24th annual report from the Commission on monitoring the application of Community law

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PURPOSE: to present the 24th Annual Report on monitoring the application of Community Law for 2006.

CONTENT: pursuant to Article 221 of the EC Treaty the Commission is responsible for monitoring the uniform application of Community law by the Member States. Further, Article 226 allows the Commission to take action against a Member State which fails to fulfil their EU Treaty obligations. This may include, for example, adopting or maintaining national laws which run counter to Community Law. This, the 24th Annual Report prepared by the Commission on the application of Community Law for 2006 offers an account of Commission activities to monitor the application of Community law.

The main findings of the report, in summary, are as follows:

Infringement proceedings:

The total number of infringement proceedings initiated by the Commission fell slightly from 2653 in 2005 to 2518 in 2006. There was also a slight decrease in the number of complaints registered, from 1154 in 2005 to 1049. Complaints accounted for 41.7% of the total infringements detected in 2006. The number of infringement proceedings initiated by the Commission on the basis of its own investigations rose from 433 in 2005 to 565 in 2006 (24%) for the EU 25. For the whole of the EU the number of proceedings initiated for "failure to notify transposition measures" decreased by 16% compared to 2006 from 1079 to 904 cases. This can, partially, be put down to two factors. Firstly, a reduction in the number of Directives with a deadline for the year (down from 123 to 108) and secondly, due to improved Member State notification.

Infringements relating to petitions presented to the European Parliament:

Petitions to Parliament are considered a valuable source of information for detecting breaches of Community law. In many cases petitions are presented at the same time as a complaint to the Commission. The highest number of reported cases refer to either the environment or the single market. As far as the environment is concerned, petitions are important given that the Commission itself has no "investigative" powers to check the practical implementation of EC law on the ground. Regarding the internal market, two specific issues continued to dominate petitions to Parliament. Firstly, the recognition of diplomas and secondly public procurement.

Main developments:

Agriculture: Two main objectives were pursued in 2006 namely removing barriers to the free movement of agricultural products and to ensure that agricultural Regulations are applied effectively. In addition, the Commission had to remind the Member States of their obligation to send annual reports to the Commission.

Competition policy: In 2006 the main priority was to monitor the transposition of the Directive concerning competition on the market for electronic communication as well as the Transparency Directive. A number of suspected infringement files relating to Article 86 were also initiated.

Education and culture: Obstacles continue to exist in the field of education. Concerning the recognition of academic qualifications the EU can only intervene in cases of discrimination on the ground of

nationality. In 2006 two infringement procedures were launched. The first concerned Greece, which has since amended its legislation, and the second concerned Portugal.

Employment: In 2006 a number of cases concerned the presumed wrong application of Treaty articles and /or secondary legislation in the field of social security and the free movement of workers. Infringements in the field of equal treatment deal mostly with non-conformity issues.

Enterprise and industry: The Commission's main objective is to guarantee the internal market for goods. In 2006, the Commission continued to reinforce preventive actions through Directive 98/34/EC by providing interpretation and guidance for many pieces of draft legislation. In the case of infringement proceedings priority was given to cases concerning national transposition measures and failure to implement ECJ judgements. In the EU as a whole it can be concluded that implementing rules relating to the internal market for goods has improved.

Environment: The environmental sector accounted for about one fifth of the total number of open cases involving non-compliance. It remains the sector with the highest number of open cases. Priority was given to cases dealing with the incorrect transposition of environmental Directives as well as cases relating to lack of compliance.

Fisheries: Particular attention was given to the correct application of conservation provisions and upholding standards relating to the functioning of national systems of control; to the control of technical conservation measures; to communicating data on catches; to feet capacity; and to driftnets.

Information Society and media: Attention has shifted away from the enforcement of electronic communication regulatory framework and onto transposition issues that ensure the full compliance and effective application of all 25 EU Member States. New proceedings focused on the non-availability of caller location information to emergency authorities for calls to 112 made from fixed and/or mobile phones.

Legal services:in the case of the Sellafield nuclear fuel reprocessing plant, the Court based its judgment partly on Article 292 of the EC Treaty. This was the first time that this article has been invoked and applied. The Court said that it had exclusive jurisdiction to decide any dispute regarding the interpretation and application of Community law, and held that Ireland had failed to fulfil its obligations when it brought a dispute between itself and the United Kingdom on questions that were essentially questions of Community law before an arbitral tribunal provided for in the Law of the Sea Convention.

Internal market: The main objective in 2006 was to further develop the Commission's enforcement policies. Actions have focused on: follow-up to the 2004 Recommendation on good practices concerning transposition; the prioritisation of infringement proceedings; and the freedom of establishment and the free movement of services.

Health and consumer protection: The timely and correct implementation of EU health and consumer law remained a priority for the Commission in 2006. Inspections carried out by the Food and Veterinary Office were conducted on the bases of a close cooperation with the Member States. The Commission did not hesitate to act against Member States who delay the implementation of actions plans that seek to address deficiencies. The Commission also took swift actions against infringements in the field of tobacco products legislation.

Taxation and customs: An important number of potential infringements still exist in domestic legislation. Particular focus has been given to cross-border dividend payments and the withholding taxes on dividends in cases where dividends paid to residents are not taxed.

Energy and transport: In the case of energy, the correct application of the two 2003 Directives on the internal electricity and gas markets, were closely examined. The Commission also stepped up efforts against failures in the field of radiation protection as well as other obligations linked to nuclear safeguards, external relations and role of the Euratom Supply Agency.

The budget: The Commission has followed up all cases where the infringement of EU legislation could result in the incorrect or late payment of own resources and other receipts. It has taken legal action where preliminary correspondence or discussions in the Advisory Committee for Own Resources could not solve the problem.

Enlargement: A case concerning the incorrect application of the Association Agreement with Turkey was referred to the Court for discrimination against Turkish workers wishing to extend their residence permits.