





# Procedure file

Basic information		
INI - Own-initiative procedure	<a href="#">2008/2337(INI)</a>	Procedure completed
25th annual report from the Commission on monitoring the application of community law (2007)		
Subject 8.50.01 Implementation of EU law		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs		22/09/2008
		Vers/ALE <a href="#">FRASSONI Monica</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Petitions		02/12/2008
		ALDE <a href="#">WALLIS Diana</a>	

Key events			
18/11/2008	Non-legislative basic document published	<a href="#">COM(2008)0777</a>	Summary
15/01/2009	Committee referral announced in Parliament		
31/03/2009	Vote in committee		Summary
06/04/2009	Committee report tabled for plenary	<a href="#">A6-0245/2009</a>	
24/04/2009	Results of vote in Parliament		
24/04/2009	Debate in Parliament		
24/04/2009	Decision by Parliament	<a href="#">T6-0335/2009</a>	Summary
24/04/2009	End of procedure in Parliament		

Technical information	
Procedure reference	2008/2337(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 54

Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/71645

Documentation gateway					
Non-legislative basic document		<a href="#">COM(2008)0777</a>	18/11/2008	EC	Summary
Committee draft report		<a href="#">PE421.133</a>	23/02/2009	EP	
Amendments tabled in committee		<a href="#">PE421.365</a>	12/03/2009	EP	
Committee opinion	PETI	<a href="#">PE418.146</a>	30/03/2009	EP	
Committee report tabled for plenary, single reading		<a href="#">A6-0245/2009</a>	06/04/2009	EP	
Text adopted by Parliament, single reading		<a href="#">T6-0335/2009</a>	24/04/2009	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2009)3615</a>	27/10/2009	EC	

## 25th annual report from the Commission on monitoring the application of community law (2007)

**PURPOSE:** to present the 25th annual report from the Commission on monitoring the application of Community law (2007).

**CONTENT:** the report notes that, at the end of 2007, the Commission was handling over 3 400 complaints and infringement files. The total number of files increased by 5.9% from 2006, with a 32.3% increase in proceedings for failure to notify transposition measures. Complaints accounted for 35.9 % of the total, or two thirds of all cases on issues other than late transposition, an 8.7% decrease from 2006.

Environment continues to account for the highest number, (146 out of around 420 ? on air, water and noise pollution in particular), followed by 89 petitions in employment, social affairs and equal opportunity (labour law (30), gender equality (28), free movement of workers and social security (25)).

There continues to be a significant complaints and infringements case-load in environment, internal market, taxation and customs union, energy, transport and employment, social affairs and equal opportunities as well as health and consumer affairs and justice, freedom and security, with a rapidly increasing body of legislation of high interest to citizens.

The report highlights challenges in the application of law, indicating three main priority areas of action: 1) prevention; 2) information and problem-solving for citizens; and 3) prioritisation in handling complaints and infringements. It further stresses the importance of a strong partnership between the Commission and Member States, working in expert groups to manage the application of the legal instruments and co-operating pro-actively to resolve problems.

**Action 1:** stepping up preventive measures and dealing with the problem of extensive late transposition of directives: increased attention is being paid to aspects of implementation, management and enforcement in the development of proposals, at the impact assessment stage and throughout the policy cycle. The impact assessment guidelines are being modified to ensure that implementation and enforcement options, as well as the choice of legal instrument, are thoroughly examined. This also involves preparing the correct implementation of Community Law. The Commission's aim is to ensure that risk-based transposition plans, identifying the work required according to the content and likely difficulty of implementation, accompany proposals for new directives through the legislative cycle. The Commission will set up networks of responsible officials in the Member States for transposition of all new directives and for on-line exchange of questions and answers. A number of instruments are being deployed in an effort to prevent non-conformity of Member State law with Community law. These include conformity evaluation of transposed texts, committee and expert group meetings, inspections, questionnaires, implementation reports, fact-finding missions, etc. Some 260 committees and 1200 expert groups manage the acquis, update technical requirements and help to identify the need for legislative amendment.

