

EUROPEAN PARLIAMENT

2004



2009

Committee on Legal Affairs

NOTICE TO MEMBERS N° 29/2004

Subject: Petitions forwarded for information to the Committee

Please find attached a summary of the content of two petitions (Petition N° 434/2004 and Petition N° 437/2004) as well as a letter of the Chairman of the Committee on Petitions to Commissioner Bolkestein and to Ambassador Lund, Permanent Representation of Sweden to the European Union. These documents have been transmitted for information by the Committee on Petitions to the Committee on Legal Affairs.

ANNEXES :

- 1 - Summary of petition N°434/2004 and N° 437/2004
- 2 - letter of the Chairman of the Committee on Petitions to Commissioner Bolkestein
- 3 - letter of the Chairman of the Committee on Petitions to Ambassador Lund, Permanent Representation of Sweden to the European Union

DIRECTORATE-GENERAL
FOR INTERNAL POLICIES

17 November 2004

ANNEX 1 : SUMMARY

The Committee on Legal Affairs has received the following petitions submitted by the Committee on Petitions for information:

Petition 434/2004:

The petitioner, a German citizen, is protesting against software-patents and is drawing the attention on the negative consequences of software-patents in particular for small and medium software enterprises.

Petition 437/2004:

The petitioner, a German citizen, is protesting against software-patents and is claiming for an immediate ban on software-patents. He considers that software-patents are showing the European Union's shortcomings and opposes lobbyism, abuse of authority and wasting of taxes. He claims that adequate measures should be taken against EU politicians when they do not respect the fundamental principles of democracy.

ANNEX 2 : letter of the Chairman of the Committee on Petitions to Commissioner Bolkestein

COMMITTEE ON PETITIONS
- THE CHAIRMAN -

Poznan, 29 October 2004
DL/rq [02-COM.PETI(2004)D/48631]

Commissioner Fritz Bolkestein
European Commission
Avenue de Cortenberg 147
B-1047 BRUSSELS

Dear Commissioner,

I would like to draw your attention to a very serious matter of possible discrimination concerning citizens and companies from "new accession countries" who are trying to develop their activities in other EU member states. In particular, the Committee on Petitions has received a number complaints on this issue from EU-citizens, which probably represents only "the tip of the iceberg" in relation to the more general problem felt by many employers and businesses, particularly from Poland.

Polish media has also, in the recent period, carried many stories about situations where the rights of citizens from new EU-countries have probably been violated. At our last meeting the Committee on Petitions considered a petition (No. 925/2003) by a Swedish citizen who acts on behalf of many Polish companies who complained about the major problems experienced as a result of the lack of proper application of procedures by the Swedish National Tax Administration. This has been very prejudicial to their legitimate expectations of investing in Sweden.

The discrimination against persons who want to establish a company or work in a self-employed capacity does not necessarily occur by direct infringement of EU law by a legal order on a national level. Rather, it would appear that European rules of internal market and competition are breached by local law - i.e. guild law, or by improper practice of local administrations. For example, local authorities in Germany in border regions with Poland require a perfect knowledge of the German language by persons who want to establish a bakery or other small scale commercial activity.

Other examples have been demonstrated. Italian administration requires a residence permit for a citizen who wants to open a hairdresser's or a building company. Austria, Netherlands, France, and Sweden are also the subject of complaints when the local administration in these countries demand from "new accession countries" citizens many documents (often without any justification) which are not required from their own citizens. Formal procedures of

registration are also often severely delayed or newly established firms are faced with numerous inspections. Many cases were described in one of the main Polish papers Rzeczpospolita, in a series of articles (Rzeczpospolita, 22.09.2004, 27.09.2004).

This practice, or malpractice, must be considered as unacceptable and should be immediately discontinued because it threatens the fundamental rules of the internal market, which forms the commercial basis of the European Union. I hope very much that the European Commission will act to remind authorities in all Member States of their obligations in such matters.

Marcin LIBICKI

**ANNEX 3 : letter of the Chairman of the Committee on Petitions to Ambassador Lund,
Permanent Representation of Sweden to the European Union**

COMMITTEE ON PETITIONS
- THE CHAIRMAN -

Brussels,
DL/rq [02-COM.PETI(2004)D/47373]

Ambassador Gunnar LUND
Representation of Sweden to the
European Union
Square de Meeûs,30
B - 1040 BRUSSELS

Dear Ambassador,

I would like to draw your attention to a very serious matter of possible discrimination concerning citizens and companies from "new accession countries" who are trying to develop their activities in other EU member states. In particular, the Committee on Petitions has received a number complaints on this issue from EU-citizens, which probably represents only "the tip of the iceberg" in relation to the more general problem felt by many employers and businesses, particularly from Poland.

Polish media has also, in the recent period, carried many stories about situations where the rights of citizens from new EU-countries have probably been violated. At our last meeting the Committee on Petitions considered a petition (No. 925/2003) by a Swedish citizen who acts on behalf of many Polish companies who complained about the major problems experienced as a result of the lack of proper application of procedures by the Swedish National Tax Administration. This has been very prejudicial to their legitimate expectations of investing in Sweden.

The discrimination against persons who want to establish a company or work in a self-employed capacity does not necessarily occur by direct infringement of EU law by a legal order on a national level. Rather, it would appear that European rules of internal market and competition are breached by local law - i.e. guild law, or by improper practice of local administrations. For example, local authorities in Germany in border regions with Poland require a perfect knowledge of the German language by persons who want to establish a bakery or other small scale commercial activity.

Other examples have been demonstrated. Italian administration requires a residence permit for a citizen who wants to open a hairdresser's or a building company. Austria, Netherlands, France, and Sweden are also the subject of complaints when the local administration in these countries demand from "new accession countries" citizens many documents (often without any justification) which are not required from their own citizens. Formal procedures of

registration are also often severely delayed or newly established firms are faced with numerous inspections. Many cases were described in one of the main Polish papers Rzeczpospolita, in a series of articles (Rzeczpospolita, 22.09.2004, 27.09.2004).

This practice, or malpractice, must be considered as unacceptable and should be immediately discontinued because it threatens the fundamental rules of the internal market, which forms the commercial basis of the European Union.

Because of this I would ask you to ensure that your authorities are aware of our concern about such cases of discrimination, and that they be requested to respond rapidly when such activity is brought to light.

Marcin LIBICKI