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REPORT

on monitoring the application of EU law 2015
(2017/2011(INI))

Committee on Legal Affairs

Rapporteur: Kostas Chrysogonos

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on monitoring the application of EU law 2015 (2017/2011(INI))

The European Parliament,

- having regard to the 32nd Annual Report on monitoring the application of EU law (2014) (COM(2015)0329),
- having regard to the 33rd Annual Report on monitoring the application of EU law (2015) (COM(2016)0463),
- having regard to the report by the Commission entitled ‘EU Pilot Evaluation Report’ (COM(2010)0070),
- having regard to its resolution of 6 October 2016 on ‘Monitoring the application of Union law: 2014 Annual Report’¹,
- 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 Commission communication of 11 March 2014 entitled ‘A new EU Framework to strengthen the Rule of Law’, (COM(2014)0158),
- having regard to the Commission communication of 19 May 2015 entitled ‘Better regulation for better results - An EU agenda’, (COM(2015)0215),
- having regard to the Commission communication of 13 December 2016 entitled ‘EU law: Better results through better application’²,
- having regard to the Framework Agreement on Relations between the European Parliament and the European Commission³,
- having regard to Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters⁴,
- having regard to the Interinstitutional Agreement of 13 April 2016 on better law-making

¹ Texts adopted, P8_TA(2016)0385.

² OJ C 18, 19.1.2017, p. 10.

³ OJ L 304, 20.11.2010, p. 47.

⁴ OJ L 174, 27.6.2001, p. 25.

between the European Parliament, the Council of the European Union, and the European Commission¹,

- having regard to its resolution of 10 September 2015 on the 30th and 31st annual reports on monitoring the application of EU law²,
 - having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights³,
 - having regard to its resolution of 9 June 2016 for an open, efficient and independent European Union administration⁴,
 - having regard to Articles 267 and 288 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Rule 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 Constitutional Affairs and the Committee on Petitions (A8-0000/2017),
- 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 pursuant to Article 4(3) TEU and Articles 288(3) and 291(1) TFEU the Member States have the primary responsibility for transposing, applying and implementing EU law correctly and within the time limits set, and for providing sufficient remedies to ensure effective legal protection in the fields covered by EU law;
- C. whereas, according to settled case law of the Court of Justice of the European Union (CJEU), the Member States must supply the Commission with clear and precise information on the way in which they transpose EU directives into national law⁵;
- D. whereas, in accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents (2011/C 369/02)⁶ and the Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission on explanatory documents (2011/C 369/03)⁷, Member States may, when notifying the Commission of national transposition measures, have an obligation, in justified cases, also to provide supporting information in the form of ‘explanatory documents’ setting out the way in which they have transposed the directives into their national legislation⁸;

¹ OJ L 123, 12.5.2016, p. 1.

² Texts adopted, P8_TA(2015)0322.

³ Texts adopted, P8_TA(2016)0409.

⁴ Texts adopted, P8_TA(2016)0279.

⁵ Case C-427/07, *Commission v Ireland*, paragraph 107.

⁶ OJ C 369, 17.12.2011, p. 14.

⁷ OJ C 369, 17.12.2011, p. 15.

⁸ In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of

- E. 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);
- F. whereas the Union has a number of instruments and processes to ensure the full and correct application of the principles and values enshrined in the Treaties but in practice these instruments appear to be of limited scope, inadequate or ineffective;
- G. whereas it is therefore necessary to establish a new mechanism, providing a single and coherent framework, building on existing instruments and mechanisms, which should be applied in a uniform manner to all EU institutions and all Member States;
- H. 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 CJEU if the Member State in question does not comply with the opinion within a deadline set by the Commission;
- I. 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;
- J. 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 through bilateral dialogue in order, wherever possible, to avert the need to resort to formal infringement proceedings;
- K. whereas in 2015, the Commission received 3 450 complaints reporting potential breaches of EU law, with Italy (637), Spain (342) and Germany (274) being the Member States against which the most complaints were filed;
- L. whereas Article 41 CFREU defines the right to good administration as the right of 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. Welcomes the Commission's 2015 annual report on the application of EU law, which focuses on the enforcement of the EU *acquis*, and notes that according to this report the three fields in which Member States were mostly subject to transposition infringement proceedings in 2015 were mobility and transport, energy and the environment; points out that these areas were also the subject of most of the investigations opened under the EU Pilot system in 2015, with the main Member States concerned being Italy, Portugal and Germany; calls on the Commission to outline the specific reasons for this in greater

transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments.

detail;