**Action 2:** improving information-provision and problem-solving for citizens and business: citizens' and business' interests are served best if solutions are found in a rapid and informal manner. The Commission responds to citizens through Europe Direct, Citizens' Signpost Service, ECC-Net, Euro-jus, plus a large volume of work of Commission services. The Commission coordinates the SOLVIT network, where Member States work together to solve cross-border problems caused by the potential misapplication of Internal Market law. Furthermore, the Commission launched EU PILOT to provide quicker and better answers to questions and solutions to problems arising in the application of EU laws requiring confirmation of the factual or legal position in a Member State. 15 Member States are participating in this project, which started on 15 April 2008.

**Action 3:** complaints and infringements management ? prioritisation by sector: the Commission must prioritise the most important cases and work closely with Member States to accelerate correction of infringements:

- Internal market and services: policy priorities focus on breaches of Community law (1) violating fundamental freedoms having a broad impact on citizens' rights, (2) threatening the overall functioning of sectoral legislation or involving important legal precedents or (3) likely to have an important economic impact on the internal market or a specific sector of it. In the services sector, work focussed on cases of clear discrimination on grounds of nationality or impact on categories of service providers in important sectors;
- Financial services: issues such as investment restrictions based on national security considerations or affecting pension schemes;
- Employment rights, labour law, social security and anti-discrimination;

- Fundamental rights, free movement of persons, immigration, asylum, citizenship and civil justice;
- Environment: the collective handling of similar individual infringements through horizontal cases, such as on waste management and air pollution; large infrastructure projects; infringements where citizens are on a significant scale or repeatedly exposed to direct harm or serious detriment to their quality of life;
- Transport: passenger safety and security of operations as well as sustainability policies having a broad impact;
- Energy: actions having a significant impact on the fight against climate change and ensuring secure and competitive energy supplies;
- Information society: issues of systematic importance concerning the functioning of national regulators, consumer protection issues in telecommunications, TV advertising rules, protection of minors and prevention of incitement to racial hatred in media as well as non-discriminatory access to public sector information;
- Competition policy: effective competition in liberalised network industries such as energy markets and in financial services; recovery in cases of illegal state aid.

## 25th annual report from the Commission on monitoring the application of community law (2007)

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The Committee on Legal Affairs adopted the own-initiative report drawn up by Monica FRASSONI (Greens/EFA, IT) on the 25<sup>th</sup> annual report from the Commission on monitoring the application of Community law (2007). Members regret that, unlike in the past, the Commission has not responded in any way to the issues raised by Parliament in its previous resolutions, in particular the resolution of 21 February 2008. They note the lack of significant improvement with regard to the three fundamental issues of transparency, resources and the length of procedures.

The report calls on the Commission:

- to abide by its commitment to publish all its infringement decisions, given that the publication of those decisions, starting with the registration of a complaint and followed by all subsequent acts, is a vital tool with which to curb political interference in the management of infringements;
- to provide Parliament, as repeatedly requested, with clear, exhaustive data on the resources earmarked for the processing of infringement cases in the various Directorates-General;
- to consider introducing a simplified, less bureaucratic procedure for the issuing of formal notice against a Member State which has failed to fulfil its obligations, in order to take swift advantage of the effectiveness of this measure.

The Commission must ensure that judgments delivered by the Court of Justice are properly enforced.

The committee notes that, of the new cases of infringement in 2007, 1 196 concerned a failure to notify national measures relating to the transposition of Community directives. It considers it unacceptable that the Commission should grant itself 12 months to deal with simple cases of non-communication of transposition measures by a Member State, and calls on the Commission to take automatic and immediate action in respect of cases of this kind which do not require any analysis or assessment.

Furthermore, Members consider that there are still no clear procedures in place to pursue a Member State before the Court of Justice for an infringement of Community law which has since been remedied and to obtain reparation for previous failures and omissions. They urge the Commission to come forward with new proposals (by the end of 2010) to complete the current infringement procedure in such a way as to take account of this inequitable situation.

