

Procedure file

Basic information		
INI - Own-initiative procedure	2011/2027(INI)	Procedure completed
Twenty-seventh annual report on monitoring the application of EU law (2009)		
Subject 8.50.01 Implementation of EU law		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs		27/10/2010
		Verts/ALE LICHTENBERGER Eva Shadow rapporteur PPE BODU Sebastian Valentin S&D MASIP HIDALGO Antonio ALDE WIKSTRÖM Cecilia ECR KARIM Sajjad EFD SPERONI Francesco Enrico	
European Parliament	Committee for opinion	Rapporteur for opinion	Appointed
	IMCO Internal Market and Consumer Protection		16/02/2011
		ALDE BUȘOI Cristian-Silviu	
European Parliament	PETI Petitions		14/03/2011
		Verts/ALE AUKEN Margrete	
European Commission	Commission DG Legal Service	Commissioner BARROSO José Manuel	

Key events			
01/10/2010	Non-legislative basic document published	COM(2010)0538	Summary
17/02/2011	Committee referral announced in Parliament		
21/06/2011	Vote in committee		Summary
27/06/2011	Committee report tabled for plenary	A7-0249/2011	
13/09/2011	Debate in Parliament		

14/09/2011	Results of vote in Parliament		
14/09/2011	Decision by Parliament	T7-0377/2011	Summary
14/09/2011	End of procedure in Parliament		

Technical information

Procedure reference	2011/2027(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 142-p1
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/04984

Documentation gateway

Non-legislative basic document		COM(2010)0538	01/10/2010	EC	Summary
Committee draft report		PE464.918	18/05/2011	EP	
Committee opinion	PETI	PE462.635	25/05/2011	EP	
Committee opinion	IMCO	PE460.949	26/05/2011	EP	
Amendments tabled in committee		PE467.013	01/06/2011	EP	
Committee report tabled for plenary, single reading		A7-0249/2011	27/06/2011	EP	
Text adopted by Parliament, single reading		T7-0377/2011	14/09/2011	EP	Summary

Twenty-seventh annual report on monitoring the application of EU law (2009)

PURPOSE: presentation of the 27th Annual Report from the Commission on monitoring the application of EU Law (2009).

CONTENT: this annual report demonstrates the critical importance of the full and correct application of EU law in delivering the rights and obligations created by EU law. At the end of 2009, EU law comprised, apart from the rules of the Treaty, some 6140 regulations and just under 1820 directives in force throughout the 27 Member States.

At the end of 2009, the Commission was handling around 2900 complaints and infringement files. The total number decreased by 16% from end-2008, with a 26% decrease in proceedings for failure to notify measures transposing directives.

An average of 51% of the total of required transposition measures in 2009 were late, compared with 55% for 2008, in the context of a reduced number of directives falling to be transposed in 2009.

Concerning the number of petitions to the European Parliament, environmental protection and the internal market continue to stimulate most petitions: 173 and 82 new petitions respectively.

This year's report makes it clear that priorities have continued to be developed and followed but furthermore that the instruments developed over time to facilitate and improve the monitoring of EU law are gaining in maturity and increasing their contribution to the overall effectiveness and timeliness of the monitoring process.

Challenges remain notably on some essential and basic aspects such as:

Late transposition and reporting and preventive action: despite recent improvement of the overall transposition deficit, the number of infringement cases opened for late transposition of directives continued as a major concern. High volumes were evident for: medical devices (22 new cases), working conditions in inter-operable cross-border railways (17), amended rules on deposit guarantee schemes (17) and the groundwater directive (17), for example. Late transposition was also widespread in the area of technical updating of directives in the area of enterprise. 24 Member States received letters of formal notice for late or inadequate communication of reports in the priority area of greenhouse gas emissions.

Preventive action: contact networks for directive transposition and web-based question-and-answer tools have continued to be created. The preventive approaches now being developed in partnership with the Member States represent a considerable investment by all concerned

which should pay dividends in terms of ensuring a faster and deeper conformity with EU law in the coming years. The Commission invites Member States actively to participate in the identification and take-up of preventive measures for each new legislative measure thereby reducing the need for recourse to longer term judicial interpretation or legislative revision.

In this context, correlation tables contribute to transparency and improve access to the law. They represent an important element of Member State cooperation with the Commission in ensuring the correct implementation of directives. The Commission will continue to seek support from all EU institutions for the comprehensive provision of these tables.

Management of Treaty articles and EU legislation by expert groups: the Commission has continued to develop the work of managing EU law with Member States through expert groups. The Type-Approval Authorities Expert Group (TAAEG) has been created to ensure uniform application of technical requirements for the marketing of motor vehicles in connection with the system becoming mandatory in 2012. In financial services, the Capital Requirements Directive Transposition Group continued to work on interpretation and clarification issues, to ensure coherent implementation of the existing rules. A new expert group on the management of Natura 2000 has also been established to collect and exchange information on best practice including reconciling nature conservation and economic development. These examples confirm the great variety and volume of management work required between Commission and Member States to maximise the benefits of EU legislation.

