

Reply by the European Commission to a Strategic Initiative from the European Ombudsman about the time taken by the European Commission to deal with complaints about infringements of EU law and how it communicates about infringement procedures SI/6/2024/JN-NCR

I. THE EUROPEAN OMBUDSMAN’S STRATEGIC INITIATIVE

The European Ombudsman has opened a strategic initiative on the Commission’s working methods and practices for monitoring the application of EU law. The objective is to gather information on how the Commission implements the recommendations formulated at the end of the stocktaking exercise, set out in a report published on 14 July 2023¹.

The strategic initiative focuses on the Commission’s practice concerning complaints handling, the way the Commission communicates with complainants and the time taken to assess cases brought to its attention and pursue infringements. The European Ombudsman points to the fact that many cases have been ongoing for a long time. Finally, the strategic initiative covers the scope of the information published by the Commission on its webpages.

II. THE REPLY OF THE EUROPEAN COMMISSION

1. Communicating with complainants

The stocktaking report refers extensively to the Commission’s relations with complainants and identifies room for improvement on a number of aspects in that regard

- *What steps has the Commission taken in respect of the above, in particular to ensure complainants are proactively and regularly informed about the state of play of their case?*

The Commission has been actively implementing the stocktaking recommendations related to complaints handling since the publication of the report. To this end, in November 2023, it set up a working group with representatives of the main Commission services involved and the Legal Service, coordinated by the Secretariat-General.

As communication with prospective complainants begins before they decide to submit a complaint, the working group started by revising the Commission’s webpage ‘Report a breach of EU law by an EU country’ and the standard complaint form. The stocktaking report acknowledged that communicating clearly on the Commission’s enforcement strategy and wider initiatives will help to manage complainants’ expectations. The revised webpage on Europa explains who does what between the Member States and the Commission when implementing EU law. It then sets out the limits of the Commission’s powers and the procedures followed for assessing complaints.

The webpage hosts the link to the standard complaint form. Inspired by the European Ombudsman’s webpage, the Commission introduced a series of preliminary questions to guide complainants to the right information or to the right resolution mechanism. The Commission encourages complainants to take advantage of the different information services available for citizens and businesses, such as Your Europe or Your Europe Advice. Citizens

¹ [Stocktaking report on the Commission working methods for monitoring the application of EU law](#) (SWD(2023) 254 final)

can also approach different resolution mechanisms, such as SOLVIT or even different institutions (petitions to the European Parliament).

Once the complaint is submitted, it is registered in THEMIS/Complaints, an IT tool for registration, attribution, and handling of complaints. The Commission introduced THEMIS/Complaints in April 2023 to facilitate a timely and efficient communication with complainants at every step of the process:

- Since May 2024, THEMIS/Complaints automatically sends out an acknowledgement of receipt, if it is not sent proactively within 20 working days from registration.
- THEMIS sends out reminders to cases handlers and DG coordinators to send holding replies if a case is inactive for a specified time.
- When Commission services decide to handle a complaint in the context of an EU Pilot dialogue, the IT tool requires that the complainant is informed, and a template is available for this purpose.
- If it is decided to further handle a complaint in the context of an infringement procedure, THEMIS/Complaints can generate and send a letter to complainants, informing them of the relevant decision taken in the related infringement case. The letter includes a link to the public infringements register, where the Commission makes information on infringement cases and decisions available, with the related press release, which the Commission systematically publishes after each College decision on infringement proposals.
- THEMIS helps Commission services to monitor their portfolio efficiently. With a simple search it is possible to identify files with 'missing letters', i.e. those in which complainants need to be contacted.

Concerning the overall monitoring of ongoing complaints, the Commission ran an exercise from autumn 2023 until spring 2024 to clean up old and inactive complaints.

The stocktaking report recognised the importance of early screening, so that the Commission can provide a swift response to complaints that are manifestly unfounded or clearly fall outside the scope of EU law. Standard replies could be sent out early in the process. Basic templates for complaints handling are now available, with different standard paragraphs that can be selected to help draft more targeted replies.

Finally, the Directorate-General for Justice and Consumers, the service that received more than a quarter of all complaints in the last years, has entered into a service level agreement with the Directorate-General for Communication. According to the agreement signed in January 2023, the Directorate-General for Communication, through the [Europe Direct Contact Centre](#), replies to complaints which are manifestly unfounded or clearly fall outside the scope of EU law. This ensures a swift reply to senders, within 15 working days.

