The implementation of the principle of primacy of EU law

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The Committee on Legal Affairs and the Committee on Constitutional Affairs jointly adopted the own-initiative report by Yana TOOM (Renew, EE) and Cyrus ENGERER (S&D, MT) on the implementation of the principle of primacy of EU law.

Primacy is a core principle of EU law, which has been developed over time by the jurisprudence of the CJEU. It is crucial for ensuring the consistent application of EU law throughout the Union and guaranteeing equality of EU citizens before the law. Furthermore, the concept of primacy does not imply that there is a hierarchy between EU and national law. Instead, it means that, in case of a conflict, Member States have the obligation not to apply national law that is contrary to EU law. If the conditions for direct applicability are met, national authorities are obliged to apply the provision of EU law. If not, national authorities are obliged to interpret national law in conformity with EU law.

Noting that the vast majority of the courts of the Member States apply the principle of primacy of EU law, the principle is challenged or failed to be applied in certain Member States.

This implementation report shows the importance that Parliament attaches to the compliance with that principle and the monitoring of such compliance.

The research carried out on this matter has led to the following considerations, which constitute the basis for the following recommendations:

- executive and legislative bodies should take action to amend or withdraw legal acts that have been found to be in breach of EU law;

- the principle of primacy should be included as an explicit Treaty provision.

- the CJEU, as exclusively competent for the definitive interpretation of EU law, should define the scope of the principle of primacy;

- the principle of primacy should be binding on all bodies of the Member States at all times, and the executive force of EU law should not vary from one Member State to another;

- although, in their vast majority, courts of Member States comply with the principle of primacy of EU law, national courts have in a number of cases refused to draw the consequences of judgments of the CJEU;

- in the context of a systemic breach of the rule of law procedure under Article 7, Member States have strategically called into question the principle of the primacy of Union law for political reasons; such cases of systemic breach of the rule of law constitute a threat to the legal order in the Member State concerned and to sincere cooperation between Member States, as well as a failure by that Member State to fulfil its obligations under the Treaty;

- the effectiveness and uniformity of EU law and the authority of the CJEU must be preserved;

- the Commission should closely monitor the rulings of national courts with regard to the primacy of EU law, and initiate infringement procedures under Article 258 TFEU in response to judgments of national constitutional courts challenging that principle.