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R E P O R T

of the Committee on Legal Affairs and Citizens' Rights

on the Seventh Annual Report to the European Parliament on
Commission monitoring of the application of Community law-
1989

(COM(90) 288 final - Doc. C3-181/90)

Rapporteur: Lord INGLEWOOD

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

* **DOC EN\RR\103583** Consultation procedure requiring a single reading

**I = Cooperation procedure (first reading)

**II = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

*** = Parliamentary assent which requires the votes of a majority of the current Members of Parliament

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The seventh Annual Report to the European Parliament or Commission monitoring of the application of Community law - 1989 - was forwarded to the European Parliament in its French version on 11 June 1990 and in the other linguistic versions on 11 July 1990.

At the sitting of 9 July 1990 the President of the European Parliament referred this document (only in the French version) to the Committee on Legal Affairs and Citizens' Rights.

At its meeting of 19 July 1990 the Committee on Legal Affairs and Citizens' Rights appointed Lord Inglewood rapporteur.

At the sitting of 23 November 1990 the Committee on Petitions was asked to deliver an opinion

The committee considered the draft report at its meeting of 7, 8 and 9 January 1991 and at its meeting of 29 and 30 January 1991 adopted it by 16 votes to 1.

The following took part in the vote: Graf Stauffenberg, chairman; Mrs Vayssade, vice-chairman; Lord Inglewood, rapporteur; Anastassopoulos, Bandres Molet, Bontempi, Bru Puron, Garcia Amigo, Gil Robles (for Cabanillas Gallas pursuant to Rule 111.2), Hoon, Janssen van Raay, Mrs Grund, Marinho, Merz, Mrs Salema, Simpson and Zavvos.

The opinion of the Committee on Petitions pursuant to Rule 29 quater of the Rules of Procedure is attached to this report.

The report was tabled on 1 February 1991

The deadline for tabling amendments to this report will appear on the draft agenda for the part-session at which it is to be considered.

A

MOTION FOR A RESOLUTION

on the Seventh Annual Report to the European Parliament on Commission monitoring of the application of Community law - 1989

The European Parliament,

- A. having regard to the resolution it adopted on 9 February 1983¹ on the basis of the report drawn up by Mr SIEGLERSCHMIDT, on behalf of the Legal Affairs Committee, on the responsibility of the Member States for the application of and compliance with Community law (Doc. 1-1052/82),
- B. having regard to the resolution it adopted on 21 October 1985² on the basis of the report drawn up by Mrs VAYSSADE, on behalf of the Committee on Legal Affairs and Citizens' Rights, on the monitoring of the application of Community law by the Member States - 1983 and 1984 (Doc. A 2-112/85),
- C. having regard to the resolution it adopted on 14 April 1988³ on the basis of the report drawn up by Mr LAFUENTE LOPEZ, on behalf of the Committee on Legal Affairs and Citizens' Rights, on the monitoring of the application of Community law - 1986 (Doc. A 2-305/87),
- D. having regard to the resolution it adopted on 14 April 1989⁴ on the basis of the report drawn up by Mr JANSSEN VAN RAAY, on behalf of the Committee on Legal Affairs and Citizens' Rights, on the monitoring of the application of Community law - 1987 (Doc. A 3-438/88),
- E. having regard to the resolution it adopted on 13 July 1990⁵ on the basis of the report drawn up by Mr DE GUCHT, on behalf of the Committee on Legal Affairs and Citizens' Rights, on the monitoring of the application of Community law - 1988 (Doc. A 3-158/90),
- F. having regard to the Seventh Annual Report to the European Parliament on Commission monitoring of the application of Community law - 1989 (Doc. C 3-191/90 - COM(90) 288 final)⁶,
- G. having regard to the motion for a resolution tabled by Mr LANGES and others on a European law Academy (Doc. B3-271/90),
- H. having regard to the motion for a resolution tabled by Mr LUSTER on the publication of amendments to legal provisions (Doc. B3-8/89),
- I. having regard to the report of the Committee on Legal Affairs and Citizens' Rights and the opinion of the Committee on Petitions (Doc. A 3-0012/91),