2. Notes, in particular, that the Commission has tackled the problem of poor air quality in Europe by launching a number of infringement proceedings for breach of Directive 2008/50/EC, on account of continuous exceedances of the NO₂ limit values; regrets, however, that in 2015 the Commission did not exercise the same powers of control to prevent the placing on the single market of pollutant, diesel-powered cars that contribute significantly to the release of NO₂ into the atmosphere over these limits and that do not comply with EU rules on the type-approval and emissions of passenger and light commercial vehicles;
3. Considers that the large number of infringement procedures in 2015 shows that ensuring the timely and correct application of EU legislation in the Member States remains a serious challenge and priority in the EU; maintains that EU citizens feel more confident about EU law when it is implemented in the Member States in an effective manner; calls on the Member States to increase their efforts for the effective and timely transposition and implementation of EU law;
4. Notes that, at the end of 2015, 1 368 infringement cases remained open, which represents a slight increase from the previous year but is still below the 2011 level;
5. 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; emphasises, however, that the Commission makes available to the Member States a series of instruments designed to help them find joint solutions, such as handbooks, groups of experts and special internet sites, from dialogue concerning transposition plans to documents explaining how to recognise transposition problems early and address them; calls on the Member States to take all necessary measures to respect their commitments, as agreed in the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, including by providing correlation tables containing clear and precise information on the national measures transposing directives in their domestic legal order;
6. Calls on the Commission once again to bring together all the various 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;
7. Notes that the Commission insists that the Member States notify it should they decide, when transposing directives into national law, to add elements which make it clear to the public which provisions are the EU's responsibility and which the Member State's; points out, at the same time, that this is without prejudice to the right of Member States to lay down, for example, higher social and environmental standards at national level;
8. Highlights the necessity for Parliament to be able to also monitor the Commission's enforcement of regulations in the same way it does with directives; requests that the Commission ensure that the data on the implementation of regulations is provided in its future annual reports on the monitoring of the application of EU law; calls on the Member States to submit national legislation transposing or implementing regulations to

the Commission with a view to ensuring its correct compliance and to specify which parts stem from EU legislation and which parts are national additions;

9. Stresses that time limits for transposition must be enforced; urges the EU institutions to set realistic time limits for enforcement;
10. Emphasises that the EU has been set up as a Union based on the rule of law and respect for human rights (Article 2 TEU); stresses that the values enshrined in Article 2 TEU are the cornerstone of the Union's foundations and that the observance of these values by Member States should therefore be the subject of constant evaluation; reiterates that careful monitoring of Member States' and EU institutions' acts and omissions is of utmost importance, and expresses its concern at the number of petitions to Parliament and complaints to the Commission;
11. Points out that whistle-blowers can usefully inform EU as well as national institutions about cases of misapplication of Union law; reiterates that they should be encouraged to do so, rather than obstructed;
12. Acknowledges that petitions are an important source of first-hand information, not just about violations and deficiencies in the application of EU law in the Member States, but also about potential loopholes in EU legislation as well as citizens' suggestions about new legislation that could be adopted, or possible improvements to the legislative texts in force; confirms that the effective treatment of petitions challenges and ultimately enhances the capacity of the Commission and Parliament to react to and resolve problems relating to transposition and misapplication; notes that the Commission considers the implementation of EU law a priority, so that citizens can benefit from it in their everyday lives; highlights the need to ensure that decision-making processes and administration are transparent, impartial and independent;
13. Regrets the fact that no precise statistics concerning the number of petitions that led to the initiation of an EU Pilot or infringement procedure are provided; calls on the Commission, therefore, to send regular reports on cases relating to proceedings and/or procedures under way, in order to facilitate structured dialogue and reduce the time frame for settling disputes; calls on the Commission to discuss those reports with the Committee on Petitions, proactively involving the Vice-President responsible for the application of law and simplification; asks the Commission to involve petitioners in EU Pilot procedures initiated in relation to their petitions, with a view, inter alia, to facilitating dialogue between the petitioners and the national authorities concerned;
14. Regrets the increasing delays in the implementation of the EU Strategy for the Protection and Welfare of Animals 2012-2015, which are effectively preventing the launch of a new EU-wide strategy that is needed to ensure full and effective protection of animal welfare through an updated, exhaustive and clear legislative framework that fully complies with the requirements of Article 13 TFEU;
15. Notes that the Committee on Petitions has received many petitions about child welfare cases, and hopes that the current review of the Brussels IIA Regulation will help to make good the regulation's shortcomings and address failures to implement it;
16. Points out that shortcomings have been identified in the application of measures to

counter fraud and money laundering in recent years; asks the Commission to redouble its efforts to ensure that the relevant EU rules are applied rigorously;

17. Notes that timely and correct transposition and implementation of EU law into national legislation, as well as a clear domestic legislative framework with full respect for the fundamental values, principles and rights enshrined in the Treaties and the Charter of Fundamental Rights of the EU, should be a priority for the Member States, with a view to avoiding breaches of EU law, while delivering all the intended benefits made possible by the efficient and effective application of EU law; highlights in this context that acts or omissions of all EU institutions are bound by the EU Treaties and the CFREU¹;
18. Calls on the Commission to urge the Member States to ensure the strict enforcement of EU rules on the free movement of persons, in particular by ensuring full protection of the related economic, social and cultural rights; recalls that, in addition to constituting one of the fundamental freedoms of the EU and forming an integral part of EU citizenship, the free movement of persons, in a context in which fundamental rights are fully safeguarded, is of great importance for EU citizens and their families, especially in terms of access to social security, and for their perceptions of the EU, and appears as a frequent subject of petitions;
19. Recalls its resolution of 25 October 2016 and calls on the Commission to act on the recommendations in this resolution;
20. Acknowledges that Parliament also has a crucial role to play 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 Parliament 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;
21. Underlines the important role of the social partners, civil society organisations, the European Economic and Social Committee, the Committee of the Regions and other stakeholders in creating legislation and in monitoring and reporting shortcomings in the transposition and application of EU law by the Member States; emphasises in this respect the principle of transparency as enshrined in the EU Treaties as well as the right of EU citizens to justice and good administration, as stipulated in Articles 41 and 47 of the EU Charter of Fundamental Rights; recalls that those rights and principles, among others, should also be of paramount importance to the Member States when proposing draft acts implementing EU law;
22. Welcomes the decrease of around 30 % from 2014 in the number of new EU Pilot files opened in 2015 (881 as against 1 208 in 2014); notes, however, that the average resolution rate remains stable in 2015, being exactly the same as in 2014 (75 %);

