot procedure has been fully operational in all Member States; stresses that the number of new EU Pilot procedures has gradually increased over the past three years and that the EU Pilot has so far produced remarkable results, in particular in terms of gathering information and improving specific situations causing concern to citizens, as indicated by the reduction in the number of infringement procedures opened in the past five years (from 2 900 to 1 300); calls nonetheless for intensive efforts to be continued to keep citizens informed about the EU Pilot system; invites the Commission to involve petitioners in the process of EU Pilot cases deriving from petitions, in order to facilitate dialogue between the petitioners and national authorities concerned; suggests that shorter periods should be established for cases deemed urgent and where the Commission might

need to act soon;

22. Welcomes Member States' efforts to settle infringement cases without court proceedings by means of the EU Pilot procedure, which has led to a decrease in formal infringement procedures; notes the need for clarification of the legal status of the above procedure, but also for a fruitful and accelerated exchange of information between the Commission and the Member States, as the lack of response or delays in the dispatch of information by Member States to the Commission also have an impact on the effective processing of petitions by the Committee on Petitions;
23. Notes that the Court of Justice pointed out that 'damage caused by national institutions [...] can only give rise to liability on the part of those institutions, and the national courts retain sole jurisdiction to order compensation for such damage'¹; underlines, therefore, the importance of strengthening the means of redress available at national level, which would enable complainants to assert their rights more directly and more personally²;
24. Reiterates that more transparency, legal clarity and access to information on the whole pre-infringement and infringement procedure in the context of the EU Pilot and the annual report on the monitoring of the application of EU law is needed, in particular where complainants are concerned;
25. Welcomes the Commission services' engagement in strengthening the exchange of information with the Committee on Petitions and wishes to reiterate its requests for:
 - (a) improved communication between the two parties, in particular with regard to the initiation and progress of infringement procedures by the Commission, including the EU Pilot procedure, so as to make sure that Parliament is fully informed with a view to constantly improving its legislative work,
 - (b) efforts to be made to give all possible relevant information on petitions relating to investigation and infringement procedures to the Committee on Petitions within a reasonable time frame, allowing the committee to respond to citizens' requests more effectively,
 - (c) the Commission to take into account the reports of the Committee on Petitions, and particularly the findings and recommendations contained therein, when drawing up its communications and when preparing amendments to legislation;
26. Welcomes the Commission's increasing use of implementation plans for new pieces of EU legislation addressed to the Member States, which reduces the risks to timely and correct implementation, pre-empts transposition and application problems and, in turn, has an impact on the number of relevant petitions submitted;
27. Points out that in relation to the Commission's initiative on EU regulatory fitness, known as REFIT, the Commission needs to facilitate dialogue on regulatory fitness with citizens, Member States, business and civil society at large so as to ensure that the quality and

¹ See judgment in Case 175/84.

² See judgment in Case 175/84 and proposals in this context in COM(2012)0095 final.

social aspects of EU legislation are preserved and that one ideal does not progress at the expense of the other.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	5.5.2015
Result of final vote	+: 27 -: 0 0: 3
Members present for the final vote	Margrete Auken, Beatriz Becerra Basterrechea, Alberto Cirio, Andrea Cozzolino, Pál Csáky, Miriam Dalli, Rosa Estaràs Ferragut, Eleonora Evi, Lidia Joanna Geringer de Oedenberg, Peter Jahr, Rikke Karlsson, Notis Marias, Edouard Martin, Marlene Mizzi, Julia Pitera, Laurențiu Rebega, Sofia Sakorafa, Jarosław Wałęsa, Cecilia Wikström, Tatjana Ždanoka
Substitutes present for the final vote	Anja Hazekamp, György Hölvényi, Jérôme Lavrilleux, Demetris Papadakis, Josep-Maria Terricabras, Ángela Vallina
Substitutes under Rule 200(2) present for the final vote	Paul Brannen, Norbert Lins, Dario Tamburrano, Martina Werner