Information communication and problem resolving: the Commission is continuing to improve access, information and help on rights and opportunities through further development of the 'Your Europe' web portal. It plans a review of its general policy on the registration of complaints and relations with complainants in the light of experience of the new methods now being tested. Horizontal instruments, such as SOLVIT and EU Pilot, continue to develop and prove their worth, quickly resolving problems faced by citizens and enterprises. The Commission acknowledges the high level of commitment shown by the Member States to ensure the success of these instruments. It commits itself to continue to work closely to develop this partnership, having invited all Member States to participate in the further development of EU Pilot.

Problems related to enforcement measures: the Commission confirms the need for increased focus on effective instruments to ensure the enforcement of EU law. These can be of horizontal application or designed for specific sectors. Where EU legislation refers to national procedures, the Commission will prioritise the implementation and review of the performance of those enforcement provisions, avoiding competing or alternative action. Inspections, long-established in connection with human health, are being used increasingly in other areas such as transport safety and security, where they can play a strong role in confirming the interpretation of the law and ensuring its correct application, confirming a strong commitment to results.

The report notes that the European Parliament has an increased focus on implementation issues. Provision is often included in EU legislation for reports on the first years of application of the measure. The Commission staff working document annexed to this Report contains references to many studies and reports produced by the Commission in 2009 and envisaged for 2010.

Twenty-seventh annual report on monitoring the application of EU law (2009)

The Committee on Legal Affairs adopted the own-initiative report by Eva LICHTENBERGER (Greens/EFA, AT) on the twenty-seventh annual report on monitoring the application of EU law (2009) in response to the Commission's report on the subject.

Members consider that the report shows that, despite a fall in the number of infringement cases opened by the Commission, it was still dealing with around 2 900 complaints and infringement files at the end of 2009, and that Member States were still behind schedule with their transposition of directives in more than half of the cases. This is situation which is far from satisfactory and for which the Member States' authorities bear most of the responsibility.

The committee stresses the fundamental role of the Commission as that of 'guardian of the Treaties', and the Commission's power and duty to bring infringement proceedings against a Member State that has failed to fulfil an obligation under the Treaties. In this context, it notes that the infringement procedure consists of two phases: the administrative (investigation) stage and the judicial stage before the Court of Justice. Members consider that the role of citizens as complainants is vital in the administrative phase when it comes to ensuring compliance with Union law on the ground, and they urge the Commission to guarantee that citizens are always included when dealing with compliance with EU law.

Members consider that greater access to information on infringement files could be provided without jeopardising the purpose of the investigation and that an overriding public interest might well justify access to these files, particularly in cases where human health and irreversible damage to the environment may be at stake. They call therefore on the Commission to propose a procedural law in the form of a regulation under the new legal basis of Article 298 TFEU, setting out the various aspects of the infringement procedure, including notifications, binding time-limits, the right to be heard, the obligation to state reasons and the right for every person to have access to her/ his file, in order to reinforce citizens' rights and guarantee transparency. Noting that the Commission has expressed doubts about the possibility of adopting any future regulation based on Article 298 TFEU because of the discretionary power conferred by the Treaties upon the Commission, the committee is convinced that such a procedural law would not in any way limit the discretionary power of the Commission but would only guarantee that when exercising its power the Commission would respect the principles for an open, efficient and independent European administration.

The committee goes on to note that on the one hand citizens are portrayed as having an essential role in ensuring compliance with EU law on the ground, whilst on the other 'in the new EU Pilot Project' they risk being further excluded from any subsequent procedure. Whilst welcoming the Pilot Project, Members consider that this outcome should be avoided by treating the Pilot as 'mediation'-type alternative in which citizens are fully involved and integrated as the initiating complainant, an outcome which would better reflect the Treaty aims. They also take the view that the 'EU Pilot' initiative might make a contribution to solving problems faced by individuals and businesses in the single market and call on the Commission to extend the initiative's coverage from 24 to 27 Member States. In order to make the EU Pilot operational, Members note that the Commission has created a confidential on-line database for communication between Commission services and Member State authorities. However, they point to the lack of transparency vis-à-vis complainants in the EU Pilot and Parliament's request to be given access to the database where all complaints are collected in order to enable it to perform its role of scrutiny of the Commission's role as guardian of the Treaties.

With regard to the Commission plans to review of its general policy on the registration of complaints and relations with complainants in the light

of experience of the new methods now being tested, the committee is worried about the Commission's renouncement of the use of the infringement procedure as an essential tool to ensure that Member States apply Union law in a timely and correct way. It underlines that this is a duty imposed upon the Commission by the Treaties which cannot be unilaterally renounced, and urges the Commission to prove the declared success of those 'new methods' with detailed pre- and post-EU Pilot data and to include in the future regulation principles and conditions for the registration of complaints and any other complainant's rights.