¹ See inter alia: CJEU judgment of 20 September 2016 – *Ledra Advertising Ltd* (C-8/15 P), *Andreas Eleftheriou* (C-9/15 P), *Eleni Eleftheriou* (C-9/15 P), *Lilia Papachristofi* (C-9/15 P), *Christos Theophilou* (C-10/15 P), *Eleni Theophilou* (C-10/15 P) v *European Commission and European Central Bank* (Joined Cases C-8/15 P to C-10/15 P), paragraphs 67 ff.

23. Welcomes the fact that for the first time since 2011, the number of new complaints has decreased by around 9 % compared to 2014, with a total of 3 450 new complaints; notes with great concern, however, that the area of employment, social affairs and inclusion has the highest number of new complaints; notes that the areas of employment, social affairs and inclusion, the internal market, industry, entrepreneurship and SMEs, justice and consumers, taxation and customs union, and the environment together account for 72 % of all complaints submitted against the Member States in 2015;
24. Regrets that, in 2015, Member States did not deliver in all cases on their commitment to provide explanatory documents together with the national measures transposing the directives into their legal order; takes the view that the Commission should offer the Member States more support in the process of drawing up these explanatory documents and correlation tables; encourages the Commission to continue to report to Parliament and the Council on explanatory documents in the annual reports on the application of EU law;
25. 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;
26. Stresses that the Memoranda of Understanding, even if Member States are obliged thereunder to take austerity measures, are not considered as EU acts, with the result that the CFREU is not applicable to them¹;
27. Highlights that all EU institutions, even when they act as members of groups of international lenders ('troikas'), are bound by the EU Treaties and the CFREU²;
28. Notes that whilst the European Stability Mechanism Treaty (ESM Treaty) entrusts the Commission and the ECB with certain tasks relating to the implementation of the objectives of that treaty, the duties conferred on the Commission and the ECB under it do not entail any power to make decisions of their own and, moreover, the activities pursued by those two institutions within the ESM Treaty commit the ESM alone³;
29. Reiterates that the tasks allocated to the Commission or other EU institutions by the ESM Treaty (or other relevant treaties) oblige them, as provided in Article 13(3) and (4) thereof, to ensure that the Memoranda of Understanding concluded under the aforementioned treaties are consistent with EU law; stresses that as a result, EU institutions should refrain from signing a memorandum of understanding whose consistency with EU law they doubt⁴;
30. Regrets that the annual reviews by the Commission, the ECB and the Council of

¹ See inter alia: CJEU judgment of 27 November 2012, *Pringle*, C-370/12, EU:C:2012:756, paragraphs 161 and 178 ff.

² CJEU judgment of 20 September 2016 – *Ledra Advertising Ltd* (C-8/15 P), *Andreas Eleftheriou* (C-9/15 P), *Eleni Eleftheriou* (C-9/15 P), *Lilia Papachristofi* (C-9/15 P), *Christos Theophilou* (C-10/15 P), *Eleni Theophilou* (C-10/15 P) v *European Commission and European Central Bank* (Joined Cases C-8/15 P to C-10/15 P), paragraphs 67 ff.; OJ C 171, 26.5.2015, p. 7.

³ *Ibid.*, paragraph. 51.

⁴ *Ibid.*, paragraphs 58 ff.; see, to that effect, judgment of 27 November 2012, *Pringle*, C-370/12, EU:C:2012:756, paragraph 164.

economic adjustment programmes for members of the euro area have imposed on EU Member States obligations which in some cases run counter to the objectives and values of the Union as expressed in the EU Treaties and the CFREU¹;

31. Expresses its concern that the austerity measures which EU institutions imposed on over-indebted EU Member States, in particular the drastic cuts in public spending, have had the effect of reducing significantly the capacity of Member States' administration and judiciary to assume their responsibility to implement EU law correctly;
32. Stresses the importance of domestic transposition and practical implementation of EU-level asylum standards (for example regarding the implementation by Member States of the reception conditions directive (Directive 2013/33/EU²))³; deplores the deficient implementation and use of the relocation mechanism proposed by the Commission to deal with the refugee crisis by Member States; calls, therefore, on the Commission to pay particular attention to the implementation of measures adopted in the area of asylum and migration so as to ensure that they comply with the principles enshrined in the CFREU, and to launch the necessary infringement proceedings if relevant;
33. Notes with concern that certain Member States are disregarding their obligations in relation to asylum and migration; welcomes the firm stance taken by the Commission towards the Member States on the application of EU law in the area of asylum and migration; recalls that, on account of the migratory flows towards Europe, the EU is faced with an unparalleled legal, political and humanitarian challenge; regrets the EU's lack of compliance with the commitments on refugee allocation and the Member States' lack of compliance with their obligation to receive a certain number of refugees; calls on the Member States to take into account also international conventions on human rights when accepting and allocating refugees; expresses the hope that the Commission will systematically monitor the application of the European Agenda on Migration by the Member States; recalls that an effective EU migration policy needs to be based on a balance between responsibility and solidarity among the Member States;
34. Regrets the fact that significant shortcomings in the implementation and enforcement of EU environmental legislation persist in some Member States; notes that this is particularly the case in waste management, wastewater treatment infrastructure and compliance with air quality limit values; considers, in this context, that the Commission should seek to identify the causes of this situation in the Member States;
35. Encourages the EU institutions to assume at all times their duty to respect primary EU

