

25th annual report from the Commission on monitoring the application of community law (2007)

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PURPOSE: to present the 25th annual report from the Commission on monitoring the application of Community law (2007).

CONTENT: the report notes that, at the end of 2007, the Commission was handling over 3 400 complaints and infringement files. The total number of files increased by 5.9% from 2006, with a 32.3% increase in proceedings for failure to notify transposition measures. Complaints accounted for 35.9 % of the total, or two thirds of all cases on issues other than late transposition, an 8.7% decrease from 2006.

Environment continues to account for the highest number, (146 out of around 420 – on air, water and noise pollution in particular), followed by 89 petitions in employment, social affairs and equal opportunity (labour law (30), gender equality (28), free movement of workers and social security (25)).

There continues to be a significant complaints and infringements case-load in environment, internal market, taxation and customs union, energy, transport and employment, social affairs and equal opportunities as well as health and consumer affairs and justice, freedom and security, with a rapidly increasing body of legislation of high interest to citizens.

The report highlights challenges in the application of law, indicating three main priority areas of action: 1) prevention; 2) information and problem-solving for citizens; and 3) prioritisation in handling complaints and infringements. It further stresses the importance of a strong partnership between the Commission and Member States, working in expert groups to manage the application of the legal instruments and co-operating pro-actively to resolve problems.

Action 1: stepping up preventive measures and dealing with the problem of extensive late transposition of directives: increased attention is being paid to aspects of implementation, management and enforcement in the development of proposals, at the impact assessment stage and throughout the policy cycle. The **impact assessment guidelines** are being modified to ensure that implementation and enforcement options, as well as the choice of legal instrument, are thoroughly examined. This also involves **preparing the correct implementation of Community Law**. The Commission's aim is to ensure that risk-based transposition plans, identifying the work required according to the content and likely difficulty of implementation, accompany proposals for new directives through the legislative cycle. The Commission will set up networks of responsible officials in the Member States for transposition of all new directives and for on-line exchange of questions and answers. A number of **instruments** are being deployed in an effort to prevent non-conformity of Member State law with Community law. These include conformity evaluation of transposed texts, committee and expert group meetings, inspections, questionnaires, implementation reports, fact-finding missions, etc. Some 260 **committees** and 1200 expert groups manage the acquis, update technical requirements and help to identify the need for legislative amendment.

Action 2: improving information-provision and problem-solving for citizens and business: citizens' and business' interests are served best if solutions are found in a rapid and informal manner. The Commission responds to citizens through Europe Direct, Citizens' Signpost Service, ECC-Net, Euro-jus, plus a large volume of work of Commission services. The Commission coordinates the SOLVIT network,

where Member States work together to solve cross-border problems caused by the potential misapplication of Internal Market law. Furthermore, the Commission launched EU PILOT to provide quicker and better answers to questions and solutions to problems arising in the application of EU laws requiring confirmation of the factual or legal position in a Member State. 15 Member States are participating in this project, which started on 15 April 2008.

Action 3: complaints and infringements management – prioritisation by sector: the Commission must prioritise the most important cases and work closely with Member States to accelerate correction of infringements:

- **Internal market and services:** policy priorities focus on breaches of Community law (1) violating fundamental freedoms having a broad impact on citizens' rights, (2) threatening the overall functioning of sectoral legislation or involving important legal precedents or (3) likely to have an important economic impact on the internal market or a specific sector of it. In the services sector, work focussed on cases of clear discrimination on grounds of nationality or impact on categories of service providers in important sectors;
- **Financial services:** issues such as investment restrictions based on national security considerations or affecting pension schemes;
- **Employment rights, labour law, social security and anti-discrimination;**
- **Fundamental rights, free movement of persons, immigration, asylum, citizenship and civil justice;**
- **Environment:** the collective handling of similar individual infringements through horizontal cases, such as on waste management and air pollution; large infrastructure projects; infringements where citizens are on a significant scale or repeatedly exposed to direct harm or serious detriment to their quality of life;
- **Transport:** passenger safety and security of operations as well as sustainability policies having a broad impact;
- **Energy:** actions having a significant impact on the fight against climate change and ensuring secure and competitive energy supplies;
- **Information society:** issues of systematic importance concerning the functioning of national regulators, consumer protection issues in telecommunications, TV advertising rules, protection of minors and prevention of incitement to racial hatred in media as well as non-discriminatory access to public sector information;
- **Competition policy:** effective competition in liberalised network industries such as energy markets and in financial services; recovery in cases of illegal state aid.