1 OJ N° C 68, 14.3.1983, p. 32
2 OJ N° C 343, 31.12.1985, p. 8
3 OJ N° C 122, 9.5.1988, p. 154
4 OJ N° C 120, 16.5.1989, p. 361
5 OJ N° C 231, 17.9.1990, p. 230
6 OJ N° C 232, 17.9.1990, p.1

1. Notes that since 9 February 1983, when Parliament decided to request the Commission to submit each year a report on the monitoring of the application of Community law, this matter has evolved dramatically, in particular with the entry into force on 1 July 1987 of the Single European Act;
2. In this context, recalls that the Commission has produced, in November 1990, a second report under Article 8(b) of the Treaty on the progress made towards achieving the internal market¹; notes moreover that the Commission produces twice a year a report on the implementation of the White Paper² and issues regular communications to the European Parliament and to the Council on the implementation of the legal acts required to build the single market;
3. Considers that, although the Commission's annual reports on the monitoring of the application of Community law have a broader scope, the above-mentioned reports and communications from the Commission should be examined in this context; takes therefore into account in particular the communication of 5 October 1990 from the Commission to the Council and the European Parliament on the implementation of the legal acts required to build the single market³ and the above-mentioned progress report of 23 November 1990 required by Article 8(b) of the Treaty;
4. Takes the view that the annual reports should by no means be replaced by the more regular communications and reports on the implementation of the White Paper since their scope is broader; indeed, they aim at assessing the Commission's activity as guardian of the treaties but also at providing Parliament with a full account of the implementation of Community law by the Member States and also the attitude of the national courts to Community law;
5. Believes thus that the annual reports are incontestably a major tool in order to ascertain the problems on the application of Community law, provided that the Commission submits them sooner, that is (as it promised on 23 May 1985 to Parliament) by the end of the month of March following the year to which the reports relate; regrets that the 7th annual report has only been submitted in June 1990 and calls on the Commission to submit the 8th annual report relating to 1990 before the end of March 1991;
6. Deplores that the Commission shows such an arrogant attitude, simply ignoring the repeated requests made by Parliament with a view to improving the factors to be considered in these annual reports. In particular, insists that the Commission when preparing the next annual report should:
 - (a) pay specific attention to the degree to which the Member States have implemented the White Paper so that, through these reports, Parliament may be in a position to assess the progress made towards the completion of the internal market by January 1993 (the Commission

¹ this report is dated 23.11.90, COM(90) 552 final

² The last is the Fifth report on the implementation of the White Paper of 28.3.1990 (COM(90) 90) which was examined in the framework of the De Gucht's report relating to the Sixth Annual Report on the monitoring of the application of Community law (1988)

³ COM(90) 473 final

should give a graphical presentation of the situation on a Member State by Member State basis, as it does in its recent communication on the implementation of the legal acts required to build the single market);

