



TEXTS ADOPTED

P8_TA(2016)0385

2014 Annual report on monitoring the application of Union law

European Parliament resolution of 6 October 2016 on monitoring the application of Union law: 2014 Annual Report (2015/2326(INI))

The European Parliament,

- having regard to the 32nd annual report on monitoring the application of Union law (2014) (COM(2015)0329),
- having regard to the report by the Commission entitled ‘EU Pilot Evaluation Report’ (COM(2010)0070),
- having regard to the report by the Commission entitled ‘Second Evaluation Report on EU Pilot’ (COM(2011)0930),
- having regard to the Commission communication of 20 March 2002 on relations with the complainant in respect of infringements of Community law (COM(2002)0141),
- having regard to the Commission communication of 2 April 2012 entitled ‘Updating the handling of relations with the complainant in respect of the application of Union law’ (COM(2012)0154),
- having regard to the Framework Agreement on Relations between the European Parliament and the European Commission,
- having regard to the Interinstitutional Agreement on better law-making between the European Parliament, the Council of the European Union, and the European Commission,
- having regard to its resolution of 10 September 2015 on the 30th and 31st annual reports on monitoring the application of EU Law (2012-2013)¹,
- having regard to Rules 52 and 132(2) of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs and the Committee on Petitions (A8-0262/2016),

¹ Texts adopted, P8_TA(2015)0322.

- A. whereas Article 17 of the Treaty on European Union (TEU) defines the fundamental role of the Commission as ‘guardian of the Treaties’;
 - B. whereas, according to Article 6(1) TEU, the Charter of Fundamental Rights of the European Union (CFREU) has the same legal value as the Treaties, and is addressed to the institutions, bodies, offices and agencies of the Union and the Member States when they are implementing Union law (Article 51(1) CFREU);
 - C. whereas, according to Article 258 (1) and (2) TFEU, the Commission shall deliver a reasoned opinion to a Member State when it considers that the latter has failed to fulfil an obligation under the Treaties, and may bring the matter before the Court of Justice if the Member State in question does not comply with the opinion within a deadline set by the Commission;
 - D. whereas the Framework Agreement on Relations between the European Parliament and the European Commission provides for sharing of information concerning all infringement procedures based on letters of formal notice, but does not cover the informal EU Pilot procedure which precedes the opening of formal infringement proceedings;
 - E. whereas the Commission invokes Article 4(3) TEU and the principle of sincere cooperation between the Union and Member States in order to enforce its obligation to exercise discretion in relation to Member States during EU Pilot procedures;
 - F. whereas EU Pilot procedures are intended to make for closer and more coherent cooperation between the Commission and Member States so as to remedy breaches of EU law at an early stage in order, wherever possible, to avert the need to resort to formal infringement proceedings;
 - G. whereas in 2014, the Commission received 3 715 complaints reporting potential breaches of EU law, with Spain (553), Italy (475) and Germany (276) being the Member States that most complaints were filed against;
 - H. whereas in 2014, the Commission launched 893 new infringement procedures, with Greece (89), Italy (89) and Spain (86) being the Member States with the highest number of open cases;
 - I. whereas Article 41 CFREU defines the right of good administration as the right for every person to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, and whereas Article 298 TFEU stipulates that, 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;
1. Recalls that the Commission is, according to Article 17 TEU, responsible for ensuring the application of Union law, including the CFREU (Article 6(1) TEU), the provisions of which are addressed to the institutions, bodies, offices and agencies of the Union and to the Member States when they are implementing Union law;
 2. Recognises that the primary responsibility for the correct implementation and application of EU law lies with the Member States, but points out that this does not absolve the EU institutions of their duty to respect primary EU law when they produce secondary EU law;
 3. Stresses the Commission’s essential role in overseeing the application of EU law and submitting its annual report to Parliament and the Council; calls on the Commission to

continue its active role in developing various tools to improve EU law implementation, enforcement and compliance in the Member States, and to provide data, in addition to that on the implementation of EU directives, on implementation of EU regulations in its next annual report;

