28th annual report on monitoring the application of EU law (2010)

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The 28th annual report on monitoring the application of EU law (2010) focuses on strategic questions and evaluating the current state of the law. The year was marked by activities designed to apply and improve infringement management by the Commission, initiated in 2007 by means of the communication entitled " A Europe of results – applying Community law"

- Special emphasis was laid on the **efficient management of cases** through consistent further development and evaluation of the functioning of EU Pilot, the tool for dialogue and problem-solving with the Member States. This built on action already undertaken in 2009 by putting in place a new registration system (**CHAP** 'Complaints Handling – *Accueil des Plaignants')* for complaints and enquiries on the application of EU law by a Member State.
- The Commission also stepped up its **preventive measures**, for example, by including prospective application of EU law in its impact assessments for new initiatives and by promoting implementation plans to support the transposition process for new directives.
- the adoption of the **revised Framework Agreement on the relations between the European Parliament and the Commission** resulted in more comprehensive provisions on information and cooperation in the area of infringements policy.

Ongoing proceedings: the report notes that the **number of infringement procedures fell in 2010 c**ompared with previous years (2 100 cases compared with 2 900 in 2009). Although at this stage it is not possible to identify all the reasons for this tendency, one explanation is the setting up of EU Pilot, which helps to clarify and solve satisfactorily some issues regarding application of EU law raised by the Commission, thus putting an end to problems without being necessary to launch infringement proceedings. Environment, internal market and taxation legislation remain at the top of the policy fields involved in infringements, whilst issues related to environment, free movement of persons and fundamental rights attracted the most petitions to the European Parliament.

Key issues to be addressed:

Late transposition: there are still clearly identified areas where late transposition of directives is a frequent pattern, such as environment, internal market, transport and judicial cooperation, fundamental rights and citizenship. The Lisbon Treaty has given an additional instrument to the Commission that could help to change this unsatisfactory situation (**Article 260(3) TFEU**). This article allows the Commission to request, at an earlier stage of the procedure, financial sanctions against Member States for failure to notify measures transposing a directive adopted under a legislative procedure.

Management of cases: with the introduction of CHAP in September 2009, the Commission now has an IT tool which is specifically designed for the registration and management of complaints and enquiries by European citizens on the application of EU law by a Member State. The EU Pilot project has been operating since April 2008 with the aim of providing quicker and better answers to questions raised by citizens or businesses and solutions to those problems arising in the application of EU law.

The Commission will **develop further its databases** for the management of cases related to the application of EU law. The Commission will explore the extension of EU Pilot as an instrument of problem-solving and prevention to all Member States. The general approach pursued by the Commission is to ensure **systematic registration** of all complaints/enquiries on the application of EU law, to seek

swift problem-solving by using EU Pilot and, where necessary, to launch and pursue vigorously infringement proceedings.

Enforcement issues: the Commission will further reinforce and promote problem-solving instruments such as **SOLVIT**, networks such as **IMPEL** and will continue examining whether further mechanisms should be added to the current system of EU remedies in order to strengthen the enforcement of EU law. It will also take measures to enhance synergies between existing problem-solving tools, where possible, so as to ensure that problems are resolved in the most effective manner, to the benefit of European citizens and businesses.

Preventive measures: to pre-empt transposition and application problems with new legislation, the Commission will continue to use a range of preventive measures, including **implementation plans**, to support ultimately the smooth and accurate implementation of the future directives. As an example, the Green Paper on the future of VAT seeks to identify ways to simplify the EU VAT system to make its transposition easier. Preventive measures will *also* focus on citizens' involvement in the application of EU law.

Correlation tables: correlation tables are used to show how Member States have transposed EU law into national law by presenting how each element of EU law has been transposed. The Commission considers that in many cases correlation tables are important instruments which help it to ensure the effective implementation of directives. The Commission will therefore include appropriate wording in its proposals. It is committed to working with Council and European Parliament to find a solution which enhances transposition and compliance.

Transparency: the Commission will further promote transparency on its infringement policy within the legal and judicial limits. Transparency was also among the aspects underlined in the revised Framework Agreement on the relations between the European Parliament and the Commission.

In **2011** the Commission will continue to focus on key areas of this strategic approach, in particular on:

- **effective problem-solving**: e.g. broadening the use of EU Pilot with a view to including all Member States;
- **efficient management**: improving management of infringement-related cases in line with the Commission's benchmarks;
- **preventive measures**: e.g. ensuring a systematic and coherent approach to implementation plans;

Smart Regulation**:** integrating the monitoring of the application of EU law more fully into the wider legislative life cycle.