Basic information

2008/2046(INI) INI - Own-initiative procedure	Procedure completed
24th annual report from the Commission on monitoring the application of Community law **Subject** 8.50.01 Implementation of EU law	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	GERINGER DE OEDENBERG Lidia Joanna (PSE)	19/11/2007

Committee for opinion	Rapporteur for opinion	Appointed
PETI Petitions	The committee decided not to give an opinion.	24/06/2008

European Commission

Commission DG	Commissioner
Secretariat-General	BARROSO José Manuel

Key events

Date	Event	Reference	Summary
17/07/2007	Non-legislative basic document published	COM(2007)0398	Summary
13/03/2008	Committee referral announced in Parliament		
09/09/2008	Vote in committee		Summary
22/09/2008	Committee report tabled for plenary	A6-0363/2008	
20/10/2008	Debate in Parliament		
21/10/2008	Decision by Parliament	T6-0494/2008	Summary
21/10/2008	Results of vote in Parliament		
21/10/2008	End of procedure in Parliament		

Technical information	
Procedure reference	2008/2046(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 55-p4 Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/58050

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE407.906	13/06/2008	
Amendments tabled in committee		PE409.620	11/07/2008	
Committee report tabled for plenary, single reading		A6-0363/2008	22/09/2008	
Text adopted by Parliament, single reading		T6-0494/2008	21/10/2008	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2007)0398	17/07/2007	Summary

24th annual report from the Commission on monitoring the application of Community law

2008/2046(INI) - 17/07/2007 - Non-legislative basic document

PURPOSE: to present the 24th Annual Report on monitoring the application of Community Law for 2006.

CONTENT: pursuant to Article 221 of the EC Treaty the Commission is responsible for monitoring the uniform application of Community law by the Member States. Further, Article 226 allows the Commission to take action against a Member State which fails to fulfil their EU Treaty obligations. This may include, for example, adopting or maintaining national laws which run counter to Community Law. This, the 24th Annual Report prepared by the Commission on the application of Community Law for 2006 offers an account of Commission activities to monitor the application of Community law.

The main findings of the report, in summary, are as follows:

Infringement proceedings:

The total number of infringement proceedings initiated by the Commission fell slightly from 2653 in 2005 to 2518 in 2006. There was also a slight decrease in the number of complaints registered, from 1154 in 2005 to 1049. Complaints accounted for 41.7% of the total infringements detected in 2006. The number of infringement proceedings initiated by the Commission on the basis of its own investigations rose from 433 in 2005 to 565 in 2006 (24%) for the EU 25. For the whole of the EU the number of proceedings initiated for “failure to notify transposition measures” decreased by 16% compared to 2006 from 1079 to 904 cases. This can, partially, be put down to two factors. Firstly, a reduction in the number of Directives with a deadline for the year (down from 123 to 108) and secondly, due to improved Member State notification.

Infringements relating to petitions presented to the European Parliament:

Petitions to Parliament are considered a valuable source of information for detecting breaches of Community law. In many cases petitions are presented at the same time as a complaint to the Commission. The highest number of reported cases refer to either the environment or the single market. As far as the environment is concerned, petitions are important given that the Commission itself has no “investigative” powers to check the practical implementation of EC law on the ground. Regarding the internal market, two specific issues continued to dominate petitions to Parliament. Firstly, the recognition of diplomas and secondly public procurement.

Main developments:

Agriculture: Two main objectives were pursued in 2006 namely removing barriers to the free movement of agricultural products and to ensure that agricultural Regulations are applied effectively. In addition, the Commission had to remind the Member States of their obligation to send annual reports to the Commission.

Competition policy: In 2006 the main priority was to monitor the transposition of the Directive concerning competition on the market for electronic communication as well as the Transparency Directive. A number of suspected infringement files relating to Article 86 were also initiated.

