

Thursday 21 February 2008

Monitoring the application of Community law (2005)

P6_TA(2008)0060

European Parliament resolution of 21 February 2008 on the Commission's 23rd Annual report on monitoring the application of Community law (2005) (2006/2271(INI))

(2009/C 184 E/09)

The European Parliament,

- having regard to the Commission's 23rd Annual report on monitoring the application of Community law (COM(2006)0416),
 - having regard to the Commission's staff working papers (SEC(2006)0999 and SEC(2006)1005),
 - having regard to the Commission's Communication on 'A Europe of results — Applying Community law' (COM(2007)0502),
 - having regard to Rules 45 and 112(2) of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Petitions (A6-0462/2007),
- A. whereas the effectiveness of EU policies is largely determined by their implementation at national, regional and local levels; whereas compliance with Community legislation by the Member States must be rigorously controlled and monitored in order to ensure that it has the desired positive effects on the daily lives of citizens,
- B. whereas the number of complaints relating to infringements of Community law shows that citizens of the Union play a vital role in its application, and that the ability of the EU Institutions properly to address citizens' concerns is important for the credibility of the European Union,
- C. whereas the Commission may adapt the means it uses to carry out its mission effectively and make innovations designed to improve the application of Community law,

The 2005 Annual report and the follow-up to Parliament's resolution

1. Notes that the total number of infringement proceedings initiated by the Commission has tended to increase in recent years and reached 2 709 detected infringements in 2003 (for EU-15); further notes that the number of detected infringements dramatically decreased in 2004 (by 563) and increased again in 2005, albeit to a level which is lower than in 2003: 2 653 registered infringements (for EU-25);
2. Notes accordingly that the accession of 10 new Member States seems not to have had any impact on the number of registered infringements, and calls on the Commission to give Parliament a clear explanation and reassurance that this is not due to a lack of registration of complaints or to a lack of internal resources dealing with infringements within the Commission or to a political decision to be more indulgent towards those Member States;
3. Welcomes the willingness of most of the relevant Directorates-General to provide information on the resources allocated to infringements in their respective areas as well as on the state of infringement proceedings; notes that each Directorate-General has its own way of dealing with the application of Community law and with the allocation of resources and that there is no precise overview and public general evaluation of the way these different approaches work;
4. Commits itself to supporting the Commission via increased budget appropriations for an increase of resources, as requested by most of the Directorates-General concerned;

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5. Welcomes the fact that some Directorates-General have developed specific mechanisms to supplement the use of infringement proceedings with a view to achieving an effective monitoring and consolidation of the application of Community law; notes that, in the 2002 regulatory framework for electronic communications, the notification procedures in respect of draft national legislative measures were established, permitting collaboration among the national regulatory authorities of the Member States and the Commission within a short time frame; calls on the Commission to consider the systematic application of this preventive mechanism to other sectors;

6. Considers that the sharing of best practices between the Member States, for example in the form of package meetings and transposition workshops organised by the Commission to facilitate the application of Community law, should be encouraged; calls on the Commission to consider means of involving Parliament in such processes;

7. Welcomes the efforts made by some Directorates-General of the Commission — and notably DG Environment — to improve the conformity checks on the relevant directives, but is not satisfied with the Commission's answer concerning the confidentiality of the conformity studies; calls once more on the Commission to publish on its website the studies requested by the various Directorates-General on the evaluation of the conformity of national implementation measures with Community legislation;

8. Welcomes the inclusion in the Annual Report and its related annexes for the first time of particulars of the specific and detailed treatment of infringements relating to petitions;

9. Encourages the practice of sending fact-finding missions to various Member States to investigate issues raised by petitioners; regards this as a pragmatic way of solving problems directly with Member States in the interests of the citizen; believes that such missions are all the more necessary in the light of the Commission's lack of 'inspection' powers for verifying the practical implementation of EC law, for example in the area of the environment;

10. Welcomes the Commission's commitment as a rule to include citizens' or peoples' summaries in future legislative proposals and requests concrete examples of such summaries as well as clarification that they form an integral part of the legal act concerned, as called for in paragraph 19 of Parliament's resolution of 16 May 2006 on the Commission's 21st and 22nd Annual reports on monitoring the application of Community law (2003 and 2004) ⁽¹⁾;

11. Believes that the Commission should be more proactive in monitoring national events which may disclose a breach of Community law; calls on the Commission, therefore, to make more intensive use of its Representation Offices to prevent or remedy infringements;

