Basic information

2013/2119(INI) INI - Own-initiative procedure	Procedure completed
29th annual report on monitoring the application of EU Law (2011) **Subject** 8.50.01 Implementation of EU law	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	LICHTENBERGER Eva (Verts/ALE)	15/04/2013
	Shadow rapporteur GERINGER DE OEDENBERG Lidia Joanna (S&D) WIKSTRÖM Cecilia (ALDE)	

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
AFCO Constitutional Affairs	MESSERSCHMIDT Morten (EFD)	23/04/2013
PETI Petitions	PAKSAS Rolandas (EFD)	16/09/2013

European Commission

Commission DG	Commissioner
Justice and Consumers	REDING Viviane

Key events

Date	Event	Reference	Summary

30/11/2012	Non-legislative basic document published	COM(2012)0714	Summary
13/06/2013	Committee referral announced in Parliament		
21/01/2014	Vote in committee		
27/01/2014	Committee report tabled for plenary	A7-0055/2014	Summary
03/02/2014	Debate in Parliament		
04/02/2014	Decision by Parliament	T7-0051/2014	Summary
04/02/2014	Results of vote in Parliament		
04/02/2014	End of procedure in Parliament		

Technical information

Procedure reference	2013/2119(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/7/12947

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	AFCO	PE521.726	26/11/2013	
Committee opinion	PETI	PE513.298	27/11/2013	
Committee draft report		PE524.709	03/12/2013	
Amendments tabled in committee		PE526.222	08/01/2014	
Committee report tabled for plenary, single reading		A7-0055/2014	27/01/2014	Summary
Text adopted by Parliament, single reading		T7-0051/2014	04/02/2014	Summary

European Commission

Document type	Reference	Date	Summary
Commission document (COM)	COM(2012)0714	30/11/2012	Summary
Commission response to text adopted in plenary	SP(2014)414	18/06/2014	

29th annual report on monitoring the application of EU Law (2011)

2013/2119(INI) - 30/11/2012 - Non-legislative basic document

PURPOSE: to present the 29th annual report on monitoring the application of EU law (2011).

CONTENT: this Report reviews performance on key aspects of the application of EU law and provides an overview of strategic issues.

The main findings of the report are as follows:

Incorrect transposition and bad application of EU laws: the correct application of EU law continues to present challenges for the Member States. Problems are frequent in the early stages of implementation, with late transposition becoming increasingly problematic.

Late transposition infringements have steadily increased for the past three years, indicating a worrisome trend. Compared to the end of 2010, 763 late transposition cases were open at the end of 2011, representing a 60% increase. The three policy areas where the most late transposition infringements were launched in 2011 were transport (240 procedures), internal market & services (198) and health & consumers (164).

Monitoring late transposition is a Commission priority and it proposes fines under the special penalty regime established by Article 260(3) TFEU against Member States if they do not transpose directives in time. The Commission referred the first late transposition infringement to the Court with a request for financial sanctions under Article 260(3) TFEU in late 2011. Five Member States were involved in nine such decisions in 2011: Austria (1 case), Germany (3), Greece (1), Italy (1) and Poland (3).

Problem solving mechanisms: once detected, problems are followed up by bilateral discussions between the Commission and the Member State concerned in order to remedy them, to the extent possible, using the **EU Pilot platform**. During 2011, a further 7 Member States joined EU Pilot, bringing the total number of participants up to 25. **The problem-solving discussions under EU Pilot allowed for timely resolution** of nearly two thirds of potential infringements in 2011.

Infringement procedures: the number of formal infringement procedures launched **continued to decrease** as did the number of cases referred to the ECJ. At the end of 2011, 1775 infringement cases were open against 2100 cases in 2010 and nearly 2900 cases in 2009.

Statistics confirm that **Member States make serious efforts to settle their infringements without Court procedures**. In total, 399 infringement cases were closed because the Member State has demonstrated its compliance with EU law.

Member States usually take the necessary measures to **comply with the judgment of the Court** in a timely manner. However, at the end of 2011, the Commission still had to continue 77 infringement procedures under Article 260(2) TFEU given that Member States failed to comply with Court judgments. Most of these cases concerned Greece, Italy and Spain. Almost half of the infringements related to environment with a few cases also in the fields of internal market & services and transport.