¹See inter alia: Ghailani, D. (2016), 'Violations of fundamental rights: collateral damage of the Eurozone crisis?', in Vanhercke, B., Natali, D. and Bouget, D. (eds.), 'Social Policy in the European Union: State of Play 2016', Brussels, European Trade Union Institute (ETUI) and European Social Observatory (OSE) - http://www.ose.be/files/publication/OSEPaperSeries/Ghailani_2016_OseResearchPaper32EN.pdf; and 'The impact of the crisis on fundamental rights across Member States of the EU - Comparative analysis', study for the Committee on Civil Liberties, Justice and Home Affairs, 2015 -

http://www.europarl.europa.eu/RegData/etudes/STUD/2015/510021/IPOL_STU%282015%29510021_EN.pdf

² Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, OJ L 180, 29.6.2013, p. 96.

³ See inter alia: S. Carrera/S. Blockmans/D. Gross/E. Guild, 'The EU's Response to the Refugee Crisis - Taking Stock and Setting Policy Priorities', Centre for European Policy Studies (CEPS), essay No 20, 16 December 2015 - https://www.ceps.eu/system/files/EU%20Response%20to%20the%202015%20Refugee%20Crisis_0.pdf

law when they create rules of secondary EU law, decide policies or sign agreements or treaties with institutions outside the EU, and also to assume their duty to assist EU Member States by all means available in their efforts to transpose EU legislation in all areas and to respect the values and principles of the Union, especially with respect to recent development in Member States;

36. Regrets the fact that it does not yet receive transparent and timely information on the implementation of EU laws; recalls that, in the revised Framework Agreement on relations between the European Parliament and the Commission, the Commission undertakes to ‘make available to Parliament summary information concerning all infringement procedures from the letter of formal notice, included, if so requested, [...] on the issues to which the infringement procedure relates’, and expects this clause to be applied in good faith in practice;
37. 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 to keep the Commission accountable and, as co-legislator, to make sure that it is itself fully informed, with a view to constantly improving its legislative work; requests that the Commission therefore provide a follow-up to every European Parliament resolution on monitoring the implementation of EU law;
38. Recalls that, in its resolutions of 15 January 2013 and 9 June 2016, Parliament called for the adoption of a regulation on an open, efficient and independent European Union administration under Article 298 TFEU, and asks the Commission to further consider the proposal for a regulation annexed to the latter resolution;
39. Stresses that the lack of a coherent and comprehensive set of codified rules of good administration across the Union makes it difficult for citizens to easily and fully understand their administrative rights under Union law, and also contributes to a deterioration of their legal protection; emphasises, therefore, that codifying rules of good administration in the form of a regulation setting out the various aspects of the administrative procedure – including notifications, binding time limits, the right to be heard, and the right for every person to have access to his or her file – is tantamount to reinforcing citizens’ rights and transparency; clarifies that these rules would be supplementary to existing Union law, when legal gaps or interpretation problems arise, and would bring more accessibility; reiterates its call on the Commission, therefore, to come forward with a comprehensive legislative proposal on a European law of administrative procedure, taking into account all the steps already taken by Parliament in this field, as well as the contemporary developments in the Union and its Member States;
40. Recalls that preliminary rulings help to clarify the manner in which the law of the European Union is to be applied; considers that recourse to this procedure allows a uniform interpretation and implementation of European legislation; encourages, therefore, national courts to refer questions to the CJEU in the event of doubt and thus prevent infringement proceedings;
41. Points out that austerity policies and related cuts made by Member States to their government sectors and judicial systems have resulted in a deterioration of protection of citizens’ rights, while at the same time exacerbating the difficulties relating to the

proper transposition of EU law; believes that the key to delivering the benefit of EU policies to both individuals and businesses is the proper application of the EU's *acquis*; calls, therefore, on the Commission to strengthen enforcement of EU law based on structured and systematic transposition and conformity checks of national legislation, in full compliance with the EU Treaties and the CFREU; points out that EU legislation is the result of a free and democratic process; welcomes the practice by the Commission of taking due account of the principles of better law-making when monitoring the application of EU law in the Member States;

