Basic information

2011/2275(INI) INI - Own-initiative procedure	Procedure completed
28th annual report on monitoring the application of EU law (2010) **Subject** 8.50.01 Implementation of EU law	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	LICHTENBERGER Eva (Verts /ALE)	11/10/2011
	Shadow rapporteur ZWIEFKA Tadeusz (PPE)	

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
AFCO Constitutional Affairs	MESSERSCHMIDT Morten (EFD)	22/11/2011
PETI Petitions	GERINGER DE OEDENBERG Lidia Joanna (S&D)	01/03/2012

European Commission

Commission DG	Commissioner
Secretariat-General	BARROSO José Manuel

Key events

Date	Event	Reference	Summary
29/09/2011	Non-legislative basic document published	COM(2011)0588	Summary
17/11/2011	Committee referral announced in Parliament		
11/10/2012	Vote in committee		

17/10/2012	Committee report tabled for plenary	A7-0330/2012	Summary
20/11/2012	Debate in Parliament		
21/11/2012	Decision by Parliament	T7-0442/2012	Summary
21/11/2012	Results of vote in Parliament		
21/11/2012	End of procedure in Parliament		

Technical information	
Procedure reference	2011/2275(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/07625

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	PETI	PE487.981	22/06/2012	
Committee opinion	AFCO	PE478.571	25/07/2012	
Committee draft report		PE488.054	11/09/2012	
Amendments tabled in committee		PE496.650	03/10/2012	
Committee report tabled for plenary, single reading		A7-0330/2012	17/10/2012	Summary
Text adopted by Parliament, single reading		T7-0442/2012	21/11/2012	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2011)0588	29/09/2011	Summary
Commission response to text adopted in plenary	SP(2013)110	02/04/2013	

28th annual report on monitoring the application of EU law (2010)

2011/2275(INI) - 17/10/2012 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted an own-initiative report by Eva LICHTENBERGER (Greens/EFA, AT) on the 28th annual report on monitoring the application of EU law (2010).

The report endorses the Commission's 'smart regulation' approach which focuses on integrating the monitoring of the application of EU law into the wider policy cycle. Viewing as regrettable the enormous number of non-communication cases (470 pending in 2010), Members encourage the Commission to **follow even more closely the transposition of directives before the end of the transposition deadline,** particularly as far as Member States with a 'bad record' are concerned, in order to be able to intervene swiftly. They also call on the Commission and the Member States to act jointly and consistently to tackle the problem of '**gold-plating**'.

Members deplore the absence in the Commission's new communication of any reference to EU Pilot, which is, as defined by the Commission itself, a ' well-established working method. They call on the Commission to **clarify the status of the EU Pilot system** and to define clearly the framework and rules of its application in such a way that they will be understood by citizens.

Members emphasise, overall, that additional efforts must be undertaken to **increase transparency and reciprocity in communication between Parliament and the Commission**. They stress that an overriding public interest might well justify access to information on complaints, infringement files and other enforcement mechanisms, particularly in cases where danger to human health and irreversible damage to the environment may be at stake.

The committee responsible regrets that Parliament's call for the establishment of a 'procedural code' has not been followed up. It therefore calls, once again, on the Commission to propose in the form of a regulation with Article 298 TFEU as its legal basis, a **procedural code** setting out the various aspects of the infringement procedure and the pre-infringement procedure, including notifications, binding time limits, the right to be heard, the obligation to state reasons, and the right for every person to have access to her or his file, in order to reinforce citizens' rights and guarantee transparency.

Members welcome the specific section on **petitions** contained in the 28th annual report, as requested by Parliament. It highlights the significant number of petitions received on issues related to **environmental legislation** (in particular with regard to waste management provisions) and urges the implementation of the Union's environmental legislation. Given that a significant number of the petitions relate to fundamental rights concern the **free movement of persons**, they call on the Commission and the Member States to make greater efforts in this area to ensure the full and prompt transposition of European Union law.