- (b) review both the problems on the implementation of Community law arising from the constitutional structure of the Member States and the decentralization of their powers, in particular their legislative and executive powers, and the methods used by Member States to overcome these difficulties;
 - (c) set out a complete list of the rulings handed down by national courts of last instance applying Community law, including the manner in which they interpret Article 177 of the EEC Treaty;
 - (d) draw up a list, broken down by Member State, of the requests for a preliminary ruling submitted to the Court of Justice, the types of Court submitting them and the cases of non-compliance with rulings of the Court of Justice;
 - (e) bearing in mind the substantial increase in the number of complaints, include more information on the subject of individual complaints, their authors (when they wish), the Member State concerned, the object of the complaint, the action taken and the average time required for action to be taken; notes that the Commission does not always give sufficiently quick answers on the action to be taken to the Committee on Petitions and calls on the Commission to improve its handling of these requests;
7. Calls on the Commission, when preparing the Eighth Annual Report, to submit at the same time a separate report on the application of Community environmental law by the Member States by March 1991 at the latest;
 8. Believes that the irreversibility of the process of completing the internal market has never been as obvious as it is now and notes with satisfaction that, as the European Council indicated in June 1990 in Dublin, the number of decisions so far adopted amounts to two thirds of the programme set out in the White Paper;
 9. Believes that the deadline of 31 December 1992 has certainly acquired not only a political significance but also an economic one for economic operators, public opinion and for third countries; notes with satisfaction that the Commission has been able to table all the planned measures set out in the White Paper ahead of schedule and urges now the Council and the Member States to take the measures necessary to ensure that the deadline is met; as the Commission points out, the European Council should take new actions, if necessary of an exceptional nature, to guarantee that the deadline of 31 December 1992 is respected, whatever the circumstances.
 10. Urges the Council to implement during 1991 the programme contained in the annex to the Commission's report of 23 November 1990 and deplores the fact that in the area of the abolition of controls on the movement of persons, which is clearly related to the single market, Parliament has been improperly put to one side with the Council acting, with the ambiguous

participation of the Commission, through international conventions, thereby riding roughshod over Treaty obligations;

11. As for the transposition of Community law into national law, notes with satisfaction that the situation has improved in comparison with the previous annual report (1988) since, as regards the White Paper, of the 107 measures in force and requiring transposition, one quarter have been transposed in all the Member States, but more than half have been transposed in at least 8 Member States;
12. Fears however that some delays still exist in some Member States regarding the implementation of the legislation already adopted and, in this context, points out that the Member States will be called on to transpose, in full or in part, 33 measures in 1991, 22 in 1992 and 7 in 1993, not counting legislation not yet adopted;
13. Notes that the number of letters of formal notice increased sharply in comparison with the previous year (664 as against 569 in 1988) and that the internal market, agriculture and the environment are the main areas in which infringement procedures have been commenced, and welcomes the tightening up of the Commission's monitoring activities, in particular as regards Articles 30 and 36 of the EEC Treaty; in this respect, calls on the Commission to provide in its next report more detailed information as to the reasons justifying that it does not eventually bring proceedings against a Member State for failure to act, or decides to withdraw pending proceedings before the Court of Justice or to request the latter to suspend them pending a forthcoming amendment to the existing law of the Member State concerned;
14. Fully supports the Commission's orientation to introduce more systematic monitoring of the incorporation of directives into national law by the immediate initiation of infringement procedures as soon as deadlines are reached, especially in areas such as the internal market and the environment;
15. Acknowledges that the judicial approach based on Articles 169 and 171 of the EEC Treaty is not sufficient and encourages the endeavours made by the Commission to speed up a permanent dialogue with the Member States through the holding of meetings - the so-called "package meetings" - in order to ascertain the existing difficulties and the level reached of the transposition of Community law; considers moreover that these meetings would become more effective were they convened with the competent State authorities systematically before the deadline for the application of the directives; in this respect, Parliament expects to be more fully informed as to the difficulties encountered by the Commission and the results obtained;
16. Considers that, wherever possible, preference should be given to using the regulation as a legislative instrument directly applicable in the Member States, thus avoiding the problems raised by the transposition of directives into national law;
17. Notices that the current delays in transposition of Community law are due above all to the administrative organization of the Member States concerned and not to any lack of will on their part, since no relationship

can be established between positions taken within the Council and delays in transposition;