42. Stresses the importance of transparency in the drafting and application of law by the EU institutions and the Member States; points out that in the interest of both facilitating the implementation of EU law by the Member States and making it accessible to EU citizens, EU legislation needs to be clear, understandable, consistent and precise, while also taking into consideration the jurisprudence of the CJEU, which insists on the need for foreseeability and predictability in EU norms¹;
43. Believes that the inclusion of national parliaments in dialogue on the content of legislative proposals, when relevant, will foster effective application of EU law; points out that closer scrutiny of national parliaments of their respective governments when the latter are involved in the law-making process will foster a more effective application of EU law as provided for in the Treaties; stresses, for that reason, the need for national parliaments to have a say at the early stages of the European legislative procedures, and urges the European institutions and the Member States to initiate a debate on Protocols 1 and 2, on the role of national parliaments in the European Union and on subsidiarity and proportionality, possibly by looking into a revision of the so-called early warning system and thereby ensuring a better application of the yellow card procedure;
44. Encourages closer cooperation and strengthening of the links between the European Parliament and national parliaments; recalls the scrutiny function of national parliaments regarding their governments' involvement in the decision-making process in the Council of the European Union, and stresses the need for consultations and regular exchange of views between the European Parliament and national parliaments, especially in the initial stages of the law-making process;
45. Recalls that national parliaments have an essential role to play in scrutiny of correct implementation of EU law by the Member States; calls on them to pursue that role proactively; points out the role of national parliaments in avoiding the practice of 'gold-plating' EU legislation at national level, thereby preventing over-regulation and unnecessary administrative burdens; expects Member States to clearly indicate and document national obligations where they are added to EU legislation in the implementation process; is worried that excessive national measures added to EU legislation unnecessarily increase euroscepticism;
46. Notes that the system of exchange of information and cooperation between committees of national parliaments working with the EU can help in achieving efficient legislation and should also be used to support a more effective application of EU law by the Member States; promotes the use of the IPEX platform as a tool for mutual exchange of

¹ Judgment of the Court of Justice of 10 September 2009, *Plantanol GmbH & Co. KG v Hauptzollamt Darmstadt*, C-201/08 ECLI:EU:C:2009:539, paragraph 46.

information between national parliaments and the European Parliament; encourages national parliaments to take an active part in regular Interparliamentary Committee Meetings organised by the European Parliament;

47. Instructs its President to forward this resolution to the Council and the Commission.

1.6.2017

OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS

for the Committee on Legal Affairs

on monitoring the application of EU law 2015
(2017/2011(INI))

Rapporteur: Kazimierz Michał Ujazdowski

SUGGESTIONS

The Committee on Constitutional Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Points out that the proper application of EU law is fundamental for encouraging and fostering mutual trust between the public institutions both at EU and national level as well as between institutions and citizens, while trust and legal certainty both serve as a basis for good cooperation and effective application of EU law; maintains that the citizens of the Union feel more confident about Union law when it is implemented in the Member States in an effective manner; calls on the Member States to increase their efforts for the effective and timely transposition and implementation of EU law;
2. Considers that the high number of infringement procedures in 2015 shows that ensuring timely and proper application of EU legislation in the Member States remains a serious challenge and priority for the EU;
3. Believes that the key to delivering the benefit of EU policies to both individuals and businesses is the proper application of the EU's acquis; stresses therefore the Commission's intention to strengthen enforcement of EU law based on structured and systematic transposition and conformity checks of national legislation; stresses the importance of upholding the principles of conferral, subsidiarity and proportionality, pursuant to Article 5 TEU, as well as equality before the law in view of better monitoring of the application of EU law; points out that EU legislation is the result of a democratic process and cannot enter into force without having obtained a qualified majority – and in some cases unanimity – of the Member States in the Council; welcomes the practice by the Commission of taking due account of the principles of better law-making when monitoring the application of EU law in the Member States;
4. Recognises that the primary responsibility for the correct implementation and application

of EU law lies with the Member States; notes however that this does not absolve the EU institutions of their duty to uphold primary EU law when they produce secondary EU law;

5. Stresses the importance of transparency in the drafting and application of law by the EU institutions and the Member States; points out, that in the interest of both facilitating the implementation of EU law by the Member States and making it accessible to EU citizens, EU legislation needs to be clear, understandable, consistent and precise, while also taking into consideration the jurisprudence of the Court of Justice of the EU, which insists on the need for foreseeability and predictability in EU norms¹;
6. Recalls, as already stated in the past, that in a European Union founded on the rule of law and on the certainty and predictability of laws, EU citizens have the right to be made aware in a clear, accessible, transparent and timely manner whether national laws have been adopted in the transposition of EU laws, and which;
7. Emphasises the principle of transparency as enshrined in the EU Treaties as well as the right of EU citizens to justice and good administration, as stipulated in Articles 41 and 47 of the EU Charter of Fundamental Rights, given that those articles require citizens to have adequate access to drafts of the legal acts that concern them; recalls that those rights and principles should also be of paramount importance to the Member States when proposing draft acts implementing EU law;
8. Calls, in this respect, for the commitment of all EU institutions engaged in the legislative process to further enhance the drafting quality of legislative texts, in line with the commitment undertaken in the Better Law-Making Agenda; considers that the 1998 Inter-institutional Agreement on common guidelines for the quality of drafting of Community legislation should be adapted in order to deliver on that objective; reiterates the provision in the Inter-institutional Agreement on Better Law-Making that calls on Member States when transposing EU directives into national law where they choose to add elements that are in no way related to that Union legislation to make these additions identifiable either through the transposing act or through associated documents;
9. Underlines the importance of the role of the social partners, civil society organisations and other stakeholders in reporting shortcomings in the transposition and application of EU law by Member States; suggests that national authorities and the EU institutions promote this role;
10. Believes that the inclusion of national parliaments in dialogue on the content of legislative proposals, when relevant, will foster effective application of EU law; points out that closer scrutiny of national parliaments of their respective governments when the latter are involved in the law-making process will foster a more effective application of EU law as provided for in the Treaties; stresses, for that reason, the need for national parliaments to have a say at the early stages of the European legislative procedures, and urges the European institutions and the Member States to initiate a debate on Protocols 1 and 2, on the role of national parliaments in the European Union and on subsidiarity and proportionality, possibly by looking into a revision of the so-called early warning system and thereby ensuring a better application of the yellow card procedure;

¹ Judgment of the Court of Justice of 10 September 2009, *Plantanol GmbH & Co. KG v Hauptzollamt Darmstadt*, C-201/08 ECLI:EU:C:2009:539, paragraph 46.