The report welcomes the Commission's undertaking to make use of **Article 260(3) TFEU** as a matter of principle in cases of failure to fulfil an obligation covered by this provision, which concerns the transposition of directives adopted under a legislative procedure. Members consider it of the utmost importance that the Commission make use of this possibility, **together with all other possible means** of guaranteeing that Member States transpose Union legislation in a timely and correct fashion. They demand that those who are lagging behind and have not implemented the laws on time should be named.

Lastly, noting that the national courts play a vital role in applying EU law, the report fully supports the EU's efforts to enhance and coordinate judicial training for legal, judicial and administrative authorities and legal professionals, officials and civil servants in the national administrations, as well as regional and local authorities at European level.

28th annual report on monitoring the application of EU law (2010)

2011/2275(INI) - 21/11/2012 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on the 28th Annual Report on monitoring the application of EU law (2010).

The resolution endorses the Commission's 'smart regulation' approach which focuses on integrating the monitoring of the application of EU law into the wider policy cycle. **Transposition of directives:** viewing as regrettable the enormous number of non-communication cases (470 pending in 2010), Parliament encourages the Commission to follow even more closely the transposition of directives before the end of the transposition deadline, particularly as far as Member States with a 'bad record' are concerned, in order to be able to intervene swiftly. It also calls on the Commission and the Member States to act jointly and consistently to tackle the problem of '**gold-plating'**.

Parliament deplores the absence in the Commission's new communication of any reference to EU Pilot, which is, as defined by the Commission itself, a 'well-established working method. It calls on the Commission to **clarify the status of the EU Pilot system** and to define clearly the framework and rules of its application in such a way that they will be understood by citizens.

Infringement proceedings: Parliament emphasises, overall, that additional efforts must be undertaken to **increase transparency and reciprocity in communication between Parliament and the Commission**. It stresses that an overriding public interest might well justify access to information on complaints, infringement files and other enforcement mechanisms, particularly in cases where danger to human health and irreversible damage to the environment may be at stake.

The resolution regrets that Parliament's call for the establishment of a 'procedural code' has not been followed up. It therefore calls, once again, on the Commission to propose in the form of a regulation with Article 298 TFEU as its legal basis, a **procedural code setting** out the various aspects of the infringement procedure and the pre-infringement procedure, including notifications, binding time limits, the right to be heard, the obligation to state reasons, and the right for every person to have access to her or his file, in order to reinforce citizens' rights and guarantee transparency.

Petitions: Members welcome the specific section on petitions contained in the 28th annual report, as requested by Parliament. They highlight the significant number of petitions received on issues related to **environmental legislation** (in particular with regard to waste management provisions) and

urge the implementation of the Union's environmental legislation. Given that a significant number of the petitions relate to fundamental rights concern the **free movement of persons**, they call on the Commission and the Member States to make greater efforts in this area to ensure the full and prompt transposition of European Union law.

Article 260(3) of the Treaty on the Functioning of the EU: the resolution welcomes the Commission's undertaking to make use of Article 260(3) TFEU as a matter of principle in cases of failure to fulfil an obligation covered by this provision, which concerns the transposition of directives adopted under a legislative procedure. Members consider it of the utmost importance that the Commission makes use of this possibility, **together with all other possible means** of guaranteeing that Member States transpose Union legislation in a timely and correct fashion. They demand that those who are lagging behind and have not implemented the laws on time should be named.

Judicial training: lastly, noting that the national courts play a vital role in applying EU law, the resolution fully supports the EU's efforts **to enhance and coordinate judicial training** for legal, judicial and administrative authorities and legal professionals, officials and civil servants in the national administrations, as well as regional and local authorities at European level.

28th annual report on monitoring the application of EU law (2010)

2011/2275(INI) - 29/09/2011 - Non-legislative basic document

The 28th annual report on monitoring the application of EU law (2010) focuses on strategic questions and evaluating the current state of the law. The year was marked by activities designed to apply and improve infringement management by the Commission, initiated in 2007 by means of the communication entitled "A Europe of results – applying Community law"

- Special emphasis was laid on the **efficient management of cases** through consistent further development and evaluation of the functioning of EU Pilot, the tool for dialogue and problem-solving with the Member States. This built on action already undertaken in 2009 by putting in place a new registration system (**CHAP** 'Complaints Handling – *Accueil des Plaignants')* for complaints and enquiries on the application of EU law by a Member State.
- The Commission also stepped up its **preventive measures**, for example, by including prospective application of EU law in its impact assessments for new initiatives and by promoting implementation plans to support the transposition process for new directives.
- the adoption of the **revised Framework Agreement on the relations between the European Parliament and the Commission** resulted in more comprehensive provisions on information and cooperation in the area of infringements policy.