4. Recognises that the primary responsibility for the correct implementation and application of EU law lies with the Member States, and emphasises that the Member States, when implementing EU law, must also respect in full the fundamental values and rights enshrined in the Treaties and the Charter of the Fundamental Rights of the EU; recalls that the monitoring and evaluation of the implementation of EU law lies with the Commission; calls, to this end, repeatedly on the Member States to make systematic use of correlation tables, but points out that this does not absolve the EU institutions of their duty to respect primary EU law when they produce secondary EU law; is reminded of the need to make use of its implementing reports regarding sectorial legislations;
5. Acknowledges that Parliament also has a crucial role to play in this regard by exercising political oversight of the Commission's enforcement actions, scrutinising the annual reports on monitoring the implementation of EU law and adopting relevant parliamentary resolutions; suggests that it could contribute further to the timely and accurate transposition of EU legislation by sharing its expertise in the legislative decision-making process through pre-established links with national parliaments;
6. Notes that timely and correct transposition of EU law into national legislation and a clear domestic legislative framework should be a priority for the Member States, with a view to avoiding breaches of EU law while delivering to individuals and businesses the intended benefits made possible by the efficient and effective application of EU law;
7. Underlines the important role of the social partners, civil society organisations and other stakeholders in creating legislation and in monitoring and reporting shortcomings in the transposition and application of EU law by the Member States; notes the Commission's acknowledgment of stakeholders' role by launching new tools in 2014 which facilitate this process; encourages stakeholders to remain vigilant in this regard in the future;
8. Acknowledges the impact of effective application of EU law on strengthening the credibility of the EU institutions; appreciates the importance attributed in the Commission's annual report to petitions submitted by citizens, businesses and civil society organisations, a fundamental right enshrined in the Lisbon Treaty, an important element of European citizenship and an important secondary means of monitoring the application of EU law and identifying possible loopholes in it through the direct expression by citizens of their views and experiences, alongside elections and referendums which remain their primary avenue for democratic expression;
9. Considers that unrealistic implementation deadlines for legislation can result in Member States being unable to comply, providing tacit endorsement for delaying application; calls on the European institutions to agree on more suitable timetables for the implementation of regulations and directives, whereby due account is taken of necessary scrutiny and consultation periods; believes that the Commission should deliver reports, reviews and legislative revisions on the dates agreed by co-legislators and as laid down in the relevant legislation;
10. Welcomes the fact that the new Interinstitutional Agreement on better law-making contains provisions that aim to improve the implementation and application of EU law and

to encourage more structured cooperation in this respect; supports the call, expressed in the agreement, for better identification of national measures that are not strictly related to Union legislation (a practice known as ‘gold plating’); stresses the importance of enhancing transposition and the need for Member States to provide notification of, and clearly indicate, national measures that supplement European directives; stresses that the Member States, when applying EU legislation, should avoid adding unnecessary burdens to EU legislation, as this leads to a misconception of EU legislative activity and increases unjustified EU scepticism among citizens; points out, however, that this in no way affects the Member States’ prerogative of adopting at national level higher social and environmental standards than those agreed on at EU level;

11. Stresses that Parliament should play a stronger role in the analysis of how accession countries and countries with association agreements with the European Union comply with EU law; proposes in this regard to provide those countries with suitable assistance, in the form of ongoing cooperation with their national parliaments in the field of the observance and application of EU law;
12. Suggests that Parliament should draft proper reports, not simply resolutions, on all candidate countries in response to the annual progress reports released by the Commission, in order to give the possibility to all committees concerned to deliver relevant opinions; believes that the Commission should continue to release progress reports for all European Neighbourhood Countries that have signed association agreements, in order for Parliament to proceed with a serious and systematic assessment of the progress made by those countries on the implementation of the EU *acquis* as it relates to the association agenda;
13. Welcomes the Commission’s 32nd ‘Annual Report on Monitoring the Application of EU Law’, and notes that environment, transport, and internal market and services were the policy areas in 2013 in which most infringement cases remained open in 2014; notes as well that, in 2014, environment, health, consumer protection, mobility and transport were again the policy areas in which the highest numbers of new infringement proceedings were instituted; encourages the Commission, in the interest of ensuring inter-institutional transparency, to afford Parliament better access to cases involving infringements of EU law;
14. Notes that according to the Annual report, ‘the number of formal infringement procedures has decreased in the last five years’, and that, according to the Commission, this reflects the effectiveness of the structured dialogue with Member States via EU Pilot; considers, however, that the decrease in recent years, and the decrease expected to occur in coming years, are mainly due to the continuing fall in the number of new Commission legislative proposals; points out that the Commission does not carry out any EU Pilot procedures when directives have been transposed late;
15. Recalls that this ex post evaluation does not absolve the Commission of its duty to monitor in an effective and timely fashion the application and implementation of EU law, and notes that Parliament could assist in reviewing the implementation of legislation through its scrutiny of the Commission;
16. Notes that the increase in the number of new EU Pilot files during the period under examination, and the decrease in the number of open infringement cases, show, according to the annual report, that the EU Pilot system has proved its usefulness, and has had a positive impact by promoting more efficient enforcement of EU law; reiterates, however,