Infringements in the policy cycle: the data on performance of Member States in the application of law feeds into the policy cycle. Understanding the challenges of transposition and application of law are essential at the early stages of policy development (for example, at the stage of the impact assessment). Looking at the implementation challenge at the impact assessment phase facilitates further work on implementation downstream. The Commission can support the competent national authorities in ensuring the correct transposition and application of EU rules by identifying the main risks for timely and correct implementation of new (or amended) pieces of legislation and recommending actions to mitigate those risks in implementation plans.

The Commission prepared a number of implementation plans for strategic initiatives in 2011. These included insider dealing and market manipulation (market abuse); alternative dispute resolution for consumer disputes; amendments to Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts; and the Common Consolidated Corporate Tax Base.

Other forms of support to the Member States include bilateral contact between the national administrations and the Commission, convening of expert groups and the release of guidelines, handbooks, interpretative notes and working papers.

The Commission as guardian of the Treaties will **continue to actively monitor the application of EU law**. Implementation is key for successful and efficient policy-making at EU level and an integral component of the Commission's Smart Regulation agenda.

29th annual report on monitoring the application of EU Law (2011)

2013/2119(INI) - 04/02/2014 - Text adopted by Parliament, single reading

The European Parliament adopted by 564 votes to 28, with 34 abstentions, a resolution on the 29th annual report on monitoring the application of EU law (2011).

Reiterating its view that Article 17 of the Treaty on European Union (TEU) defines the fundamental role of the Commission as ‘guardian of the Treaties’, Members called on the Commission to make compliance with EU law a **real political priority to be pursued in close collaboration with Parliament**, which has a duty (a) to keep the Commission politically accountable and (b), as co-legislator, to make sure that it is itself fully informed with a view to constantly improving its legislative work.

Statistics: Parliament noted that the annual report also showed an increase in late-transposition cases over the last few years (1185 in 2011, 855 in 2010, 531 in 2009), and that the four most infringement-prone policy areas are the environment (17 %), the internal market (15 %), transport (15 %) and taxation (12 %).

The report also noted the decreasing proportion of infringement cases (60.4 %) closed in 2011 before reaching the Court of Justice, in comparison with 88 % of cases in 2010.

Members noted that in total 399 infringement cases were closed because the Member State demonstrated its compliance with EU law, making serious efforts to settle the infringement without court proceedings. In late 2011, the Commission referred the first late-transposition infringement to the Court of Justice with a request for financial sanctions under Article 260(3) TFEU.

Members stated, nevertheless, that these statistics are **not an accurate reflection of the actual deficit in compliance with EU law**, but 'only represent the most serious breaches or the complaints of the most vocal individuals or entities'. **The Commission currently has neither the policy nor the resources to systematically identify and enforce all cases of non-implementation'.**

Compliants and petitions: Members stated that, as regards the functioning of infringement procedures under Articles 258 and 260 TFEU, the Commission should ensure that **petitions** to Parliament and complaints to the Commission are treated with equal consideration. Petitions are evidence that there are still frequent and widespread instances of incomplete transposition or of misapplication of EU law.

EU Pilot platform: the EU Pilot is an online platform used by the Member States and the Commission to clarify the factual and legal background to problems arising in relation to the application of EU law. Members deplored the EU Pilot's lack of legal status and considered that legitimacy can only be ensured by enabling transparency, participation of complainants and of the European Parliament. They stated that legality can be ensured through the adoption as soon as possible of a **legally binding act** containing the rules governing the whole pre-infringement and infringement procedure. They considered that such a legally binding act should clarify the legal rights and obligations of individual complainants and of the Commission, respectively, and strive to allow the participation of complainants in the EU Pilot, as far as possible, at least ensuring that they are informed of the different stages of the procedure.

They suggested that the implementation of the **EU Pilot platform needs to be enhanced in terms of transparency vis-à-vis complainants**. They requested access to the database in which all complaints are collected, in order to enable Parliament to carry out its function of scrutinising the Commission's role as guardian of the Treaties.