18. Requests the Commission to call on the Member States to forward to it, one year before the expiry of the deadline for transposition laid down in the directive, details of the measures to be taken for its transposition into national legislation;
19. Believes that failure to transpose is often due to a lack of coordination within Member States between negotiators and those who are called upon to ensure implementation of Community legislation;
20. Calls therefore on the Member States to reinforce structures at the parliamentary and administrative level responsible for implementing Community law; as for the former, refers to the necessity of creating committees, subcommittees or working groups competent in particular to tackle the problems of the transposition of directives into national law (see e.g. in the French Assemblée Nationale, the "Délégation pour les Communautés européennes") and calls on the existing joint committees of the European Parliament and the national parliaments to examine any problems related to transposition; as for the latter, notwithstanding the different internal structures of the national Governments, the existence of a State Department with the task of coordinating and monitoring the transposition of Community law seems to diminish considerably the difficulties and speed up the period of time needed for compliance with Community obligations; in this context, Member States could draw the attention of the officials responsible for preparing the ground for the implementation of Community legal instruments to the advisability of setting the necessary procedures in motion as soon as the negotiations begin;
21. Notes the Commission's undertaking, in its communication of 23 November 1990, to introduce instruments of structural policy to aid those Member States which are experiencing difficulties in integrating the common policies into their administrative practice;
22. Refers, in this context and as an example, to the entry into force of an Italian law, the so-called "La Pergola" Law n° 86 of 9 March 1988 stipulating that the Government shall each year submit to the national Parliament a European Community bill consolidating the Community provisions to be transposed and stating the most appropriate legal means of so doing;
23. Considers opportune to recall that Parliament decided in June 1990 to create within its Committee on Legal Affairs and Citizens' Rights a "working group on the application of Community law", aiming at creating and stepping up continuing contacts with national parliamentarians, national administrations and representatives from the legal professions in order to tackle the existing problems in some Member States and maintain and keep alive the momentum on the completion of the internal market;

24. In the light of the recent increased political emphasis on relations between the European Parliament and the national parliaments, takes the view that, in the context of the next Annual Report, the Committee on Legal Affairs and Citizens' Rights should develop contacts with the national competent parliamentary committees in order to evaluate the existing problems in some Member States concerning in particular the implementation of Community law;
25. Approves the Commission's activities during 1989 as for the development of administrative cooperation between the Member States in key areas of the White Paper, as well as the foreseen setting up of "information networks", and asks the Commission to report next year on the concrete results achieved in these two sectors;
26. Considers it necessary to continue to encourage exchanges of officials on the basis of specific programmes in order to develop cooperation between Member States over the implementation of directives;
27. Notes with great satisfaction that, pursuant to a repeated request made by the Committee on Legal Affairs and Citizens' Rights, the Council has now accepted that the Commission's proposal: oblige the Member States to refer explicitly to the Community legislation in the national legal instruments transposing it into national law ("interconnexion");
28. Is fully convinced that one of the reasons behind the difficulties encountered in the transposition of directives into national law and the application of Community law is the complex and/or sometimes barely comprehensible nature thereof, and refers to its resolution of 26 May 1989 on the simplification, classification and codification of Community law⁴;
29. As for the transparency of Community law, welcomes the Commission's initiative to create a new database ("INFO 92") which is accessible by Videotex, covers all instruments adopted under the White Paper and provides an analysis and a table of the national incorporating or implementing measures for all the Member States;
30. As for the codification of Community law, regrets that the Commission has not made the necessary efforts to improve the hopeless and chaotic presentation of Community legislation; thus calls on the Commission:
 - to submit, starting with the next report on the application of Community law, a multiannual programme for the simplification and codification of Community law on a sector-by-sector basis;
 - to rework periodically texts which have undergone several amendments, each time that a substantial change is planned, and at all events, before the fifth proposed amendment; where reworking the text is impractical, believes that the wording of the texts in force should be coordinated;
31. Considers, however, that the Commission should refrain from submitting amendments to directives whose provisions have not yet been implemented;

