Monitoring the application of European Union Law in 2020, 2021 and 2022

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The Committee on Legal Affairs adopted the report by Catharina RINZEMA (Renew, NL) on monitoring the application of European Union Law in 2020, 2021 and 2022.

Members welcomed the Commission's 2020, 2021 and 2022 reports on monitoring the application of EU law. They noted that almost half of the infringement procedures launched by the Commission for the wrongful application of EU law or the non-conformity of national rules with EU law pertain to the environment, employment, transport and mobility or the single market.

Monitoring and application of EU law

Members noted that the total of new infringement actions taken by the Commission fell from 903 cases in 2020 to 551 in 2022. They stressed that the total infringement actions in relation to the single market – excluding case closures – is worryingly lower than under the previous Commission terms. The report noted that this has to do with the COVID-19 pandemic and the lower number of legislative instruments adopted, as most infringement cases are linked to late transposition.

The Commission is called on to further clarify how it prioritises serious breaches of EU law and to provide legal clarification on key concepts related to its monitoring action on the enforcement of EU law. It is recommended that the Commission shortens the dialogue period, minimises and clarifies the time frame for infringement procedures.

Concerning the **rule of law**, Members emphasised concern regarding the number of infringement cases related to this. They stressed the need to strengthen the mechanisms aimed at ensuring respect for the rule of law. Moreover, they reiterated their call on the Commission and the Council to immediately enter into negotiations with Parliament concerning the establishment of an EU mechanism on democracy, the rule of law and fundamental rights, to be governed by an interinstitutional agreement pursuant to Article 295 TFEU, including an annual monitoring cycle on Union values, covering all aspects of Article 2 TEU.

The report also expressed concern about the huge number of ongoing infringement procedures with no referral to the CJEU of the Member States concerned.

Harmonising the implementation of EU law

The Commission and the Member States are called on to act jointly and consistently in order to avoid problems related to 'gold-plating'. While avoiding additional unnecessary administrative burdens, Member States should not be prevented from maintaining or taking more ambitious measures and adopting higher social, environmental and consumer protection standards in cases where only minimum standards have been defined by Union law.

The report noted that, in order to reduce the problems related to transposition at national level, Parliament, the Council and the Commission should, when permitted by the Treaties, favour the legal form of regulations as opposed to directives and focus on adopting EU legislation drafted using the principles of legal clarity, simplification, transparency and legal certainty, with a view to being easily transposable and having a specific European added value. Members regretted that, all too often, EU law-making resorts to ambiguous compromises between the three institutions.

Members stressed that the lack of a coherent and comprehensive set of codified rules on good administration applicable across the Union makes it difficult for citizens and businesses to easily and fully understand their rights under Union law. They emphasised, therefore, that codifying the rules on good administration as a regulation setting out the various aspects of administrative procedures – including notifications, binding time limits, the right to be heard and the right for every person to have access to their file – would be tantamount to reinforcing citizens' rights and transparency.

Lastly, Members noted with concern that the average transposition time in the EU has increased, with directives in 2019 taking an average of three months longer to be transposed into national legislation than in 2018.