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## REPORT

on standardising and rationalising reports on implementation of directives on  
the environment  
(2001/2275(INI))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Caroline F. Jackson



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## PROCEDURAL PAGE

At the sitting of 17 January 2002 the President of Parliament announced that the Committee on the Environment, Public Health and Consumer Policy had been authorised to draw up an own-initiative report, pursuant to Rule 163 of the Rules of Procedure, on standardising and rationalising reports on implementation of directives on the environment.

The Committee on the Environment, Public Health and Consumer Policy appointed Caroline F. Jackson rapporteur at its meeting of 22 January 2002.

It considered the draft report at its meetings of 4 June and 10 July 2002.

At the last meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Mauro Nobilia, acting chairman; Alexander de Roo and Anneli Hulthén, vice-chairmen; Caroline F. Jackson, rapporteur; Per-Arne Arvidsson, María del Pilar Ayuso González, Hans Blokland, Philip Bushill-Matthews (for John Bowis), Anne Ferreira, Francesco Fiori, Karl-Heinz Florenz, José Manuel García-Margallo y Marfil, Robert Goodwill, Françoise Grossetête, Heidi Anneli Hautala (for Hiltrud Breyer), Marie Anne Isler Béguin, Christa Klauf, Eija-Riitta Anneli Korhola, Bernd Lange, Peter Liese, Torben Lund, Jules Maaten, Minerva Melpomeni Malliori, Jorge Moreira da Silva, Emilia Franziska Müller, Riitta Myller, Giuseppe Nisticò, Ria G.H.C. Oomen-Ruijten, Frédérique Ries, Didier Rod (for Patricia McKenna), Guido Sacconi, Ursula Schleicher (for Marialiese Flemming), Inger Schörling, Jonas Sjöstedt, María Sornosa Martínez, Antonios Trakatellis, Kathleen Van Brempt.

The report was tabled on 11 July 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## MOTION FOR A RESOLUTION

### European Parliament resolution on standardising and rationalising reports on implementation of directives on the environment (2001/2275(INI))

*The European Parliament,*

- having regard to Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment<sup>1</sup>,
  - having regard to Rule 163 of its Rules of Procedure,
  - having regard to the report of the Committee on the Environment, Public Health and Consumer Policy (A5-0259/2002),
- A. Whereas the Standardised Reporting Directive 91/692/EEC requires Member States to report information on the implementation of 30 directives relating to air, water and waste,
- B. Whereas all existing reporting obligations concern around 100 legislative items while at least another 100 items do not contain such requirements,
- C. Whereas international conventions to which Member States are parties also oblige them to report,
- D. Whereas information is collected with the help of questionnaires and processed by Eurostat, the European Environment Agency and independent experts,
- E. Whereas the 6<sup>th</sup> Environment Action Programme<sup>2</sup> invites the Commission to review reporting systems with a view of ensuring streamlined high quality reporting and comparable and relevant environmental data and information,
- F. Whereas the purpose of the introduction of reporting obligations was to enable the Member States and the Commission to assess the progress made in the implementation of environment legislation and to provide the general public with a source of information, but Member States' failure to report has meant that there is no such comprehensive picture,

#### **A failing system**

1. Concludes that the introduction of a standardised reporting system on air, water and waste through the 1991 directive has done little to solve the basic problem of non-reporting in the environmental sector, and that Member States are still failing to meet their basic obligations to report by a due date to the Commission on the implementation of environment directives.

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<sup>1</sup> OJ L 377, 31.12.1991, p. 48

<sup>2</sup> Texts adopted, 17.1.2002, item 2, p. 3

2. Notes that even following the introduction of the 1991 directive the Commission has started 19 infringement procedures against the Member States due to their failure to report in time, and that as a consequence of these delays, the publication of consolidated reports has been regularly delayed.
3. Further notes that the 1991 directive is limited to certain sectors and that half of the key items of Community environment legislation contain no reporting requirements on implementation measures.
4. Draws attention to the fact that the reporting directive does not determine in detail the contents of reporting, that the questionnaires designed to facilitate reporting have not been harmonised and that the data provided by the Member States does not allow in-depth analysis.
5. Believes that the questionnaires sent out under the 1991 directive deliver information that, while time-consuming to collect and digest, cannot easily be made use of; the questions will also fail to give a useful picture of what effect environmental legislation is actually having on the environment: consequently the reporting directive is failing to give value by providing evidence that will be of clear use for the improvement of future environment policy.
6. Points out that the existing Commission websites do not provide systematic information on reporting nor an easy access to individual reports; therefore the relevant information is difficult to find and the overall picture on reporting is very confusing.