that the enforcement of EU law is neither sufficiently transparent nor subject to any real control by the complainants and the interested parties, and regrets that, despite its repeated requests, Parliament still has inadequate access to information about the EU Pilot procedure and pending cases; calls on the Commission, in this regard, to ensure greater transparency as regards information on the EU Pilot procedure, and on pending cases;

17. Is of the opinion that financial penalties for non-compliance with EU law should be effective, proportionate and dissuasive, taking into account repeated failures in the same field, and that Member States' legal rights must be respected;
18. Points out that in a European Union founded on the rule of law, and on the certainty and predictability of laws, EU citizens must, as of right, be the first to be made aware, in a clear, accessible, transparent and timely manner (via the internet and by other means), of whether and which national laws have been adopted through the transposition of EU laws, and of which national authorities are responsible for ensuring that they are correctly implemented;
19. Calls on the Commission to interlink all different portals, access points and information websites in a single gateway that will provide citizens with easy access to online complaint forms and user-friendly information on infringement procedures; calls, furthermore, on the Commission to include in its next monitoring report more detailed information on the use of those portals;
20. Points out that sincere cooperation between the Commission and Parliament is an obligation incumbent on them both; calls, therefore, for the Framework Agreement on Relations between the European Parliament and the European Commission to be revised so as to enable information about EU Pilot procedures to be supplied in the form of a (confidential) document to the parliamentary committee responsible for the interpretation and application of Union law;
21. Recalls that, in its resolution of 15 January 2013¹, Parliament called for the adoption of an EU regulation on a European law of administrative procedure under Article 298 TFEU, but that, despite the fact that the resolution was adopted by an overwhelming majority (572 in favour, 16 against, 12 abstentions), Parliament's request was not followed up by a Commission proposal; calls on the Commission to re-examine Parliament's resolution with a view to bringing forward a proposal for a legislative act in respect of the law of administrative procedure;
22. Deplores, more specifically, the fact that there has been no follow-up to its call for binding rules in the form of a regulation setting out the various aspects of the infringement and 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 his or her file – so as to reinforce citizens' rights and guarantee transparency;
23. Recalls, in this context, that the Committee on Legal Affairs has set up a new Working Group on Administrative Law which has decided to elaborate an actual draft regulation on the administrative procedure of the Union's administration as a 'source of inspiration' for the Commission, not in order to question the Commission's right of initiative, but to show that such a regulation would be both useful and feasible to enact;

¹ OJ C 440, 30.12.2015, p. 17.

24. Believes that the intent of this draft regulation is not to replace existing EU legislation, but rather to supplement this when gaps or problems arise regarding interpretation, and to bring more accessibility, clarity and coherence to the interpretation of existing rules, for the benefit of citizens and businesses and of the administration and its officials;
25. Calls, therefore, once more on the Commission to come forward with a legislative proposal on a European law of administrative procedure, taking into account the steps taken so far by Parliament in this field;
26. Recalls that the EU institutions, even when they act as members of groups of international lenders ('troikas'), are bound by the Treaties and the Charter of Fundamental Rights of the European Union;
27. Calls 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;
28. Supports the creation of a process within Parliament for monitoring the application of EU law in the Member States that is able to analyse the issue of non-compliance in a manner that is country-specific and that takes account of the fact that the relevant standing committees in Parliament monitor the application of EU law within their respective fields of competence;
29. Instructs its President to forward this resolution to the Council and the Commission, and to the Committee of the Regions, the Social and Economic Committee and the national parliaments.