

Tuesday 8 July 2008

## I

*(Resolutions, recommendations and opinions)*

## RESOLUTIONS

## EUROPEAN PARLIAMENT

**Defence of the prerogatives of the European Parliament before the national courts**

P6\_TA(2008)0327

**European Parliament resolution of 8 July 2008 on the defence of the prerogatives of the European Parliament before the national courts (2007/2205(INI))**

(2009/C 294 E/01)

*The European Parliament,*

- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Constitutional Affairs (A6-0222/2008),
- A. whereas the European Parliament has no legal personality; whereas, as a result, it is often impeded in protecting its prerogatives before national courts from problems that are peculiar to its special nature,
- B. whereas Parliament respects the right of initiative of the Commission but upholds its own right under Article 192 of the EC Treaty to request the Commission to submit legislative proposals,
- C. whereas in this regard the European Parliament has at its disposal a range of remedies under the Treaty which ensure that the aforementioned prerogatives are protected vis-à-vis the other Community institutions, such as actions for failure to act (Article 232 of the EC Treaty) and actions for annulment of Community acts (Article 230 of the EC Treaty),
- D. whereas, under the case-law of the Court of Justice, a Member State incurs liability for failure to fulfil its obligations under the Treaties, whatever the agency of that State whose action or inaction has caused the failure, even in the case of a constitutionally independent institution <sup>(1)</sup>,
- E. whereas, however, the European Parliament does not have the same direct instruments with which to defend its prerogatives before the national courts, especially in the event of a national judgment which runs counter to those prerogatives, since it can neither participate in national legal proceedings nor directly bring an action before the Court of Justice to defend its decisions,

<sup>(1)</sup> Case 8/70 *Commission v. Italy* ECR [1970] 961.

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- F. whereas the European Parliament cannot even initiate, as a last resort, infringement proceedings (under Article 226 of the EC Treaty) against a Member State, since only the Commission has the power to do so,
- G. whereas the lack of appropriate instruments with which to defend its own decisions effectively can hamper the effectiveness of the European Parliament as a political and legislative body,
- H. whereas the principles of loyal cooperation between the institutions of the European Union and those of good administration call for the activities of Community bodies to be governed by rules of transparency and intelligibility in order to clarify the reasons for which a given action was or was not taken,
- I. whereas, in order to obviate the abovementioned problems, it would be advisable to strengthen the measures to protect parliamentary prerogatives not by amending the EC Treaty but by attempting to extrapolate from the experience of the national parliaments remedies that are appropriate to the specific requirements of the European Parliament,
- J. whereas the results of the study carried out to that end on a broad cross-section of Member States clearly show that most national legal orders grant their national parliaments legal remedies aimed at ensuring not only the defence of the interests of the parliament as a whole but also of each individual member,
- K. whereas the Member States are subject to the principle of sincere and loyal cooperation enshrined in Article 10 of the Treaty establishing the European Community, and whereas, in the light of the case-law of the Court of Justice, those same Member States are required to 'establish a system of legal remedies and procedures which ensure respect for the right to effective judicial protection' <sup>(2)</sup>,
- L. whereas it would be opportune to grant the European Parliament similar, if not identical, instruments to protect its prerogatives vis-à-vis the judicial power, be that power represented by the Court of Justice or by the national courts, by analogy with the safeguards provided for by the national legal orders to the benefit of their national parliaments,
1. Calls on the Commission to take account of requests by the European Parliament to bring infringement proceedings against any Member State for breach of parliamentary prerogatives, and asks that it be given a comprehensive statement of reasons by the competent Commissioner should the College of Commissioners decide not to take the action requested;
2. Suggests that the Statute of the Court of Justice be amended in order to give the European Parliament the right to submit its observations to the Court in all cases in which, directly or indirectly, its prerogatives are called into question, so that the involvement of the European Parliament, where the latter is not formally a party to the proceedings, is not left to the discretion of the Court of Justice as currently provided for under Article 24(2) of the Statute;
3. Suggests that an in-depth examination be carried out into the question whether the legal mechanism laid down in Article 300(6) of the EC Treaty may be applied in cases in which the prerogatives of the European Parliament are seriously under threat, so as to allow Parliament to ask the Court of Justice for an opinion on the compatibility of a given act of national law with primary Community law, without prejudice to the exclusive power of the Commission to decide whether or not to initiate infringement proceedings against the Member State which may have committed an infringement;
4. Asks the committee responsible to prepare an amendment to Rule 121 of Parliament's Rules of Procedure so as to cover all legal proceedings before any court and to provide for a simplified procedure for use where proceedings are brought before the Court of Justice under an expedited or urgent procedure;

<sup>(2)</sup> Case C-50/00P *Unión de Pequeños Agricultores v. Council* ECR [2002] I-6677.

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5. Considers it advisable to foster a policy of cooperation between the European Parliament and national courts, along the lines of that which is already producing good results in a number of Member States, by developing court procedures which allow the European Parliament to take part in legal proceedings concerning Parliament's own prerogatives before national courts;
6. Calls on the Commission to propose the appropriate legislative measures in order to ensure the full effectiveness of the legal defence by Parliament of its prerogatives;
7. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

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## Environmental impact of the planned gas pipeline in the Baltic Sea

P6\_TA(2008)0336

### European Parliament resolution of 8 July 2008 on the environmental impact of the planned gas pipeline in the Baltic Sea to link up Russia and Germany (Petitions 0614/2007 and 0952/2006) (2007/2118(INI))

(2009/C 294 E/02)

*The European Parliament,*

- having regard to Petition 0614/2007 by Radvile Morkunaite, bearing more than 20 000 signatures, Petition 0952/2006 by Krzysztof Mączkowski and the other petitions submitted to it on the issue covered by this resolution,
- having regard to the Lisbon Treaty signed by all the Member States on 13 December 2007,
- having regard to the communication from the Commission concerning the Thematic Strategy on the Protection and Conservation of the Marine Environment (COM(2005)0504),
- having regard to the Sixth Environmental Action Programme of the European Community <sup>(1)</sup>,
- having regard to Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment <sup>(2)</sup>, and to Council Directives 92/43/EEC <sup>(3)</sup> and 79/409/EEC <sup>(4)</sup>, which latter directives form the Natura 2000 legislative package,
- having regard to its resolution of 14 November 2006 on a Thematic Strategy on the Protection and Conservation of the Marine Environment <sup>(5)</sup>,
- having regard to its resolution of 16 November 2006 on a Baltic Sea Region Strategy for the Northern Dimension <sup>(6)</sup>,

<sup>(1)</sup> See Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environmental Action Programme (OJ L 242, 10.9.2002, p. 1.)

<sup>(2)</sup> OJ L 73, 14.3.1997, p. 5.

<sup>(3)</sup> OJ L 206, 22.7.1992, p. 7.

<sup>(4)</sup> OJ L 103, 25.4.1979, p. 1.

<sup>(5)</sup> OJ C 314 E, 21.12.2006, p. 131.

<sup>(6)</sup> OJ C 314 E, 21.12.2006, p. 330.