Lastly, Parliament welcomed the fact that all the Member States are taking part in the EU Pilot and hoped that this will lead to a further reduction in the number of infringement procedures.

The question of the EU Pilot and, more generally, of infringements of EU law and Parliament's access to relevant information relating to the pre-infringement and infringement procedure, is considered to be an essential point to be put on the agenda in connection with a future interinstitutional agreement. However, more should be done to inform citizens about the EU Pilot.

29th annual report on monitoring the application of EU Law (2011)

2013/2119(INI) - 27/01/2014 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted the own-initiative report by Eva LICHTENBERGER (Greens/EFA, AT) on the 29th annual report on monitoring the application of EU law (2011).

According to Article 298 of the Treaty on the Functioning of the European Union (TFEU), in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.

The Legal Service of the European Parliament and the **EU Pilot**, an online platform used by the Member States and the Commission to clarify the factual and legal background to problems arising in relation to the application of EU law, **do not have any legal status.** According to the Framework Agreement on Relations between the European Parliament and the European Commission, the latter has to make available to Parliament summary information concerning all infringement procedures from the letter of formal notice, including on a case-by-case basis, and **may only refuse access to personal data in the EU Pilot**.

According to its 29th annual report, the Commission has decreased the number of new infringement procedures in recent years, having opened 2900 such procedures in 2009, 2100 in 2010 and 1775 in 2011. Furthermore, the annual report also showed an increase in late-transposition cases over the last few years (1185 in 2011, 855 in 2010, 531 in 2009), and that the four most infringement-prone policy areas are the environment (17 %), the internal market (15 %), transport (15 %) and taxation (12 %).

The report also noted the decreasing proportion of infringement cases (60.4 %) closed in 2011 before reaching the Court of Justice, in comparison with 88 % of cases in 2010.

Members noted that in total 399 infringement cases were closed because the Member State demonstrated its compliance with EU law, making serious efforts to settle the infringement without court proceedings. In late 2011, the Commission referred the first late-transposition infringement to the Court of Justice with a request for financial sanctions under Article 260(3) TFEU.

Members stated, nevertheless, that these statistics are **not an accurate reflection of the actual deficit in compliance with EU law**, but 'only represent the most serious breaches or the complaints of the most vocal individuals or entities'. **The Commission currently has neither the policy nor the resources to systematically identify and enforce all cases of non-implementation'.**

Members stated that, as regards the functioning of infringement procedures under Articles 258 and 260 TFEU, the Commission should ensure that **petitions** to Parliament and complaints to the Commission are treated with equal consideration. Petitions are evidence that there are still frequent and widespread instances of incomplete transposition or of misapplication of EU law. The Commission is called upon to make compliance with EU law a real political priority to be pursued in close collaboration with Parliament, to make sure that it is itself fully informed with a view to constantly improving its legislative work.

EU Pilot platform: Members deplored the EU Pilot's lack of legal status and considered that legitimacy can only be ensured by enabling transparency, participation of complainants and [of the European Parliament] … in the EU Pilot, and that legality can be ensured through the adoption as soon as possible of a **legally binding act** containing the rules governing the whole pre-infringement and infringement procedure. They considered that such a legally binding act should clarify the legal rights and obligations of individual complainants and of the Commission, respectively, and strive to allow the participation of complainants in the EU Pilot, as far as possible, at least ensuring that they are informed of the different stages of the procedure.

They suggested that the implementation of the **EU Pilot platform needs to be enhanced in terms of transparency vis-à-vis complainants**. They requested access to the database in which all complaints are collected, in order to enable Parliament to carry out its function of scrutinising the Commission's role as guardian of the Treaties.

It called once again on the Commission, therefore, to propose binding rules in the **form of a regulation** under the new legal basis provided by Article 298 TFEU, so as to ensure full respect for citizens' right to good administration.

Lastly, Members welcomed the fact that all the Member States are taking part in the EU Pilot and hoped that this will lead to a further reduction in the number of infringement procedures.

The question of the EU Pilot and, more generally, of infringements of EU law and Parliament's access to relevant information relating to the pre-infringement and infringement procedure, is considered to be an essential point to be put on the agenda in connection with a future interinstitutional agreement. However, more should be done to inform citizens about the EU Pilot.