Ongoing proceedings: the report notes that the **number of infringement procedures fell in 2010 c**ompared with previous years (2 100 cases compared with 2 900 in 2009). Although at this stage it is not possible to identify all the reasons for this tendency, one explanation is the setting up of EU Pilot, which helps to clarify and solve satisfactorily some issues regarding application of EU law raised by the Commission, thus putting an end to problems without being necessary to launch infringement proceedings. Environment, internal market and taxation legislation remain at the top of the policy fields involved in infringements, whilst issues related to environment, free movement of persons and fundamental rights attracted the most petitions to the European Parliament.

Key issues to be addressed:

Late transposition: there are still clearly identified areas where late transposition of directives is a frequent pattern, such as environment, internal market, transport and judicial cooperation, fundamental rights and citizenship. The Lisbon Treaty has given an additional instrument to the Commission that could help to change this unsatisfactory situation (**Article 260(3) TFEU**). This article allows the Commission to request, at an earlier stage of the procedure, financial sanctions against Member States for failure to notify measures transposing a directive adopted under a legislative procedure.

Management of cases: with the introduction of CHAP in September 2009, the Commission now has an IT tool which is specifically designed for the registration and management of complaints and enquiries by European citizens on the application of EU law by a Member State. The EU Pilot project has been operating since April 2008 with the aim of providing quicker and better answers to questions raised by citizens or businesses and solutions to those problems arising in the application of EU law.

The Commission will **develop further its databases** for the management of cases related to the application of EU law. The Commission will explore the extension of EU Pilot as an instrument of problem-solving and prevention to all Member States. The general approach pursued by the Commission is to ensure **systematic registration** of all complaints/enquiries on the application of EU law, to seek swift problem-solving by using EU Pilot and, where necessary, to launch and pursue vigorously infringement proceedings.

Enforcement issues: the Commission will further reinforce and promote problem-solving instruments such as **SOLVIT**, networks such as **IMPEL** and will continue examining whether further mechanisms should be added to the current system of EU remedies in order to strengthen the enforcement of EU law. It will also take measures to enhance synergies between existing problem-solving tools, where possible, so as to ensure that problems are resolved in the most effective manner, to the benefit of European citizens and businesses.

Preventive measures: to pre-empt transposition and application problems with new legislation, the Commission will continue to use a range of preventive measures, including **implementation plans**, to support ultimately the smooth and accurate implementation of the future directives. As an example, the Green Paper on the future of VAT seeks to identify ways to simplify the EU VAT system to make its transposition easier. Preventive measures will *also* focus on citizens' involvement in the application of EU law.

Correlation tables: correlation tables are used to show how Member States have transposed EU law into national law by presenting how each element of EU law has been transposed. The Commission considers that in many cases correlation tables are important instruments which help it to ensure the effective implementation of directives. The Commission will therefore include appropriate wording in its proposals. It is committed to working with Council and European Parliament to find a solution which enhances transposition and compliance.

Transparency: the Commission will further promote transparency on its infringement policy within the legal and judicial limits. Transparency was also among the aspects underlined in the revised Framework Agreement on the relations between the European Parliament and the Commission.

In **2011** the Commission will continue to focus on key areas of this strategic approach, in particular on:

- **effective problem-solving**: e.g. broadening the use of EU Pilot with a view to including all Member States;
- **efficient management**: improving management of infringement-related cases in line with the Commission's benchmarks;
- **preventive measures**: e.g. ensuring a systematic and coherent approach to implementation plans;

***Smart Regulation*:** integrating the monitoring of the application of EU law more fully into the wider legislative life cycle.