11. Encourages closer cooperation and strengthening of the links between the European Parliament and national parliaments; recalls the scrutiny function of national parliaments regarding their governments' involvement in the decision-making process in the Council of the European Union, and stresses the need for consultations and regular exchange of views between the European Parliament and national parliaments, especially in the initial stages of the law-making process;
12. Encourages the Commission to provide citizens with an integrated platform to help centralise complaints and irregularities in the implementation of EU legislation;
13. Recalls that national parliaments have an essential role to play in scrutiny of correct implementation of EU law by the Member States; calls on them to pursue that role proactively; points out the role of national parliaments in avoiding the practice of 'gold-plating' EU legislation at national level, thereby preventing over-regulation and unnecessary administrative burdens; expects Member States to clearly indicate and document national obligations where they are added to EU legislation in the implementation process; is worried that excessive national measures added to EU legislation unnecessarily increase euroscepticism;
14. Supports the Commission initiative to provide enhanced guidance and assistance to Member States using concrete tools in order to achieve better a implementation record of EU law;
15. Notes that the system of exchange of information and cooperation between committees of national parliaments working with the EU can help in achieving efficient legislation and should also be used to support a more effective application of EU law by the Member States; promotes the use of the IPEX platform as a tool for mutual exchange of information between national parliaments and the European Parliament; encourages national parliaments to take an active part in regular Interparliamentary Committee Meetings organised by the European Parliament;
16. Highlights the necessity for Parliament to be able to also monitor the Commission's enforcement of regulations in the same way it does with directives; requests the Commission to ensure that the data on the implementation of regulations is provided in its future annual reports on the monitoring of the application of EU law; calls on the Member States to submit national legislation transposing or implementing regulations to the Commission with a view to ensuring its correct compliance and to specify which parts stem from EU legislation and which parts are national additions;
17. Believes that the Commission's efforts in issuing guidelines are laudable; further welcomes the wide range of tools used by the Commission to promote compliance in the pre-infringement phase; regrets that the verification of the correct transposition of directives by Member States remains a problem; urges Member States to honour their commitment to provide explanatory documents together with the national measures transposing the directives in their legal order, including correlation tables if applicable;
18. Regrets the fact that it does not yet receive transparent and timely information on the implementation of EU laws; recalls that, in the revised Framework Agreement on relations between the European Parliament and the Commission, the Commission undertakes to 'make available to Parliament summary information concerning all infringement

procedures from the letter of formal notice, included, if so requested, [...] on the issues to which the infringement procedure relates', and expects this clause to be applied in good faith in practice;

19. Welcomes a sustained dialogue between the Commission and the Member States with a view to strengthening the enforcement of EU law by means of a structured and systematic approach;
20. Recalls that the effectiveness of European integration is also conditional on the extent to which the EU's policies are incorporated into legislation and applied by the Member States; recalls in that respect Article 197 TFEU which states 'effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest'.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	30.5.2017
Result of final vote	+: 16 -: 3 0: 3
Members present for the final vote	Mercedes Bresso, Elmar Brok, Fabio Massimo Castaldo, Richard Corbett, Pascal Durand, Danuta Maria Hübner, Ramón Jáuregui Atondo, Markus Pieper, György Schöpflin, Pedro Silva Pereira, Barbara Spinelli, Claudia Țapardel, Josep-Maria Terricabras, Kazimierz Michał Ujazdowski
Substitutes present for the final vote	Max Andersson, Gerolf Annemans, Kostas Chrysogonos, Ashley Fox, Charles Goerens, Sylvia-Yvonne Kaufmann, Cristian Dan Preda, Rainer Wieland
Substitutes under Rule 200(2) present for the final vote	Bogdan Brunon Wenta

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

16	+
ECR	Ashley Fox, Kazimierz Michał Ujazdowski
GUE/NGL	Kostas Chrysogonos, Barbara Spinelli,
EPP	Elmar Brok, Danuta Maria Hübner, Markus Pieper, Cristian Dan Preda, György Schöpflin, Bogdan Brunon Wenta, Rainer Wieland
S&D	Mercedes Bresso, Ramón Jáuregui Atondo, Sylvia-Yvonne Kaufmann, Pedro Silva Pereira, Claudia Țapardel

3	-
ENF	Gerolf Annemans,
Verts/ALE	Max Andersson, Josep-Maria Terricabras,

3	0
ALDE	Charles Goerens
EFDD	Fabio Massimo Castaldo
S&D	Richard Corbett

Key to symbols:

