

Monitoring the application of Community law.

23rd annual report 2005

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The European Parliament adopted a resolution based on the own-initiative report drafted by Monica **FRASSONI** (Greens/ALE, IT), on the Commission's 23rd Annual report on monitoring the application of Community law (2005). It recalls that the effectiveness of EU policies is largely determined by their implementation at national, regional and local levels. 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.

2005 Annual report: Members note that the accession of 10 new Member States seems not to have had any impact on the number of registered infringements, and they call on the Commission to give Parliament a 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.

With regard to resources, Parliament commits itself to supporting the Commission via increased budget appropriations for an increase of resources, as requested by most of the Directorates-General concerned. It also 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. Parliament calls on the Commission to consider means of involving Parliament in such processes. It encourages the practice of sending fact-finding missions to various Member States to investigate issues raised by petitioners.

Members believe that the Commission should be more proactive in monitoring national events which may disclose a breach of Community law, and they call on the Commission to make more intensive use of its Representation Offices to prevent or remedy infringements. Member States are asked 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.

The Commission's 2007 Communication: Members welcome the Communication on "A Europe of results – Applying Community law" (COM(2007)0502), and the fact that the Commission attaches value to, and takes duly into account, the issue of the application of Community law. The resolution 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. It 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. To that end, it calls on the Commission to carry out, within those time-limits, periodic monitoring of the progress of infringement procedures.

Parliament 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. It observes, however, that the Commission is often the only body left to which citizens can turn to complain about the non-application of Community law. It 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". Moreover, Parliament 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. This could result in confusion. The Commission is asked to: i) create an on-line one-stop-shop in order to assist citizens; ii) 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; iii) 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.

The role of the European Parliament and national parliaments: Members consider that Parliament's standing committees should take a much more active role in monitoring the application of Community law in their fields of competence and, to that end, should receive support and regular information from the Commission. They believe that that Parliament's committees (including the Committee on Petitions) should be given sufficient administrative support to carry out their role effectively.

The resolution 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.