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

2008/2046(INI) - 21/10/2008 - Text adopted by Parliament, single reading

The European Parliament adopted by 613 votes to 29 with 38 against, a resolution in response to the 24th annual report from the European Commission on monitoring the application of Community law in 2006.

The own-initiative report had been tabled for consideration in plenary by Lidia Joanna **GERINGER de OEDENBERG** (PES, PL) on behalf of the Committee on Legal Affairs.

Annual report for 2006 and action taken on Parliament's resolution of 21 February 2008: MEPs welcome the Commission's undertaking to improve current working methods regarding the application of Community law. However, they regret that the Commission has not yet responded to or acted upon Parliament's resolution of 21 February 2008, in which it calls on the Commission to provide specific information on various aspects of the implementation of Community law, with particular reference to the development of the new working method.

The Parliament is deeply concerned that, under the new working method, which provides for complaints received by the Commission to be referred back to the Member State concerned (which is the party responsible for the incorrect application of Community law in the first place), the Commission may be failing to meet its institutional responsibility for ensuring the application of Community law as 'guardian of the treaties', in accordance with Article 211 of the EC Treaty. MEPs call on the Commission to submit to Parliament a first report by November 2008 on the procedures followed and results obtained during the first six months of the pilot project which commenced on 15 April 2008 and which involves 15 Member States.

The Commission is called upon to:

- apply across the board the principle whereby any correspondence which may contain a complaint about a genuine breach of Community law must be registered as a complaint unless it is covered by the exceptional circumstances, and provide Parliament with details of how this principle is observed, including in cases where the new method is applied;
- inform and consult Parliament on any changes to the exceptional criteria for failure to register complaints;
- make every effort to shorten the relatively long delay in dealing with complaints or petitions and to find practical solutions to the problems presented by deciding, upon receipt of the case, whether alternative methods such as SOLVIT, which is still not promoted enough, are more appropriate;
- apply Article 228 of the Treaty establishing the European Community with greater firmness in order to ensure due compliance with judgments of the Court of Justice of the European Communities;
- supply a list of the directives showing the lowest rate of implementation, together with details of the likely reasons therefor.

Drawing attention to the insufficient degree of cooperation with the Court of Justice by the national courts in most Member States and underlining the extremely important role played by the preliminary ruling procedure in the proper application of Community law, Parliament supports, in this connection, the Commission's efforts to determine the areas in which additional training in Community law could be useful for national judges, legal professionals and civil servants.

Interinstitutional cooperation: according to MEPs, agreements on monitoring the application of Community law and close cooperation between the Commission, the Council, the European Ombudsman and the relevant EP committees are essential in order to ensure effective action in all cases where a petitioner has justifiably complained of an infringement of Community law.

MEPs stress the need for better provision of information to citizens with a view to directing anyone wishing to submit a complaint towards the body best qualified to deal with the matter and emphasise the need for consideration to be given to a common access point for all citizens' complaints and problems relating to the monitoring of the application of Community law. Furthermore, Parliament's standing committees should play a more active role in monitoring the application of Community law and be given adequate administrative support to enable them to play this role effectively. Parliament suggests that the Commission should continue to give consideration to the feasibility of using its Representations in Member States to observe and monitor implementation on the ground.

Cooperation between the European Parliament and the national parliaments: MEPs call for closer cooperation between the European Parliament and national parliaments with a view to promoting and increasing effective monitoring of the application of Community law at national, regional and local levels. To this end, the competent parliamentary committees at national and European level should establish permanent contacts on individual pieces of legislation, pooling all useful information in the interests of a more transparent and efficient legislative process at European and national level.

Combating discrimination in the European Union: MEPs call on the Member States to respect the rights deriving from EU citizenship, including the right to vote and stand as a candidate in elections to the European Parliament, which is of particular importance in the run-up to the 2009 elections. They also draw attention to the fact that directive 2004/38/EC is of fundamental importance to ensuring that EU citizens may move freely within the territory of the Member States. They also call on the Commission to carefully monitor the transposition of Directive 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

Lastly, the Commission is called upon to conduct a thorough analysis of cases where Member States apply non-nationality-based restrictions on access to education by students from other countries, with a view to ensuring that students are able to move freely and are afforded equal treatment within the higher education systems of those Member States.