⁴ OJ n° C 158, 26.6.1989, p. 386

32. As for the application of Community law by the national courts, takes note of the Commission's statement according to which during 1989 there was no instance where a national supreme court gave a judgment held to be inconsistent with Community law; although acknowledging that this statement in itself encouraging, regrets that the Commission once again did not see fit to provide in the current report a full account on the way national courts of last instance applied Community law and makes therefore a new request for the inclusion in the next report a complete list of the rulings handed down by national courts of last instance applying Community law;
33. Similarly, regrets that the Commission did not include a complete list, broken down by Member State, of the rulings from the above-mentioned national courts referring to Article 177 of the EEC Treaty;
34. Taking into account the importance of the preliminary rulings referred above, considers indispensable to examine in future annual reports a complete list of these requests, the types of court submitting them and the cases of non-compliance with the rulings of the Court of Justice; calls therefore on the Commission to include such a list in the next annual report or, if considered more appropriate, in a separate document; furthermore, in this context, notes that national differences with regard to the costs relating to the preliminary ruling procedure provided for in Article 177 are likely to make use of this procedure more difficult and reiterates its request on the Commission to submit a proposal aiming to solve this problem at Community level, possibly by the creation of a Community fund;
35. Deplores the apparent total inertia of the Commission on the problem of the lack of awareness on the part of the legal profession towards matters involving Community law and invites the Commission to submit concrete proposals for training programmes to improve this state of affairs; in the meanwhile, proposes the creation of a European Law Academy; and further proposes that the Community should cofinance both the creation of university chairs of Community law in the Member States and the organization of visits and seminars for judges from the Member States by both the Court of Justice and the Commission;
36. Reiterate: its recommendation to the Member States to make the teaching of Community law an obligatory part of university syllabuses in the Law and Economics faculties as well as in specialist courses for future judges, administrators and management and executive grades in the civil service, also encouraging the regular organisation of specialist courses within professional associations, particularly those representing lawyers and economists;
37. Considers that the high percentage level of non-compliance with the judgments of the Court of Justice (82 judgments in 1989) is appalling and seriously undermines the fundamental principle of a Community based on Law; deeply concerned with this problem, believes that it is now appropriate that the matter is brought up in the forthcoming modification of the Treaty; in this context, refers to Parliament's resolution of 21

November 1990⁵ and fully supports the modified proposal therein that, under Article 171 of the EEC Treaty, the Court should be empowered to accompany its judgments with financial sanctions against a Member State found to be in breach of its Community obligations and to impose other sanctions on such Member States;

38. Considers that all the instruments and programmes authorizing Community funding must state the payment of funds under such instruments and that programmes may be suspended or repayment demanded in the event of failure to comply with Community law in respect of them; the annual reports should contain detailed information about how the Commission uses its powers in this area.
39. Calls on the Commission to publish the future annual reports on the monitoring of the application of Community law as independent publications, which should of course include the relevant report drawn up by the European Parliament;
40. Instructs its President to forward this resolution and the Commission report to the Court of Justice and the Council and to the national Parliaments and Governments of the Member States, in particular to their Ministers for Justice and Education.

⁵ resolution based on the report submitted by Mr MARTIN on the Intergovernmental Conference in the context of Parliament's strategy for the European Union (Doc. A 3-270/90)

B

EXPLANATORY STATEMENT

Introduction

1. Since 9 February 1983 when Parliament decided to request the Commission to submit each year a report on the monitoring of the application of Community law, the situation has evolved dramatically. This is illustrated in particular with the entry into force of the Single European Act in July 1987 and the magic date of 31 December 1992 mentioned in Article 13 therein, and with the recent Intergovernmental Conferences which should result in substantive amendments to the Treaties.
2. The present Commission's annual report has to be scrutinised within this context. It is also necessary to point out that, parallel to these annual reports on the monitoring of Community law, the Commission has regularly issued communications to the Council and the European Parliament on the implementation of the legal acts required to build the Single Market. Besides, the Commission had produced two progress reports required by Article 8(b) of the Treaty; the second and last one was adopted on 23 November 1990 (COM(90) 552 final). The current report will thus be examined together with the communication of the Commission of 5 October 1990 on the implementation of the legal acts required to build the single market⁶ and the progress report above-mentioned of 23 November 1990.
3. The interconnexion of these documents with the present annual report is obvious, but the utility of the latter remain intact for two reasons:
 - its scope is broader, although the monitoring of the Member States' implementation of legal instruments adopted pursuant to the White Paper constitutes the major matter of concern for the Parliament
 - the reports being transmitted annually constitute a fuller account and are, in any case, foreseen beyond 1993.