Education and culture: Obstacles continue to exist in the field of education. Concerning the recognition of academic qualifications the EU can only intervene in cases of discrimination on the ground of nationality. In 2006 two infringement procedures were launched. The first concerned Greece, which has since amended its legislation, and the second concerned Portugal.

Employment: In 2006 a number of cases concerned the presumed wrong application of Treaty articles and/or secondary legislation in the field of social security and the free movement of workers. Infringements in the field of equal treatment deal mostly with non-conformity issues.

Enterprise and industry: The Commission’s main objective is to guarantee the internal market for goods. In 2006, the Commission continued to reinforce preventive actions through Directive 98/34/EC by providing interpretation and guidance for many pieces of draft legislation. In the case of infringement proceedings priority was given to cases concerning national transposition measures and failure to implement ECJ judgements. In the EU as a whole it can be concluded that implementing rules relating to the internal market for goods has improved.

Environment: The environmental sector accounted for about one fifth of the total number of open cases involving non-compliance. It remains the sector with the highest number of open cases. Priority was given to cases dealing with the incorrect transposition of environmental Directives as well as cases relating to lack of compliance.

Fisheries: Particular attention was given to the correct application of conservation provisions and upholding standards relating to the functioning of national systems of control; to the control of technical conservation measures; to communicating data on catches; to feet capacity; and to driftnets.

Information Society and media: Attention has shifted away from the enforcement of electronic communication regulatory framework and onto transposition issues that ensure the full compliance and effective application of all 25 EU Member States. New proceedings focused on the non-availability of caller location information to emergency authorities for calls to 112 made from fixed and/or mobile phones.

Legal services:in the case of the Sellafield nuclear fuel reprocessing plant, the Court based its judgment partly on Article 292 of the EC Treaty. This was the first time that this article has been invoked and applied. The Court said that it had exclusive jurisdiction to decide any dispute regarding the interpretation and application of Community law, and held that Ireland had failed to fulfil its obligations when it brought a dispute between itself and the United Kingdom on questions that were essentially questions of Community law before an arbitral tribunal provided for in the Law of the Sea Convention.

Internal market: The main objective in 2006 was to further develop the Commission’s enforcement policies. Actions have focused on: follow-up to the 2004 Recommendation on good practices concerning transposition; the prioritisation of infringement proceedings; and the freedom of establishment and the free movement of services.

Health and consumer protection: The timely and correct implementation of EU health and consumer law remained a priority for the Commission in 2006. Inspections carried out by the Food and Veterinary Office were conducted on the bases of a close cooperation with the Member States. The Commission did not hesitate to act against Member States who delay the implementation of actions plans that seek to address deficiencies. The Commission also took swift actions against infringements in the field of tobacco products legislation.

Taxation and customs: An important number of potential infringements still exist in domestic legislation. Particular focus has been given to cross-border dividend payments and the withholding taxes on dividends in cases where dividends paid to residents are not taxed.

Energy and transport: In the case of energy, the correct application of the two 2003 Directives on the internal electricity and gas markets, were closely examined. The Commission also stepped up efforts against failures in the field of radiation protection as well as other obligations linked to nuclear safeguards, external relations and role of the Euratom Supply Agency.

The budget: The Commission has followed up all cases where the infringement of EU legislation could result in the incorrect or late payment of own resources and other receipts. It has taken legal action where preliminary correspondence or discussions in the Advisory Committee for Own Resources could not solve the problem.

Enlargement: A case concerning the incorrect application of the Association Agreement with Turkey was referred to the Court for discrimination against Turkish workers wishing to extend their residence permits.

24th annual report from the Commission on monitoring the application of Community law

2008/2046(INI) - 21/10/2008 - Text adopted by Parliament, single reading

The European Parliament adopted by 613 votes to 29 with 38 against, a resolution in response to the 24th annual report from the European Commission on monitoring the application of Community law in 2006.

The own-initiative report had been tabled for consideration in plenary by Lidia Joanna **GERINGER de OEDENBERG** (PES, PL) on behalf of the Committee on Legal Affairs.

