Legal bases and compliance with Community law

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The committee adopted the own-initiative report by Ioannis KOUKIADIS (PES, GR) on legal bases and respect for Community law. It examined the issue of ensuring greater compliance with Community legislation through recourse to criminal law, as had been proposed in a number of areas (protection of the environment, protection of the Community's financial interests, enforcement of intellectual property rights, pollution offences and official feed and food controls). It pointed out that the aim of the proposals in question was not directly to lay down criminal-law rules or achieve criminal-law harmonisation but rather to require the Member States to impose criminal sanctions for certain serious infringements of Community law. It was therefore necessary to examine whether the EC Treaty provided legal bases for this and, if so, where the limits would lie in relation to the provisions of Title VI of the Treaty on European Union (TEU). Parliament had already expressed concern at the lack of legal certainty deriving from the coexistence of two parallel legal frameworks, the first and third pillars, and was in favour of giving the Community legislator the legal capacity to require Member States to lay down sanctions to ensure compliance with Community law. The committee pointed out that Article 10 of the EC Treaty laid down a "principle of loyalty" in that it required Member States to take all appropriate measures to ensure fulfilment of the obligations arising out of that Treaty. That article therefore provided a general legal basis for requiring Member States to ensure compliance with Community law through various penalties, including criminal penalties. However, under no circumstances did it require Member States to adopt specific criminal-law measures, if effective application of Community law could be secured through less stringent measures in accordance with the principles of proportionality and subsidiarity. The committee concluded that the current situation was unsatisfactory and called for it to be examined by the Convention and the IGC, which should clearly define the Community's competence in criminal matters, setting out its scope and, where appropriate, its limits. MEPs also called for the Convention and the IGC to establish a corpus of substantive criminal law for offences affecting the common European interest or common European policies and to define at European level the general principles of criminal law that should govern the Member States' obligations with regard to the adoption of criminal penalties.