For these reasons, Parliament does not consider that the more regular above-mentioned communications of the Commission should replace the annual reports nor that the former should extend their scope to all other areas of EC legislation⁷.

4. In Parliament's views it is preferable to continue the current practice, provided that the Commission abides by the repeated requests made by Parliament, in order to increase the utility of these annual reports. These requests and comments will be enumerated below. In this respect,

⁶ Communication of 7 September 1989, the Working Document of 4 December 1989, the 5th Report on the Implementation of the White Paper of 28 March 1990 and the last communication of 5 October 1990 (COM(90) 473 final). The latter will be examined together with the present annual report.

⁷ see in this respect, letter of 9 May 1990 from Mr Douglas HURD to the President of Parliament, which the Committee on Legal Affairs decided to examine in the framework of the current report

one has to acknowledge that the Commission has been surprisingly insensitive to Parliament's remarks on the foregoing reports. It maintained the same form in spite of the suggestions made by Parliament, which the Commission did not even mention. This state of affairs is regrettable and is tantamount, to a certain extent, to a "dialogue of the deaf". It is certainly incompatible with the importance of the subject and the Commission is requested to follow the Parliament's observations when drafting the next annual report. The Rapporteur also finds this surprising since obviously there is a community of interest between the Parliament and the Commission and it would appear that it will further the Commission's ends to adopt the Parliament's suggestions. If the Commission were more candid, the Parliament would be better able to raise points on a political level, which it cannot do if the Commission is so reluctant to come forward.

The Rapporteur has divided his report in two parts: firstly, the Commission's report is considered in its form and content (I) and secondly an assessment is submitted on the progress made in implementing Community law (II).

I. ASSESSMENT OF THE SEVENTH ANNUAL REPORT

A. FORM

5. Although considerable progress was made this year in comparison with the last year, the report was still transmitted too late (June 1990). The Commission indicated on 23 May 1985 that annual reports should be submitted not later than the end of March of the following year. It is therefore necessary once again to recall this commitment to the Commission.
6. This is alas possibly the only progress made by the Commission as for the presentation of this report. All the requests made by the Parliament about the sixth annual report were simply forgotten. In particular, it should be insisted that, for the next report, the Commission:
 - provide a table describing the breakdown of the situation by Member State as to referrals for preliminary rulings submitted pursuant to Article 177 of the EEC Treaty;

It is certainly very positive that the Commission provides a "review of significant judgments of national courts of final instance" (Table n° 11). However the latter (only 4 judgments have been included) do not necessarily have a link with Article 177 of the EEC Treaty;

- include more information on the subject of individual complaints, their authors, the Member States concerned, the action taken and the average time required for the action to be taken;
- pay specific attention to a suggestion made by Parliament which aims at the organization of future reports by subject focusing, within this framework, on the major topics raised by the Community decision-making process;
- lastly, respond to a constant request from Parliament to publish the

annual reports as independent publications (brochure) also reproducing Parliament's report on it as adopted by the latter.

B. CONTENT

7. Despite the fact that the present Commission's report, like its predecessor, focuses merely on the competences of the latter on the basis of Article 169 (thus declining an important part of the application of Community law stemming from Article 177 EEC Treaty), the rapporteur acknowledges that in general its content is more detailed and developed, in particular on the completion of the single market.

The content of the report will be analyzed in general (A) and sector-by-sector (B).

A. IN GENERAL

8. The following three points summarize the main data of the report:

- a. The number of individual complaints registered continues to grow (1137 in 1988 and 1195 in 1989); also increased is the number of cases of infringements detected by the Commission's own inquiries (307 in 1988 and 352 in 1989) originated, to a large extent, from parliamentary questions or petitions.