With regard to transposition, Members welcome the new element contained in the TFEU which allows the Commission to ask the Court of Justice to impose financial sanctions on a Member State for late transposition of a directive, and they call on the Commission to provide information on the use of this new discretionary power, with a view to guaranteeing greater transparency. It is of the utmost importance that the Commission should use this and all other possible means to guarantee that Member States transpose Union legislation in a timely and correct way, especially with reference to environmental cases, and Members

remain concerned about the high number of infringement cases opened for late transposition of directives

Lastly, the committee notes its concern about the high number of infringements in the fields of recognition of professional qualifications, services and public procurement, and feels that further clarification of the legal framework in these fields would be useful in order to help national authorities with the implementation process.

Twenty-seventh annual report on monitoring the application of EU law (2009)

The European Parliament adopted a resolution on the twenty-seventh annual report on monitoring the application of European Union law (2009). Members stress that, despite a fall in the number of infringement cases opened by the Commission, the latter was still dealing with around 2 900 complaints and infringement files at the end of 2009, and transposition of directives is behind schedule in more than half of the cases, a situation which is far from satisfactory and for which the Member States' authorities bear most of the responsibility.

The role of citizens as complainant: the resolution stresses the fundamental role of the Commission as that of 'guardian of the Treaties', and the Commission's power and duty to bring infringement proceedings against a Member State that has failed to fulfil an obligation under the Treaties. In this context, it notes that the infringement procedure consists of two phases: the administrative (investigation) stage and the judicial stage before the Court of Justice. Members consider that the role of citizens as complainants is vital in the administrative phase.

Improve transparency: Parliament considers it of paramount importance to guarantee transparency, fairness and reliability of the procedures that empower citizens to detect infringements of Union law and to bring these to the Commission's attention. It asks the Commission to (i) bring more transparency into ongoing infringement procedures and to inform EU citizens as soon as possible, and in an appropriate manner, of the action taken on their requests; (ii) propose a benchmark for Member States' compliance with Court of Justice rulings.

Members consider that greater access to information on infringement files could be provided without jeopardising the purpose of the investigation and that an overriding public interest might well justify access to these files, particularly in cases where human health and irreversible damage to the environment may be at stake

Procedural law: Parliament calls on the Commission to propose a procedural law in the form of a regulation under the new legal basis of Article 298 TFEU, setting out the various aspects of the infringement procedure, including notifications, binding time-limits, the right to be heard, the obligation to state reasons and the right for every person to have access to her/ his file, in order to reinforce citizens' rights and guarantee transparency. Noting that the Commission has expressed doubts about the possibility of adopting any future regulation based on Article 298 TFEU because of the discretionary power conferred by the Treaties upon the Commission, Parliament is convinced that such a procedural law would not in any way limit the discretionary power of the Commission but would only guarantee that when exercising its power the Commission would respect the principles for an open, efficient and independent European administration.

EU Pilot Project: Parliament notes that in the new EU Pilot Project, citizen's risk being further excluded from any subsequent procedure, whilst the Commission is aiming to increase cooperation with Member States. Members consider that this outcome should be avoided by treating the Pilot as 'mediation'-type alternative in which citizens are fully involved and integrated as the initiating complainant, an outcome which would better reflect the Treaty aims. They note that the Commission has created a confidential on-line database for communication between Commission services and Member State authorities, but they point to the lack of transparency vis-à-vis complainants in the EU Pilot and Parliament's request to be given access to the database where all complaints are collected in order to enable it to perform its role of scrutiny of the Commission's role as guardian of the Treaties.

Registration of complaints:

Registration of complaints: with regard to the Commission plans to review of its general policy on the registration of complaints and relations with complainants in the light of experience of the new methods now being tested, Parliament is worried about the Commission's renouncement of the use of the infringement procedure as an essential tool to ensure that Member States apply Union law in a timely and correct way. It underlines that this is a duty imposed upon the Commission by the Treaties which cannot be unilaterally renounced.

Members also regret that too many infringement procedures take a long time to be closed or brought before the Court of Justice. They call on Member States and the Commission to intensify their efforts to resolve infringement procedures and ask the Commission to prioritise infringements in different sectors in a more systematic and transparent manner.

Transposition: Parliament stresses that timely transposition of EU directives is essential for the smooth functioning of the single market for the benefit of consumers and enterprises in the EU. It welcomes the progress made towards this goal, but remains concerned about the high number of infringement cases opened for late transposition of directives.

Members welcome the new element contained in Article 260 TFEU which allows the Commission to ask the Court of Justice to impose financial sanctions on a Member State for late transposition of a directive. They call on the Commission to use this and all other possible means to guarantee that Member States transpose Union legislation in a timely and correct way, especially with reference to environmental cases.

The resolution notes the high number of infringements in the fields of recognition of professional qualifications, services and public procurement. Parliament is of the opinion that further clarification of the legal framework in these fields would be useful in order to help national authorities with the implementation process. It recalls the importance of SOLVIT in helping EU consumers and businesses enjoy their rights in

the single market and calls on the Commission and Member States to reinforce it further.