

Monitoring the application of Community law.

23rd annual report 2005

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PURPOSE: to present the 23rd annual report on monitoring the application of Community law (2005).

CONTENT: this, the Commission's 23rd annual report, gives an account of Commission activities vis-à-vis the monitoring and application of Community law. It covers the year 2005 and responds to a request by the European Council to examine specific areas of activity.

Article 211 of the Treaty awards the Commission the right to act as guardian of the Treaties whilst Article 226 of the Treaty provides that the Commission can take action against a Member State for adopting or maintaining legislation which is contrary to Community law. In monitoring EU law the Commission supports the principle of a Community based on the rule of law. The numerous complains received from EU citizens highlights the continuing need to detect and act upon infringements to Community law. In summary, the 23rd annual report makes the following findings:

Enlargement:

In 2005 the Commission prepared for the accession of Romania and Bulgaria. The integrated system for electronic notification of national measures for transposing Directives in the 25 Member States has been adopted by Bulgaria and Romania. In 2005, both the Netherlands and Sweden joined the electronic notification system, while preparations were at an advanced stage in France – the last Member State to join the system. In January 2005, an average of 97.69% of measures had been notified by the 25 Member States. This average rose to 98.12% in March; 98.69% in May. 98.78% in July, 98.88% in September and 98.92% in November.

Infringement proceedings:

The total number of infringement proceedings initiated by the Commission fell from 2993 in 2004 to 2653 in December 2005. In overall terms, complaints accounted for around 43.5% of total infringements detected in 2005 and the number of infringement proceedings initiated by the Commission on the basis of its own investigations rose from 328 in 2004 to 433 in 2005 for the EU 25.

Infringements relating to petitions presented to the European Parliament:

Petitions to Parliament represent a valuable source of information for detecting breaches of Community law. In many cases petitions to Parliament are presented at the same time as a complaint to the Commission. In the area of environmental protection, a large number of petitions are linked to active infringement proceedings and relate mostly to the completion of an environmental impact assessment. These sometimes concern motorways, electricity high tension lines or the construction of airports. In the core area of the Internal Market, a significant number of issues were also raised via petitions – such as the recognition of professional qualifications, the rights of shareholders, banking or insurance issues.

Main developments by Commission activity:

- **Agriculture:** Commission attention has concentrated on removing barriers to the free movement of agricultural produce and ensuring that specific agricultural mechanisms are correctly applied. In addition, the trend towards removing traditional barriers to the free movement of agricultural produce has been reinforced.
- **Education and culture:** In 2005 the Commission dealt with cases relating to the cost and duration of procedures for the recognition of academic qualifications. Overly high costs, which some Member States charge prior to recognising a qualification, is deemed a barrier to the free movement of students. The Commission continues to receive numerous letters from members of the public regarding students' entitlement to maintenance grants, loans and other matter following the Bidar judgement.
- **Employment:** Commission monitoring focuses on the incorrect application of the EU Treaty . Most infringement cases relate to the incorrect transposition of measures or the failure to notify measures.
- **Enterprise and industry:** To recall the enterprise and industry department (single market for products) is responsible for 504 Directives and for the application of Article 28 of the EU Treaty. 333 infringement proceedings were initiated in 2005 – equivalent to 9.4% of the total proceedings brought by the Commission. This represents an increase in the number of proceedings.
- **Environment:** Environment is the Commission department with the highest number of open cases. In 2005 it accounted for about one quarter of the total number of open cases concerning non-compliance issues. The Commission gives priority to tackling structural problems in the Member States by grouping cases together that relate to the same subject matter. In 2005 DG Environment set up implementation task forces, which has resulted in the identification of a comprehensive set of pro-active measures to foster the implementation of air, waste, water and impact assessment legislation.
- **Competition policy:** DG Competition prioritised, in 2005, transposition of the Directive on competition for electronic communications and the transparency Directive.
- **Information Society:** Focus was given to the correct implementation of the 2002 Directive on electronic communications. All but one EU Member State (Greece) has completed transposition of this Directive
- **Justice, freedom and security:** Priority, in 2005, was given to immigration and asylum. An external study was launched on the application and transposition of Directive 2003/39/EC *laying down minimum standards for the reception of asylum seekers*.
- **The internal market:** The Commission's main objective in 2005 was to reinforce the political importance of implementing Community law. In addition, in 2005 DG Internal Market examined most of the 1300 national measures notified by the new Member States covering the existing *acquis* , as of May 2004. This substantial work gave rise to 259 new infringement proceeding of which only 85 are still open.
- **Health and consumer protection:** Health is an essential priority for the Commission. Most Directives in this policy field are due to be transposed in 2005, thus Commission attention has concentrated mostly on monitoring the adoption of transposition measures.

- **Energy and transport:** In 2005, 622 infringement cases were processed of which 247 were for failure to notify transposition measures and 375 for the incorrect transposition of Directives or the incorrect application of Community law.
- **Fisheries:** Particular attention has been given to compliance issues and monitoring the implementation of technical conservation measures (minimum size of species). Attention has also been given to: exceeding the quantitative catch restrictions; the notification of data on catch and fishing activity; and the use pelagic driftnets.
- **Taxation and customs:** The screening of legislation from the new Member States in 2005 resulted in a considerable number of infringement cases relating to failure to notify national implementing legislation – or incorrect application of Community law on indirect taxation (VAT and car taxation). Legislation transposing recent Directives was also screened.
- **Regional policy:** There was a significant decrease in infringement proceeding relating to enlargement in 2005 following the accession of the 10 new Member States the previous year. The Commission continued to pursue a case concerning the incorrect application of the association agreement with Turkey.