#### **Possible remedies**

7. Considers that the Commission must now decide to take the reporting requirements more seriously, and follow-up much more rigorously and openly instances of non-reporting, since these can delay the whole timetable for getting better compliance.
8. Sees a need to separate out basic reporting on transposition from more subjective reporting on the effect of EU law on the state of the environment, and therefore recommends that the basic reporting requirement should be very simple and focus on
  - The date of transposition into national law
  - The mode of transposition
  - The text of relevant national, regional and/or local law
  - Identification of the competent authorities
  - Identification of means of enforcement and of penalties for non-compliance.
9. Believes that further information should be the subject of separate reports, otherwise the record of the Commission in extracting reports and working on better enforcement will get even worse; underlines however the importance and complementarity of information related to environmental data, description of policy measures, policy effects and effectiveness; believes that the Commission - in collaboration with the European Environmental Agency - shall also continuously improve the quality of information in this field.

10. Sees the need for much greater transparency about the reporting process, so that MEPs, NGOs and others can monitor what is happening more easily: therefore recommends that the Commission establishes an environmental reporting web page, where the reports submitted by the Member States and the dates for reports to be submitted are listed for all environmental directives in force, together with a list of the countries that have complied with the reporting requirement or are in breach of it.
11. Believes that the Commission should publish and place on the relevant web page consolidated reports following the 3 yearly reporting deadline on major directives even where such consolidated reports might have to draw attention to the complete failure of some Member States to send in information, since the consequent bad publicity for the states in question could be a spur to do better.
12. Calls for the introduction of more vigorous and rapid enforcement procedures, and in particular a fining system whereby Member States which fail to provide the Commission with specified information by the legally required dates shall automatically, and without recourse to the commencement of formal infringement procedures, be liable to a fine per day and per item until the reporting requirements have been met.

#### **Reporting requirements in the context of EU enlargement**

13. Emphasises the very great urgency of putting in place a streamlined, reliable reporting system before enlargement of the EU takes place since what is poorly controlled now will otherwise become completely out of control after enlargement.
14. Believes that, as part of the revision of the 1991 reporting directive, the Commission should come forward with proposals for requiring new Member States publicly to report progress annually in bringing to an end the transitional arrangements that allow them to delay the full implementation of EU environment laws.
15. Instructs its President to forward this resolution to the Council and Commission.

## **EXPLANATORY STATEMENT**

The aim of the 1991 reporting directive was clear: to obtain more information from the Member States on how they were implementing the detailed requirements of environmental directives. It was seen as an answer to the lack of information on what was happening. To make things easier for Member States, and to reduce any potential excuses that reporting would take time and resources, the information was to be supplied in the form of answers to questionnaires. As an example, the questionnaire for reporting measures to transpose and implement the 1994 directive on the incineration of hazardous waste can be found in Official Journals L256 (19.9.1997) pages 16 - 19 and L67 (7.3.1998) pages 48 - 50.

However, in the view of the rapporteur, the 1991 directive was never clear in deciding the purpose to which the information collected – if it was collected – was to be put. The questions asked did not go to the heart of implementation failures, and allowed plenty of scope for evasion, while there is no evidence that the directive has brought improved compliance or better oversight. Despite the introduction of the reporting directive, the reporting system as a whole remained underdeveloped. Nobody was really responsible for updating and further developing it. The purpose and the expected added value of reporting were not given a proper thought.

It is therefore not surprising the 6<sup>th</sup> Environment Action Plan lists as a “priority action” the need to reform the system. The only surprise is that it has taken the Commission 10 years to realise that the 1991 directive is not working as it should have been.

### **What was the aim of the directive?**

Directive 91/692/EEC was supposed to rationalise and improve the transmission of information and the publication of reports concerning the implementation of environmental directives in the areas of water, air and waste. In fact the 1991 directive is the only across-the-board legal instrument organising reporting in EU environment law.

The directive was superimposed on a rather confused existing pattern. Some directives contained no reporting requirements at all: here the 1991 directive introduced a reporting requirement for the first time. Others already had reporting requirements of some sort, which the 1991 directive supplemented. Yet others related to international conventions to which the Member States as parties were obliged to report already. Here again the 1991 directive introduced additional EU-related requirements.

