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

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The Committee on Legal Affairs adopted an own-initiative report by Eva LICHTENBERGER (Greens /EFA, AT) on the 28th annual report on monitoring the application of EU law (2010).

The report endorses the Commission's 'smart regulation' approach which focuses on integrating the monitoring of the application of EU law into the wider policy cycle. Viewing as regrettable the enormous number of non-communication cases (470 pending in 2010), Members encourage the Commission to **follow even more closely the transposition of directives before the end of the transposition deadline,** particularly as far as Member States with a 'bad record' are concerned, in order to be able to intervene swiftly. They also call on the Commission and the Member States to act jointly and consistently to tackle the problem of '**gold-plating**'.

Members deplore the absence in the Commission's new communication of any reference to EU Pilot, which is, as defined by the Commission itself, a 'well-established working method. They call on the Commission to **clarify the status of the EU Pilot system** and to define clearly the framework and rules of its application in such a way that they will be understood by citizens.

Members emphasise, overall, that additional efforts must be undertaken to **increase transparency and reciprocity in communication between Parliament and the Commission**. They stress that an overriding public interest might well justify access to information on complaints, infringement files and other enforcement mechanisms, particularly in cases where danger to human health and irreversible damage to the environment may be at stake.

The committee responsible regrets that Parliament's call for the establishment of a 'procedural code' has not been followed up. It therefore calls, once again, on the Commission to propose in the form of a regulation with Article 298 TFEU as its legal basis, a **procedural code** setting out the various aspects of the infringement procedure and the pre-infringement procedure, including notifications, binding time limits, the right to be heard, the obligation to state reasons, and the right for every person to have access to her or his file, in order to reinforce citizens' rights and guarantee transparency.

Members welcome the specific section on **petitions** contained in the 28th annual report, as requested by Parliament. It highlights the significant number of petitions received on issues related to **environmental legislation** (in particular with regard to waste management provisions) and urges the implementation of the Union's environmental legislation. Given that a significant number of the petitions relate to fundamental rights concern the **free movement of persons**, they call on the Commission and the Member States to make greater efforts in this area to ensure the full and prompt transposition of European Union law.

The report welcomes the Commission's undertaking to make use of **Article 260(3) TFEU** as a matter of principle in cases of failure to fulfil an obligation covered by this provision, which concerns the transposition of directives adopted under a legislative procedure. Members consider it of the utmost importance that the Commission make use of this possibility, **together with all other possible means** of guaranteeing that Member States transpose Union legislation in a timely and correct fashion. They demand that those who are lagging behind and have not implemented the laws on time should be named.

Lastly, noting that the national courts play a vital role in applying EU law, the report fully supports the EU ’s efforts to enhance and coordinate judicial training for legal, judicial and administrative authorities and legal professionals, officials and civil servants in the national administrations, as well as regional and local authorities at European level.