12. Calls on the Member States to go beyond a purely formal transposition of Community legislation and to avoid, as far as possible, the fragmentary transposition of directives, with a view to making legislation simpler and more transparent;

13. Welcomes the fact that, in its abovementioned Communication entitled 'A Europe of results — Applying Community law', the Commission addresses some of the main policy issues raised in Parliament's abovementioned resolution of 16 May 2006; notes, however, that some important issues are still pending and were not fully answered, notably those concerning the resources allocated to deal with infringement cases, the length of the infringement procedure and the very limited use of Article 228 of the EC Treaty, and the evaluation of the application of the priority criteria; asks the Commission to provide an answer with regard to these important issues by May 2008;

The Commission's 2007 Communication on 'A Europe of results — Applying Community law'

14. Welcomes the fact that, in its abovementioned Communication, the Commission attaches value to, and takes duly into account, the issue of the application of Community law;

⁽¹⁾ OJ C 297 E, 7.12.2006, p. 122.

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15. Notes that the examination of petitions has revealed what appear to be structural weaknesses in the implementation by Member States of various norms of Community law; is of the opinion that, in order to ensure the consistency and coherence of Community law, infringements of Community law must be consistently brought before the Court of Justice of the European Communities, at least in nationally important cases which set a precedent for national case-law and future practice; takes the view that consistency on the part of the Commission in this respect could significantly reduce citizens' subsequent need to complain to the Commission and petition Parliament on analogous issues;

16. Notes that the main obstacles to the effectiveness of the infringement procedure (Articles 226 and 228 of the EC Treaty) remain its length and the limited recourse to Article 228; insists that the time-limits proposed by the Commission in respect of the non-communication of transposition measures (no more than 12 months from the sending of the letter of formal notice to the resolution of the case or the Court of Justice being seised of the matter) and in respect of proceedings to ensure compliance with an earlier judgment of the Court (between 12 and 24 months) must in no case be exceeded, and, to that end, calls on the Commission to carry out, within those time-limits, periodic monitoring of the progress of infringement procedures and to inform the citizens concerned thereof;

17. Calls on the Commission to be more firm in applying Article 228 of the Treaty in order to ensure that judgments of the Court of Justice are properly complied with;

18. Welcomes the Commission's intention to modify current working methods with the aim of prioritising and accelerating the handling and management of existing procedures as well as to commit and formally involve the Member States; notes that, under the proposed new working method, enquiries and complaints received by the Commission will be directly transmitted to the Member State concerned 'where an issue requires clarification of the factual or legal position in the Member State. (...) The Member State would be given a short deadline to provide the necessary clarifications, information and solutions directly to the citizens or business concerned and inform the Commission' ⁽¹⁾;

19. Observes that the Commission is often the only body left to which citizens can turn to complain about the non-application of Community law; is therefore concerned that, by referring back to the Member State concerned (which is the party responsible for the incorrect application of Community law in the first place), the new working method could present a risk of weakening the Commission's institutional responsibility for ensuring the application of Community law as the 'guardian of the Treaty' in accordance with Article 211 of the EC Treaty;

20. Takes note that the Commission declares that the new working method is not a replacement of the infringement procedure and that it commits itself to applying it only in the pre-infringement phase, according to a precise timetable and strict deadlines;

21. Asks the Commission to ensure that the existing procedural guarantees given to the complainant will not be affected by the new method and reminds the Commission that, according to the European Ombudsman's decisions, failure to register a complaint constitutes maladministration; points out that, for this purpose, a complaint should be understood as any correspondence which is likely to disclose a violation of Community law or which is otherwise categorised as a complaint;

22. Stresses the importance of the Commission keeping the complainant informed of the substance of all correspondence with Member States concerning his complaint throughout the procedure and more notably in the pre-infringement phase if the new method is applied;

23. Considers that the suspension of some parts of the Commission's current internal Manual of Procedures is questionable, since not all Member States and not all sectors are included in the pilot project and the new method is not fully in place; considers that this could result in confusion both internally and vis-à-vis citizens with respect to the procedures to be applied, especially as regards similar infringements committed in different Member States; asks that it be given access to the internal Manual of Procedures;

⁽¹⁾ COM(2007)0502, section 2.2.