On the ?EU Pilot? project to test the new working method in several Member States, the committee points out that this project is operating on a voluntary basis, the features of which have already raised some doubts and specific questions. It asks the Commission in particular whether the lack of resources in the Member States is not a worrying sign that there may be genuine problems in monitoring the application of Community law. It also calls on the Commission to check certain specified issues, including that the Commission has not shown any indulgence towards Member States as regards compliance with the deadlines set by the Commission.

Lastly, the committee notes with disappointment that during this parliamentary term no significant progress has been made with regard to the vital role that Parliament should play in monitoring the application of Community law. It considers that the prioritisation of infringement procedures by the Commission involves political and not merely technical decisions which are currently not subject to any form of external scrutiny, control or transparency.

## 25th annual report from the Commission on monitoring the application of community law (2007)

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The European Parliament adopted by 297 votes to 13, with 7 abstentions, a resolution on the 25th annual report from the Commission on monitoring the application of Community law (2007).

MEPs regret that, unlike in the past, the Commission has not responded in any way to the issues raised by Parliament in its previous resolutions, in particular the [resolution](#) of 21 February 2008 on the Commission's 23rd Annual report on monitoring the application of Community law (2005). They note the lack of significant improvement with regard to the three fundamental issues of transparency, resources and the length of procedures.

The Parliament reminds the Commission of requests made in previous years, namely:

- to investigate urgently the possibility of a system clearly signposting the various complaints mechanisms available to citizens, which could take the form of a common EU portal or the creation of an on-line one-stop-shop in order to assist citizens;
- to adopt a communication setting out its interpretation of the principle of State liability for breach of Community law, including infringements attributable to the judicial branch, thus enabling citizens to contribute more effectively to the application of Community law.

The resolution calls on the Commission to:

- abide by its commitment to publish all its infringement decisions, given that the publication of those decisions, starting with the registration of a complaint and followed by all subsequent acts, is a vital tool with which to curb political interference in the management of infringements;

- provide Parliament, as repeatedly requested, with clear, exhaustive data on the resources earmarked for the processing of infringement cases in the various Directorates-General;
- consider introducing a simplified, less bureaucratic procedure for the issuing of formal notice against a Member State which has failed to fulfil its obligations, in order to take swift advantage of the effectiveness of this measure;
- ensure that judgments delivered by the Court of Justice are properly enforced.

The Parliament notes that, of the new cases of infringement in 2007, 1 196 concerned a failure to notify national measures relating to the transposition of Community directives. It considers it unacceptable that the Commission should grant itself 12 months to deal with simple cases of non-communication of transposition measures by a Member State, and calls on the Commission to take automatic and immediate action in respect of cases of this kind which do not require any analysis or assessment.

Furthermore, MEPs consider that there are still no clear procedures in place to pursue a Member State before the Court of Justice for an infringement of Community law which has since been remedied and to obtain reparation for previous failures and omissions. They urge the Commission to come forward with new proposals (by the end of 2010) to complete the current infringement procedure in such a way as to take account of this inequitable situation.

On the 'EU Pilot' project to test the new working method in several Member States, the Parliament points out that this project is operating on a voluntary basis, the features of which have already raised some doubts and specific questions. It asks the Commission in particular whether the lack of resources in the Member States is not a worrying sign that there may be genuine problems in monitoring the application of Community law. The Commission is called upon to check the following issues and report to Parliament on them:

- that complainants have received from the Commission clear, exhaustive explanations concerning the processing of their complaint;
- that the new method has not further delayed the launch of an infringement process the duration of which is already extremely long and indefinite;
- that the Commission has not shown any indulgence towards Member States as regards compliance with the deadlines set by the Commission (10 weeks).

MEPs note with disappointment that during this parliamentary term no significant progress has been made with regard to the vital role that Parliament should play in monitoring the application of Community law. They consider that the prioritisation of infringement procedures by the Commission involves political and not merely technical decisions which are currently not subject to any form of external scrutiny, control or transparency.

Lastly, the Commission is called upon to ensure that greater priority is given to the application of Community law relating to the environment, bearing in mind the worrying trends revealed in its report and the many petitions received in this area.