

RELEVANT TEXTS APPROVED ON BETTER LAWMAKING

INTERINSTITUTIONAL AGREEMENT 16-12-2003

Better transposition and application

32. The three Institutions emphasise the need for Member States to comply with Article 10 of the EC Treaty, they call upon the Member States to ensure that Community law is properly and promptly transposed into national law within the prescribed deadlines; and they deem such transposition to be essential to the consistent and effective application of that legislation by the courts, the administrations, members of the public and economic and social operators.

33. The three Institutions will ensure that all directives include a binding time limit for the transposition of their provisions into national law. They will insert into directives a time limit for transposition that is as short as possible and that generally does not exceed two years. The three Institutions hope that the Member States will make a renewed effort as regards the transposition of directives within the time limits which they specify. In this connection, the European Parliament and the Council note that the Commission is proposing to step up cooperation with the Member States.

The three Institutions point out that, under the EC Treaty, the Commission has the power to initiate an infringement procedure in instances where a Member State fails to transpose legislation within the stipulated time limit; and the European Parliament and Council note the commitments given by the Commission on this subject.

34. The Commission will draw up annual reports on the transposition of directives in the various Member States, with tables showing transposition rates. Those reports will be communicated to the European Parliament and to the Council, and will be made public.

The Council will encourage the Member States to draw up, for themselves and in the interests of the Community, their own tables which will, as far as possible, illustrate the correlation between the directives and the transposition measures and to make them public. It calls on those Member States which have not yet done so to appoint a transposition coordinator as soon as possible.

DOORN REPORT: BETTER LAWMAKING AND SUBSIDIARITY (A6-082/2006) - Adopted 16 May 2006

28. Stresses the need for Parliament, and in particular the rapporteur responsible, to play a more active role in monitoring the implementation of European legislation in the Member States, and to make use of the network between the European Parliament and the national and/or regional parliaments;

29. Is of the opinion that transposition of EC legislation should be monitored seriously and proactively in order to avoid diverging interpretations and gold-plating; wants the Commission to play an active role in transposition, together with supervisors and expert groups, at both EU and national level, since early analysis of potential pitfalls may prevent delays and unnecessary burdens on companies; suggests that Parliament should set up a proper transposition-monitoring procedure in close cooperation with its national partners;

FRASSONI REPORT: MONITORING THE APPLICATION OF COMMUNITY LAW (2003 - 2004). Adopted 16 May 2006

19. Is convinced that while it is important to devote time and effort to developing dialogue with Member States and improving the assistance to them in order to facilitate swift, correct transposition of European legislation, tighter discipline is necessary, notably after enlargement, in order to avoid excessive delays and persistent differences in the quality of national transposition;

20. Believes that a specific clause obliging Member States to draft a concordance table when transposing EU Directives should be inserted systematically into each newly adopted Directive;

21. Notes that in 2004 about 41% of new directives included provision for a concordance table; believes that the European Parliament, as co-legislator, should support proposals to introduce into directives, provisions obliging the Member States to use the concordance table for notification; calls on the Commission to report to Parliament regularly on the application of such provisions;

22. Welcomes the effort made by some Directorates General of the Commission – and notably DG Environment- to improve the conformity checks on the relevant directives in particular post enlargement; calls on the Commission to publish on its website the studies requested by the various Directorates General on the evaluation of the conformity of national implementation measures with Community legislation;

23. Notes that there are several procedures opened for non-conformity and that such procedures are sometimes repeated without attaining the objective of convincing the Member States to modify their transposition acts; stresses that in such cases delays in the procedure can be highly detrimental to citizens, because the focus is not on individual cases but rather reflects a general problem; calls therefore on the Commission to take a tough stance on cases of non-communication and non-conformity of national implementing measures with Community legislation and to move through the various

stages of the Article 226 EC procedure according to fixed, non-negotiable deadlines, laid down in appropriate soft-law instruments (communications, guidelines), in order to arrive at Article 228 EC fines as soon as possible;

24. Invites the Commission to present a list of those directives which have the worst record in terms of their implementation and to explain what it considers the underlying reasons for this to be; points out that, under the case law of the Court of Justice and Article 10 of the EC Treaty, the Member States are required to ensure that an adequate system is in place for effective and proportionate sanctions, to act as a deterrent against infringement of Community provisions; considers that failure to adopt an effective system of sanctions should be pursued with due severity under the infringement procedure;