Annual report for 2006 and action taken on Parliament's resolution of 21 February 2008: MEPs welcome the Commission's undertaking to improve current working methods regarding the application of Community law. However, they regret that the Commission has not yet responded to or acted upon Parliament's resolution of 21 February 2008, in which it calls on the Commission to provide specific information on various aspects of the implementation of Community law, with particular reference to the development of the new working method.

The Parliament is deeply concerned that, under the new working method, which provides for complaints received by the Commission to be referred back to the Member State concerned (which is the party responsible for the incorrect application of Community law in the first place), the Commission may be failing to meet its institutional responsibility for ensuring the application of Community law as 'guardian of the treaties', in accordance with Article 211 of the EC Treaty. MEPs call on the Commission to submit to Parliament a first report by November 2008 on the procedures followed and results obtained during the first six months of the pilot project which commenced on 15 April 2008 and which involves 15 Member States.

The Commission is called upon to:

- apply across the board the principle whereby any correspondence which may contain a complaint about a genuine breach of Community law must be registered as a complaint unless it is covered by the exceptional circumstances, and provide Parliament with details of how this principle is observed, including in cases where the new method is applied;
- inform and consult Parliament on any changes to the exceptional criteria for failure to register complaints;
- make every effort to shorten the relatively long delay in dealing with complaints or petitions and to find practical solutions to the problems presented by deciding, upon receipt of the case, whether alternative methods such as SOLVIT, which is still not promoted enough, are more appropriate;
- apply Article 228 of the Treaty establishing the European Community with greater firmness in order to ensure due compliance with judgments of the Court of Justice of the European Communities;
- supply a list of the directives showing the lowest rate of implementation, together with details of the likely reasons therefor.

Drawing attention to the insufficient degree of cooperation with the Court of Justice by the national courts in most Member States and underlining the extremely important role played by the preliminary ruling procedure in the proper application of Community law, Parliament supports, in this connection, the Commission's efforts to determine the areas in which additional training in Community law could be useful for national judges, legal professionals and civil servants.

Interinstitutional cooperation: according to MEPs, agreements on monitoring the application of Community law and close cooperation between the Commission, the Council, the European Ombudsman and the relevant EP committees are essential in order to ensure effective action in all cases where a petitioner has justifiably complained of an infringement of Community law.

MEPs stress the need for better provision of information to citizens with a view to directing anyone wishing to submit a complaint towards the body best qualified to deal with the matter and emphasise the need for consideration to be given to a common access point for all citizens' complaints and problems relating to the monitoring of the application of Community law. Furthermore, Parliament’s standing committees should play a more active role in monitoring the application of Community law and be given adequate administrative support to enable them to play this role effectively. Parliament suggests that the Commission should continue to give consideration to the feasibility of using its Representations in Member States to observe and monitor implementation on the ground.

Cooperation between the European Parliament and the national parliaments: MEPs call for closer cooperation between the European Parliament and national parliaments with a view to promoting and increasing effective monitoring of the application of Community law at national, regional and local levels. To this end, the competent parliamentary committees at national and European level should establish permanent contacts on individual pieces of legislation, pooling all useful information in the interests of a more transparent and efficient legislative process at European and national level.

Combating discrimination in the European Union: MEPs call on the Member States to respect the rights deriving from EU citizenship, including the right to vote and stand as a candidate in elections to the European Parliament, which is of particular importance in the run-up to the 2009 elections. They also draw attention to the fact that directive 2004/38/EC is of fundamental importance to ensuring that EU citizens may move freely within the territory of the Member States. They also call on the Commission to carefully monitor the transposition of Directive 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

Lastly, the Commission is called upon to conduct a thorough analysis of cases where Member States apply non-nationality-based restrictions on access to education by students from other countries, with a view to ensuring that students are able to move freely and are afforded equal treatment within the higher education systems of those Member States.