- *Could the Commission consider introducing an online portal, where complainants can set up an account, with a case-tracking tool and the possibility to receive notifications about new developments in the assessment of their complaints or infringement procedures opened following their complaints?*

Yes. The stocktaking report recommended establishing a more interactive portal for all matters related to the Commission's monitoring of the application of EU law. Such a portal could include real-time information about the Commission's enforcement of EU law and may also be an access point for complainants.

In developing this portal, the Commission could indeed explore a practical solution for a tracking tool for complainants. This may include the possibility to receive notifications about developments in the assessment of their complaints or in the infringement procedures opened following their complaints or linked to their complaint. Due to resource constraints, however, a full roll-out of such a portal is currently not expected before 2028.

- *For ‘multiple complaints’, the Commission currently may decide to communicate about the case on its website and not directly with the complainants. However, there are separate webpages (for example, for acknowledgements of receipt and decisions and notices) for different procedural stages and multiple complaints are not searchable through the main database. Could the Commission consider centralising the information it publishes on multiple complaints and/or making this searchable with the case reference in its infringements database?*

With the revision of the webpage ‘report a breach of EU law by an EU country’, we have centralised the notices on multiple complaints. They are now all available on a single webpage. Complainants can search multiple complaints by their reference number and the title. Under each reference, all notices available in the file are listed, with the most recent one displayed on top.

The Europa page dedicated to multiple complaints and the infringements public register² on Europa are two different webpages, currently with no link between them, but the Commission is willing to assess the feasibility and costs of connecting the two pages.

In the meanwhile, if a multiple complaint is followed up in the context of an infringement procedure, the Commission informs the complainants of the infringement case reference. The developments in the main case can then be followed via the infringements public register.

2. Information on ongoing infringement procedures on the dedicated website

The stocktaking report includes the commitment to “revamp” the dedicated website for infringement proceedings, including by making it more user-friendly, facilitating searches by topic and publishing additional relevant information on infringement procedures.

- *What steps has the Commission taken or does it plan to take to follow up on this?*

The Commission is currently working on implementing this recommendation. Following a feasibility study for new data visualisation, carried out with a contractor under a Framework Contract managed by the Publications Office (OP), Commission services have identified the new information and the format of this new information to be published on the Commission’s Europa webpages.

The same contractor is developing the new webpages that should be available at the beginning of 2025. The new webpages will complement the current infringements public register. The new information that we will publish through this data visualisation project includes:

- A new ***infringement page***, comprising a map, showing the number of active infringement cases in each Member State. Clear and easy-to-navigate graphs will depict for instance the repartition of infringement cases per Member State, per infringement type, per policy area,

² https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement-decisions/?lang_code=en

the time taken by Member States to comply with Court rulings, the average handling time of infringement cases, and the stage at which infringement cases were closed. All of these will be updated daily.

- A new ***transposition page***, showing the transposition deficit and conformity deficit of Member States (in a map and through various graphs), and trends in those deficits, updated monthly.
- A new ***EU Pilot dialogue page***, with a map showing the number of active EU Pilot dialogues in each Member State at the end of the preceding year, as well as other data, such as graph depicting EU Pilot dialogues per Member State, and per policy area, and the resolution rate of the EU Pilot dialogues. This page will be updated yearly.

In parallel, the Commission is improving the functioning of its infringements public register by adding new search fields.

The users are now able to search for information such as:

- cases related to a petition from the European Parliament;
- cases with financial sanctions;
- lists by infringement type and by legal basis.

- *More specifically, could the Commission:*

- a) Provide a clear description of the subject matter of each case;*

- b) Update the database more regularly;*

- c) Publish, in addition to the information on the key procedural steps it already publishes, further specific information on the current status of the case such as “under the Commission’s legal review” or “legislative procedure at Member State level started on ...”; and*

- d) Give interested individuals the possibility to receive email alerts when the Commission updates information on a case of interest to them in its database?*

Details on the subject matter of specific infringement cases can already be found in the public register. In the infringement public register under each infringement decision adopted, the user can click on a hyperlink leading to the ***press package*** corresponding to the adopted decision. The press package gives information on all decisions adopted (besides closure). In the press package, the user can find information about the subject-matter of the case, the grievances raised, how long the Member State has to comply, etc³.