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24. Agrees on the importance of deploying resources to conformity assessments, but insists that more human resources have to be devoted to dealing with infringements; is particularly concerned that the diminution in the number of infringements after enlargement could indeed originate from insufficient means to properly follow up the implementation of EU law; calls on the Commission to provide Parliament with specific data concerning the number of posts and the volume of resources that will be devoted under the 2008 budget specifically to dealing with infringements;

25. Welcomes the Commission's suggestion that the new working method be tested through a pilot exercise; expresses concern, however, that some inconsistency and confusion could arise between those Member States that are part of the pilot project and those that are not, as the suspension of the internal procedure deriving from the introduction of the new working method applies in all cases;

26. Asks the Commission to focus the proposed pilot exercise on those Member States in which the application of Community law remains problematic as a result of a lack of cooperation on the part of national authorities, especially at regional and local level; asks the Commission to verify through the pilot exercise whether, and if so where, more resources are needed within the Commission to handle and manage complaints following the setting-up of the new working method;

27. Given that petitions and complaints from citizens and businesses facilitate the detection of a very substantial number of infringements, and in order to avoid confusion in contacting the various problem-solving bodies, urges the Commission to investigate the possibility of clear signposting or the creation of an on-line one-stop-shop in order to assist citizens;

28. Welcomes the Commission's decision to 'introduce more frequent decision-taking for most procedural steps to allow for quicker progress'; notes that the Commission organises four formal meetings a year to decide on infringement procedures, and welcomes the Commission's decision to have more frequent decision-taking on infringements; regrets that the Communication did not define stronger political and organisational measures to tackle these new commitments;

29. Regrets that the Commission did not respect its commitment, announced in its 2002 Communication on 'Better monitoring of the application of Community law', that 'the application of the priority criteria will be assessed annually, when the report on the monitoring of the application of Community law is discussed' ⁽¹⁾; welcomes its new commitment to 'describe and explain its action on these priorities in its annual reports, from 2008' ⁽²⁾;

30. Notes that Parliament has continued to receive petitions alleging persistent breaches by Member States of the petitioners' human and fundamental rights and deeply regrets that the criteria for violations of the human rights or fundamental freedoms enshrined in substantive Community law have disappeared from the new list of priority criteria; recalls that the EU Treaty gives Parliament the power to initiate the procedure laid down in Article 7(1) of that Treaty;

31. Urges the Commission to extensively apply the principle that all correspondence which is likely to denounce a real violation of Community law should be registered as a complaint, unless it falls within the exceptional circumstances referred to in point 3 of the Annex to the Communication on 'Relations with the complainant in respect of infringements of Community law' ⁽³⁾; notes that the European Ombudsman has recently found the Commission responsible for 'maladministration' for not having registered a complaint in accordance with that Communication; urges the Commission to inform and consult Parliament on any changes in the exceptional criteria for the non-registration of complaints;

32. Urges all services of the Commission to keep complainants fully informed of the progress of their complaints at the expiry of each pre-defined deadline (letter of formal notice, reasoned opinion, referral to the Court), to provide reasons for their decisions and to communicate those reasons in full detail to the complainant in accordance with the principles stated in its Communication of 2002;

33. Welcomes the Commission's intention to take action to ensure free access to its electronic database, and encourages it to act on that commitment as soon as possible;

⁽¹⁾ COM(2002)0725, section 3.2.

⁽²⁾ COM(2007)0502, section 3.

⁽³⁾ COM(2002)0141.

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34. Welcomes the Commission's commitment to provide summary information on all stages of infringement proceedings from the letter of formal notice as they progress; considers that, in the interests of transparency and better application of Community law in the national courts, the Commission should make available the content and timing of contacts with Member States once the relevant issues are no longer under investigation;

35. Welcomes the Commission's forthcoming publication of an explanatory document on the case-law of the Court of Justice concerning claims for damages for breach of rights under Community law; further suggests that the Commission should investigate the possibility of acting as *amicus curiae* in relevant damages cases before national courts, in accordance with national procedural law, as is already the case for domestic litigation involving EC competition law issues ⁽¹⁾;

The role of the European Parliament and national parliaments in the application of EU law

36. Considers that Parliament's standing committees should take a much more active role in monitoring the application of Community law in their respective fields of competence and, to that end, should receive support and regular information from the Commission; suggests that, wherever possible, Parliament's rapporteur for a particular file or his/her appointed successor should play a central and continuing role in the ongoing review of Member States' compliance with Community law; notes that regular sessions on the application of Community law organised by the Committee on the Environment, Public Health and Food Safety are a practice that should be extended to all Parliament's committees and that the Commission should be systematically involved;

