30th and 31st annual reports on monitoring the application of EU Law (2012-2013)

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The European Parliament adopted by 412 votes to 99 with 10 abstentions, a resolution on the 30th and 31st annual reports on monitoring the application of EU Law (2012-2013).

Members welcomed the Commission's 30th and 31st annual reports on the application of EU law and noted that Parliament could assist in reviewing the implementation of legislation through its scrutiny of the Commission.

In a European Union founded on the rule of law and on the certainty and predictability of laws, Parliament considered that **EU citizens must, as of right, be the first to be made aware**, in a clear, accessible, transparent and timely manner, whether and which national laws have been adopted in transposition of EU laws, and which national authorities are responsible for ensuring they are correctly implemented.

Ensure a better implementation of legislation: stressing that citizens and businesses expect a **simple, predictable and reliable** regulatory framework, Members urged the Commission, when drafting and assessing legislation, to take greater account of the burden it may impose on SMEs. As for the Commission and the Member States, they should coordinate their **efforts at an earlier stage of the legislative process** with a view to ensuring that the end result can be implemented more effectively.

Respecting primary law: the resolution stressed the European institutions' duty to respect primary EU law when they produce secondary EU law or decide, implement and impose on Member States social, economic or other policies. It also emphasised the **duty to assist Member States** by all means available in their efforts to respect democratic and social values and to transpose EU legislation in times of austerity and economic constraints.

In this context, Members expressed concern that the **austerity measures imposed on over-indebted EU Member States,** which were subsequently incorporated in acts of secondary EU law before being transposed into domestic legislation, during the period covered by the two annual reports under examination, and in particular the drastic cuts in public spending, have had the effect of significantly reducing the capacity of Member States' administration and judiciary to assume their responsibility correctly to implement EU law.

New methods for the transposition of EU law: Parliament noted that the implementation and **transposition of EU law remained uneven** across Member States. Citizens who wished to live, work or do business in another Member State faced the daily reality of ongoing difficulties. Parliament stressed that late transposition, incorrect transposition and bad application of EU law could result in differentiation between Member States and distort the level playing field across the EU.

Members reiterated the need for the Commission to focus on effective problem-solving, effective management and preventive measures, but suggested that it should also think of new ways, other than formal infringement procedures, of improving the transposition and enforcement of EU law.

Gold-plating: Parliament noted the Commission's use of the term 'gold-plating', which referred to obligations that go beyond EU requirements, that is, an excess of norms, guidelines and procedures accumulated at national, regional and local levels interfering with the expected policy goals. The Commission was called upon to **clearly define the term**. Such a definition must make it clear that

Member States have the right to set stricter standards where necessary, while taking into account the fact that better harmonisation in the implementation of EU environmental law is important for the functioning of the internal market.

Respecting transposition deadlines: Parliament noted that the decrease in late transposition infringements over the last five years could be explained by the use of EU Pilot and other mechanisms (including SOLVIT 2), and by the introduction in Article 260(3) TFEU of the 'fast-track' procedure for penalties in cases of non-transposition. It stressed that the **timely transposition of directives should remain a top priority within the Commission** and that transposition deadlines have to be enforced.

Enhancing the legal framework and the legitimacy of EU Pilot: the increase in the number of new EU Pilot files, in particular relating to the environment, taxation, justice and customs, during the period under examination, as well as the decrease in the number of open infringement cases, points to a positive tendency in Member States as regards the implementation of EU law, demonstrating that EU Pilot has proved to be effective in achieving early resolution of potential infringements. The resolution stressed, nevertheless, the need to reinforce the legal status and strengthen the legitimacy of EU Pilot, through more transparency and greater participation by complainants and by the European Parliament.

More efficient cooperation between the EU institutions: whilst welcoming the Commission services' commitment to strengthen the exchange of information with the Committee on Petitions, Parliament deplored the fact that Parliament, which directly represented European citizens and was now a fully-fledged co-legislator that was more and more closely involved in complaints procedures, **did not yet automatically receive transparent and timely information** on the implementation of EU laws.

Members urged more effective and efficient cooperation between the EU institutions, and expects the Commission to apply in good faith the clause of **the revised Framework Agreement on relations with Parliament** in which it undertakes to 'make available to Parliament summary information concerning all infringement procedures from the letter of formal notice, included, if so requested, on the issues to which the infringement procedure relates'.

Citizens' complaints: since the EU had been set up as a Union based on the **rule of law and respect for human rights** (Article 2 TEU), Members reiterated that careful monitoring of Member States' and EU institutions' acts and omissions was of utmost importance.

Parliament pointed out that petitions submitted by EU citizens or residents of a Member State referred to violations of EU law, particularly in the fields of fundamental rights, home affairs, justice, the internal market, health, consumers, transport, taxation, agriculture and rural development and the environment. Such a situation called for **increased efforts** from Member States and for ongoing monitoring by the Commission, especially in the following areas:

- **preventing and combating trafficking in human beings**: in 2013, most late infringement cases were launched due to the late transposition of Directive 2011/36/EU;
- **right of asylum**: a large number of complaints had been lodged in this area. The full transposition and effective implementation of the Common European Asylum System was an absolute priority;
- Area of Freedom, Security and Justice: Parliament reiterated that the right of free movement was one of the four fundamental freedoms of the EU enshrined in the Treaty on the Functioning of the European Union, and the right of EU citizens to move freely and reside and work in other Member States needed to be guaranteed and protected;
- **environment:** stressing that failing to implement environmental policy – including the costs of infringement proceedings –were estimated at around EUR 50 billion per annum, Parliament called on the Commission to be more rigorous in relation to the application of EU environmental legislation and to conduct faster and effective investigations into infringements relating to environmental pollution.

Members stated that environmental, food safety and health standards should not be undermined in the context of the **Regulatory Fitness and Performance Programme** (REFIT) programme. In relation to REFIT the Commission needed to facilitate dialogue on regulatory fitness with citizens, Member States, business and civil society at large, so as to ensure that the quality and social aspects of EU legislation were preserved.