+ : in favour

- : against

0 : abstention

22.3.2017

OPINION OF THE COMMITTEE ON PETITIONS

for the Committee on Legal Affairs

on monitoring the application of Union law 2015
(2017/2011(INI))

Rapporteur: Cecilia Wikström

SUGGESTIONS

The Committee on Petitions calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recognises that the Committee on Petitions serves as a valuable link between EU citizens, businesses and civil society organisations and EU institutions, especially in the challenging times that the Union is currently going through; stresses the important contribution of full protection of the fundamental rights of citizens, through the effective application of EU law, to strengthening the image and credibility of the Union;
2. Acknowledges that petitions are an important source of first-hand information, not just about violations and deficiencies in the application of EU law in the Member States, but also about potential loopholes in EU legislation as well as citizens' suggestions about new legislation that could be adopted, or possible improvements to the legislative texts in force; confirms that the effective treatment of petitions challenges and ultimately enhances the capacity of the Commission and Parliament to react to and resolve problems relating to transposition and misapplication; notes that the Commission considers the implementation of EU law a priority, so that citizens can benefit from it in their everyday lives; highlights the need to ensure that decision-making processes and administration are transparent, impartial and independent;
3. Commends the focus of the Commission's Annual Report on the enforcement of EU law; notes that, unfortunately, petitioners very frequently refer to violations of EU law, particularly in the fields of the environment, justice, fundamental rights, the internal market, transport, health, employment and social affairs, education and culture; draws attention to the fact that the Report highlights how the Commission regarded these sectors as a political priority in 2015; emphasises that delays in implementation are detrimental to legal certainty;
4. Calls on the Commission to urge the Member States to ensure the strict enforcement of

EU rules on the free movement of persons, in particular by ensuring full protection of the related economic, social and cultural rights; recalls that, in addition to constituting one of the fundamental freedoms of the EU and forming an integral part of EU citizenship, the free movement of persons, in a context in which fundamental rights are fully safeguarded, is of great importance for EU citizens and their families, especially in terms of access to social security, and for their perceptions of the EU, and appears as a frequent subject of petitions;

5. Notes with concern that certain Member States are disregarding their obligations in relation to asylum and migration; welcomes the firm stance taken by the Commission towards the Member States on the application of EU law in the area of asylum and migration; recalls that, on account of the migratory flows towards Europe, the EU is faced with an unparalleled legal, political and humanitarian challenge; regrets the EU's lack of compliance with the commitments on refugee allocation and the Member States' lack of compliance with their obligation to receive a certain number of refugees; calls on the Member States to take into account also international conventions on human rights when accepting and allocating refugees; expresses the hope that the Commission will systematically monitor the application of the European Agenda on Migration by the Member States; recalls that an effective EU migration policy needs to be based on a balance between responsibility and solidarity among the Member States;
6. Deeply regrets the accumulated delays in connection with infringement procedure NIF 2014/4231 concerning the improper use of fixed-term contracts in the general government sector in Italy, in breach of Directive 1999/70/EC; calls on the Commission to deal with this matter as soon as possible, in order to ensure that EU legislation is properly enforced, while fully safeguarding the rights of citizens;
7. Points out that austerity policies and related cuts made by Member States to their government sectors and judicial systems have resulted in a deterioration in the level of protection of citizens' rights, while at the same time exacerbating the difficulties relating to the proper transposition of EU law;
8. Notes that the Commission has tackled the problem of poor air quality in Europe, which has also been condemned repeatedly by citizens through their petitions, by launching a number of infringement proceedings for breach of Directive 2008/50/EC, on account of continuous exceedances of NO₂ limit values;
9. Regrets the increasing delays in the implementation of the EU Strategy for the Protection and Welfare of Animals 2012-2015, which is effectively preventing the launch of a new EU-wide strategy that is needed to ensure full and effective protection of animal welfare through an updated, exhaustive and clear legislative framework that fully complies with the requirements of Article 13 TFEU;
10. Notes that the Committee on Petitions has received many petitions about child welfare cases, and hopes that the current review of the Brussels IIA Regulation will help to make good the regulation's shortcomings and address failures to implement it;
11. Points out that shortcomings have been identified in the application of measures to counter fraud and money laundering in recent years; asks the Commission to redouble its efforts to ensure that the relevant EU rules are applied rigorously;