37. Notices, however, that the Commission's reluctance to provide precise information on the issues where infringement proceedings have started greatly reduces public interest in, and the effectiveness of, these sessions; calls on Parliament's committees to envisage, where appropriate, including representatives of the relevant Member States or of the Council in the list of invitees to the sessions on the application of Community law;

38. Believes that Parliament's committees (including the Committee on Petitions) should be given sufficient administrative support to carry out their mission effectively; asks the Working Party on parliamentary reform, the Committee on Budgets and other relevant Parliament bodies to submit concrete proposals dealing *inter alia* with the aforementioned ongoing role of rapporteurs and to assess the feasibility of a special task force within each committee's secretariat to guarantee the continuing and effective monitoring of the application of Community law;

39. Calls for increased cooperation between national parliaments and the European Parliament and their respective parliamentarians, in order to promote and increase effective scrutiny of European matters at national level; considers that national parliaments have a valuable role to play in monitoring the application of Community law, thus helping to strengthen the democratic legitimacy of the European Union and bring it closer to the citizens;

40. Recalls the commitment on the part of the Council to encourage the Member States to draw up and publish tables illustrating the correlation between directives and domestic transposition measures; insists that such tables are essential to enable the Commission to carry out an effective scrutiny of implementing measures in all Member States; proposes, as co-legislator, to take all steps necessary to ensure that provisions regarding those tables are not removed from the text of Commission proposals during the legislative process;

41. Notes that national courts play an essential role in applying Community law and fully supports the Commission's efforts to identify areas in which supplementary training could usefully be provided for national judges, legal practitioners and officials within the national authorities;

⁽¹⁾ Commission Notice on the cooperation between the Commission and the courts of the EU Member States in the application of Articles 81 and 82 EC (OJ C 101, 27.4.2004, p. 54), paragraphs 17 to 20.

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42. Calls on the Commission to improve monitoring of compliance by Member States' judicial authorities with Parliament's decisions on parliamentary immunity and, where the Commission establishes a failure to comply with those decisions, to inform Parliament of the action it intends to take;

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43. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice, the European Ombudsman and the parliaments of the Member States.

Situation in Gaza

P6_TA(2008)0064

European Parliament resolution of 21 February 2008 on the situation in the Gaza Strip

(2009/C 184 E/10)

The European Parliament,

- having regard to its previous resolutions on the Middle East, in particular those of 1 June 2006 on the humanitarian crisis in the Palestinian territories and the role of the EU ⁽¹⁾, 16 November 2006 on the situation in the Gaza Strip ⁽²⁾, 21 June 2007 on MEDA and financial support to Palestine — evaluation, implementation and control ⁽³⁾, 12 July 2007 on the Middle East ⁽⁴⁾ and 11 October 2007 on the humanitarian situation in Gaza ⁽⁵⁾,
 - having regard to UN Security Council Resolutions 242 (S/RES/242) of 22 November 1967 and 338 (S/RES/338) of 22 October 1973,
 - having regard the Fourth Geneva Convention (1949),
 - having regard to the Annapolis Declaration of 27 November 2007,
 - having regard to the conclusions of the General Affairs and External Relations Council of 28 January 2008,
 - having regard to the declaration on the situation in Gaza made by the Euro-Mediterranean Parliamentary Assembly's Committee on Political Affairs, Security and Human Rights on 28 January 2008,
 - having regard to the UN Human Rights Council resolution of 24 January 2008 on human rights violations in the Gaza Strip (A/HRC/S-6/L.1),
 - having regard to Rule 103(4) of its Rules of Procedure,
- A. whereas, as a result of the embargo on the movement of people and goods, the partial denial of access to drinking water, food and electricity, and the lack of essential goods and services, the humanitarian situation in the Gaza Strip has further deteriorated,
- B. whereas the border crossings in and out of Gaza have been closed for months, and whereas the embargo on the movement of people and goods has further paralysed the economy in the Gaza Strip,
- C. whereas key public service sectors, including the health and education systems, are facing serious shortcomings owing to a lack of basic materials required for their functioning, and whereas the lack of medicines and of fuel to run the generators in hospitals in the Gaza Strip is endangering Palestinian lives,

⁽¹⁾ OJ C 298 E, 8.12.2006, p. 223.

⁽²⁾ OJ C 314 E, 21.12.2006, p. 324.

⁽³⁾ Texts Adopted, P6_TA(2007)0277.

⁽⁴⁾ Texts Adopted, P6_TA(2007)0350.

⁽⁵⁾ Texts Adopted, P6_TA(2007)0430.