Under the 1991 directive Member States have undertaken an obligation to transmit reports covering the following points:

- Legal transposition – details of national laws enacting EU legislation
- Practical compliance – data on exceedances of environmental standards, limit values, national derogations etc.

However, individual directives may contain extra reporting requirements on

- Environmental data – on environmental pressures and state of the environment
- Descriptions of policy measures – plans, programmes and instruments put in place by Member States to comply with the EU legislation;



- Policy effects and effectiveness – the effects of the measures undertaken.

### **What value does the 1991 directive add?**

The question of legal transposition – a basic building block of implementation - already stood as a basic obligation on Member States before the 1991 directive was adopted. Should Member States not communicate to Brussels the means of transposition, comply with the directive or apply it in the wrong way, the Commission may begin infringement procedures against them.

The reports produced under the 1991 directive mainly function as a source of basic information on practice compliance and, to a much lesser extent, as a source of information on other things, notably the effectiveness of the policy as registered by changes in the state of the environment. It is important to note that the reporting directive itself does not determine in detail the contents of what is to be reported – through a questionnaire – on each directive. The directive serves merely as a tool for organising the information in certain areas. In general Member States are to report to the Commission on the implementation of directives containing reporting requirements either every year or at intervals of three years. Reports under the 1991 directive are to be drawn up on the basis of a questionnaire designed by the Commission.

### **Does the directive ask the right questions?**

Questionnaires are tailored by the Commission to the requirements specified in each individual directive. Overall the impression is that the information gained – if it is gained at all – may add to the confusion of the questioner, and make it more difficult to get better implementation. Member States could send the Commission such a mound of information that it would take years for any hapless official to work through it. Even then the questions asked sometimes do not explore reasons for non-compliance, and could do so. They also fail to ask for details on who is responsible, at the national, regional or local level for implementing a directive, and for overseeing its implementation. In an enlarged EU it will be particularly important for the Commission to be able to identify the “competent authorities” and to assess their competence. Furthermore, although EU law cannot specify penalties, it would be instructive for questionnaires to gather information about what penalties are in force nationally and locally for non-observance of EU environment law. Differences here could be a fruitful topic for discussion among EU environment ministers in future.

### **What does the Commission do with the information obtained?**

There should be two answers to this question. First the information from the reports should furnish the background to any action that the Commission takes against Member States for non-compliance. Secondly, the information, in consolidated form, should be published as a means of keeping continual oversight of what is happening.

The actual evidence of a clear connection between information from the reports and Commission action to secure better implementation is patchy. The problems are well known: no reports can mean no action, or a very long delay before the Commission does anything. This may be due to low staff resources but is also connected with the culture of the Commission which tends to want to press on to the next directive rather than consolidate what already exists.

The Commission does publish the information obtained in consolidated reports, such as the report on the application of the Seveso directive (82/501/EEC), and the report on the implementation of Community waste legislation (directives 75/442/EEC, 91/689/EEC, 75/439/EEC and 86/278/EEC). But the time it takes to publish these means that they are of very little use to MEPs or anyone else.

The Member States are required to report every three years. If the reporting is delayed and the Commission is obliged to start infringement procedures in order to get the information, many years pass before the information is complete. Consequently the Commission cannot publish consolidated reports based on national reports within a time frame where publication would be useful, and gain publicity. A striking example is the recent report on the Birds directive. It relates to the state of implementation in 1996-1998 and was published in March 2002. This was so long delayed that the Environment Committee of the Parliament has refused to draw up a report on it.

Another problem with consolidated reports is that they are freestanding, working to their own timetable and to the questions originally asked about the application of a single directive. This makes it more difficult for the Commission to come up with a coherent picture of what is happening over a whole sector of policy – as with waste management.

For the future, the rapporteur underlines her belief that the Commission must act urgently to put a simple and useful system in place. The oversight and enforcement of the implementation of EU environmental law is already very unsatisfactory. We will shortly be adding new Member States who have concluded many “transitional arrangements” allowing them to delay the implementation of existing EU environment law, and who also have an unknown bureaucratic capacity or willingness for getting information back to Brussels. Existing Member States will be only human if they take enlargement as a signal to relax their efforts to comply with legislation that new Member States are not having to apply. We will need reports on the progressive elimination of these transitional arrangements by the new Member States as much as we do on enforcement by existing Member States who do have the capacity to act but not the real will to do so.