12. Regrets that the transposition of directives by Member States remains a problem as indicated in the 2015 annual report; notes with appreciation the substantial progress achieved in resolving shortcomings in the application of EU law through the EU Pilot procedure, which helps to resolve issues relating to the application of EU law and can prevent infringement procedures; observes that, despite the fact that the number of infringement procedures is still high, the number of EU Pilot procedures launched in 2015 was the lowest recorded since all Member States joined the EU Pilot system (on 1 July 2013);
13. Regrets the fact that no precise statistics concerning the number of petitions that led to the initiation of an EU Pilot or infringement procedure are provided; calls on the Commission, therefore, to send regular reports on cases relating to proceedings and/or procedures under way, in order to facilitate structured dialogue and reduce the time frame for settling disputes; calls on the Commission to discuss those reports with the Committee on Petitions, proactively involving the Vice-President responsible for the application of law and simplification; asks the Commission to involve petitioners in EU Pilot procedures initiated in relation to their petitions, with a view, inter alia, to facilitating dialogue between the petitioners and the national authorities concerned;
14. Points out that whistle-blowers can usefully inform EU as well as national institutions about cases of misapplication of Union law; reiterates that they should be encouraged to do so, rather than obstructed;
15. Calls on the Commission, when evaluating the impact of Union law, to involve all stakeholders, particularly the social partners, NGOs and consumer protection organisations;
16. Points out that, even though under the Treaty provisions Member States have the primary responsibility for correctly transposing, applying and implementing EU law, this does not exempt the EU institutions from their duty to ensure adequate monitoring and specific, careful checks on cases of alleged infringement of EU law, especially if they have been reported by citizens through petitions;
17. Points out that delays and non-compliances regarding EU Pilot and infringement procedures, by preventing timely remedies to breaches of EU law, undermine, inter alia, the full enjoyment of the right to good administration enshrined in Article 41 of the Charter of Fundamental Rights of European Union;
18. Supports the introduction of the Better Regulation Agenda, which must make the legislative process more transparent, open to contributions from stakeholders and easier to follow; supports, in this regard, the role of REFIT as a platform for exchange between the Commission and the national authorities; acknowledges the need to develop clear, simple and effective EU legislation, which should be easy to transpose and implement and aim to ensure the highest levels of social justice; looks forward to the further development of the existing portal, refining its features to help petitioners to better distinguish, when submitting their petitions, between national competences and EU competences, so as to reduce the number of petitions which are subsequently deemed inadmissible; calls on the Member States to take all necessary measures to respect their commitments, as agreed in the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, including by providing correlation tables

containing clear and precise information on the national measures transposing directives in their domestic legal order;

19. Calls on the Commission to continue its active involvement in developing the various measures for improving the observance, implementation and application of Union law in the Member States, and to include in its next annual report data on rates of implementation for EU regulations, in the same way that it already does for EU directives;
20. Welcomes the Commission's efforts to inform citizens about their rights and ensure that they have appropriate means of redress, and calls on the Commission to include in its evaluation report more detailed information about the use of the special platforms for that purpose;
21. Calls on the Member States to avoid the practice of 'gold-plating', in order to reduce overregulation and administrative burdens that would have a negative effect on EU citizens and businesses; believes that unnecessary national measures going beyond EU requirements increase Euroscepticism and undermine EU legitimacy and actions.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	22.3.2017
Result of final vote	+: 21 -: 2 0: 2
Members present for the final vote	Margrete Auken, Heinz K. Becker, Soledad Cabezón Ruiz, Pál Csáky, Rosa Estaràs Ferragut, Eleonora Evi, Lidia Joanna Geringer de Oedenberg, Peter Jahr, Rikke Karlsson, Svetoslav Hristov Malinov, Roberta Metsola, Marlene Mizzi, Cristian Dan Preda, Gabriele Preuß, Laurențiu Rebega, Virginie Rozière, Jarosław Wałęsa, Cecilia Wikström
Substitutes present for the final vote	Urszula Krupa, Kostadinka Kuneva, Julia Pitera, Julia Reda, Rainer Wieland, Boris Zala
Substitutes under Rule 200(2) present for the final vote	Florent Marcellesi

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

21	+
ALDE Group	Cecilia Wikström
ECR Group	Rikke Karlsson
PPE	Heinz K. Becker, Pál Csáky, Rosa Estaràs Ferragut, Peter Jahr, Svetoslav Hristov Malinov, Roberta Metsola, Julia Pitera, Cristian Dan Preda, Jarosław Wałęsa, Rainer Wieland
S&D	Soledad Cabezón Ruiz, Lidia Joanna Geringer de Oedenberg, Marlene Mizzi, Gabriele Preuß, Virginie Rozière, Boris Zala
Verts/ALE	Margrete Auken, Florent Marcellesi, Julia Reda

2	-
ECR	Urszula Krupa
ENF	Laurențiu Rebeca

2	0
EFDD	Eleonora Evi
GUE/NGL	Kostadinka Kuneva

Key to symbols:

+ : in favour

- : against

0 : abstention

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	13.7.2017
Result of final vote	+: 13 -: 9 0: 1
Members present for the final vote	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Mady Delvaux, Rosa Estaràs Ferragut, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Sylvia-Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Julia Reda, Evelyn Regner, Pavel Svoboda, Axel Voss, Tadeusz Zwiefka
Substitutes present for the final vote	Isabella Adinolfi, Daniel Buda, Angel Dzhambazki, Heidi Hautala, Angelika Niebler, Jens Rohde
Substitutes under Rule 200(2) present for the final vote	Lynn Boylan

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

13	+
S&D	Mady Delvaux, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Sylvia-Yvonne Kaufmann, Evelyn Regner, Tiemo Wölken
ALDE	António Marinho e Pinto
GUE/NGL	Lynn Boylan, Kostas Chrysogonos
VERTS/ALE	Max Andersson, Julia Reda
EFDD	Isabella Adinolfi, Joëlle Bergeron

9	-
PPE	Daniel Buda, Rosa Estaràs Ferragut, Angelika Niebler, Pavel Svoboda, Axel Voss, Tadeusz Zwiefka
ECR	Angel Dzhambazki
ENF	Marie-Christine Boutonnet, Gilles Lebreton

1	0
ALDE	Jean-Marie Cavada

Key to symbols:

+ : in favour

- : against

0 : abstention