The database is updated every time that new infringement decisions are adopted by the College of Commissioners. The information shown in the infringement public register is therefore always up to date.

Concerning potential alert systems, the Commission will look at this possible feature for the complainants’ portal in more depth. The feasibility and costs of developing such a feature for the general public may be looked into as a next step.

³ See for instance the information published in May 2024:
https://ec.europa.eu/commission/presscorner/detail/en/inf_24_2422

3. Delays

As the stocktaking report noted, “[t]here is room for improvement as regards the time needed to handle infringements”.

- *What progress has the Commission made in implementing the proposals concerning efficiency gains and dialogue with Member State authorities?*
- *In addition to this, could the Commission reflect on how it could avoid longer periods of inactivity in a case (such as adequate monitoring mechanisms, including IT tools)?*
- *Where the Commission intentionally decides to put a case on hold, could it ensure that such a decision, and the reasons on which it is based, are adequately documented in the case file?*

The Commission has analysed if and how efficiency gains are possible in the organisation of its oversight tasks:

- a) For EU Pilot cases (informal dialogue with Member States)

The Commission has put a particular focus on accelerating the treatment of old EU Pilot dialogues and on compliance with the 9-month benchmark, introduced in July 2020 to encourage a swift handling of the informal dialogue with Member States. The Commission set up a regular internal monitoring exercise on cases open for more than nine months and explored ways to speed up their handling. In parallel, the Commission is working on the development of a new module with new features that facilitate and streamline the handling of the informal dialogue.

- b) Transposition working groups

The stocktaking report identified the transposition of directives as one of the main areas in which delays occur at all stages (transposition process – compliance checks by the Commission – handling of infringement procedures). The Commission set up two working groups on transposition, one internal group and a second with Member States’ representatives. Both working groups reflected in particular on facilitating the work of Member States in providing explanatory documents on their transposition measures and on facilitating the compliance checks done by the Commission for the transposition measures notified by Member States.

- c) Monitoring progress

THEMIS features for monitoring purposes

THEMIS, the IT tool dedicated to the management of complaints, infringement cases, transposition of directives – and soon to include EU Pilot dialogues – has improved the possibilities for Commission services to monitor their performance and act where needed. It offers a range of reports where services can track statistics about their cases, the time taken to comply with Court of Justice rulings, or for instance the duration of cases since a letter of formal notice was sent. This allows services to easily identify cases that are more pressing and need to be addressed as a priority.

Coherence exercises – analysing progress both for infringement cases and EU Pilot dialogues

The Commission's Secretariat-General and Legal Service carry out a yearly coherence and performance review of infringement cases and EU Pilot dialogues per Commission service. This review includes an analysis of individual infringement cases, the overall assessment of progress and the exchange of good practices in monitoring the implementation of EU law. It also assesses progress in implementing the recommendations set out in the 2023 stocktaking report.

The Commission acknowledges that some cases may take longer than others to progress. This happens for a variety of reasons, that range from the obligation to ensure equal treatment of Member States when dealing with a package of similar cases, to the Commission having to wait for the outcome of national Court cases, preliminary rulings of the Court of Justice, or for the results of test cases. Services keep track of those reasons in the infringement file. It should be recalled also that the Court has acknowledged a wide discretion for the Commission to decide if and when to open and advance infringement proceedings.

The Commission has thus been able to make substantial progress in closing pending cases; in 2023 alone, the Commission closed over 1 000 infringement cases because Member States had achieved compliance.

III. CONCLUSION

The Commission's work on implementing the stocktaking report started as soon as the text was finalised in July 2023. To ensure that the recommendations are fully addressed and that practical solutions are found, the Commission is taking the work forward through close cooperation with all services involved, as well as with the Member States. The Commission also looks into ways to make the best possible use of IT solutions that can assist Commission services in their tasks. It has already put in place new working methods to improve its communication with complainants, to assist them in finding the most effective remedial mechanism, and it has taken steps to make its enforcement activities more transparent. The Commission will continue to turn the stocktaking recommendations into concrete actions in the years ahead.

For the Commission
Ursula VON DER LEYEN
The President