As already mentioned in Parliament's previous reports, this is a very important development, because it shows the active role citizens are playing and will play in the effective creation of the Communities. In this regard, it is certainly not sufficient to enumerate the number of complaints registered per year in each Directorate General of the Commission and the Member State concerned (see Table 12). As Parliament has constantly requested, the Commission should also indicate the subject matters concerned and how the individual cases are dealt with. In this respect, the Committee on Petitions, for example, faces difficulties as to the rapidity with which the Commission reacts to their reports. While the Commission has to observe the principle of confidentiality, Parliament is entitled to follow this important field of the Commission's activities. Moreover, in some cases, it is actually in the applicant's own interests that his/her case enters the public domain.

- b. The number of letters of formal notice increased sharply (664 against 569 in 1988).

The Commission specifies that the internal market, agriculture and the environment were the main areas in which infringement procedures have been commenced. Parliament can only approve the tightening up of the Commission's monitoring activities, in particular as regards the internal market.

- c. The number of reasoned opinions fell in 1989 (180 compared with 227 in 1988) whereas the number of actions brought before the Court of Justice increased (96 in 1989 and 73 in 1988) and the number of Court judgments not yet complied with remained at much the same level as the previous year.

Parliament is seriously concerned with this last situation and it is unacceptable that in 1989 82 judgements in total were ignored. This undermines the fundamental principle of a Community based on Law. The point has been reached that legal remedies have to be envisaged aimed at solving this problem. This question is examined below.

9. As a whole, the Commission summarized as follows its actions in 1989:

- efforts were made to increase the awareness of national political leaders to complete the single market;
- contacts between Commission departments, and national authorities concerning the implementation of Community law have been stepped up;
- the importance of giving effect to the directives has been stressed; as a result, and on average, Member States have introduced the measures required to give effect to about 87% of directives by the appointed time. In this respect, the Commission plans to introduce more systematic monitoring of the incorporation of directives into national law by the immediate initiatives of infringement procedures as soon as deadlines are reached.
(These initiatives will be evaluated in a further chapter of this report).

B. SECTOR BY SECTOR ANALYSIS

10. This part of the report is divided in two main parts: the single market (1) and a People's Europe (2).

1. The Single Market

a. In general

11. The report shows that the Commission has made serious efforts to make the purposes of new decision-making mechanisms of the Single European Act fully credible. Of the 151 measures definitively adopted, 103 came into force in 1989 and 84 of these require national incorporating or implementing measures⁸.
12. To this effect, the Commission proceeded according to two parallel courses of action: on the one hand, it continued and stepped up its judicial activity (Article 169 EEC Treaty) and, on the other hand, it developed a debate at the political level aiming to create an awareness in the Member States of the scale on which national authorities are failing to comply with Community law.
13. Even though the situation has improved substantially in the second half of 1989, deadlines are not respected in around 45% of cases and new

⁸ On 5.10.90, 107 measures came into force and requiring transposition and 20 had been transposed in all the Member States by March 1990 (see Commission's communication above-mentioned of 5.10.1990, p. 2); on 23.11.90 one quarter of the 107 measures in force have been transposed in all the Member States.

proceedings have been initiated under Article 171 in a large number of cases for failure to comply with earlier rulings.

b. A brief survey of the situation in the principal areas concerned

i) The removal of physical barriers

14. There were few problems concerning measures to dismantle customs and tax formalities, the reason being that, in most cases, regulations and not directives have been adopted. Nonetheless, the Commission brought four infringement proceedings of Articles 9 et seq., two against France (in connection with charges made for computerized control of customs declarations and with the flat-rate tax on exports of precious personal items to other Member States), and two against Italy (one concerning the charges levied for services performed at the same time for a number of firms and another concerning the stamp duty charged on imports of certain products from other Member States).

15. In the area of plant and animal health controls, implementing measures have been notified in 80% of cases. Shortcomings are present, in particular in Italy and Greece.

ii) The removal of technical barriers

16. This field knew important progress (80% of the proposals on the White Paper had been approved), although there are considerable problems as regards transposition into national law (in October 1990 only 65% of national implementing legislation had been notified to the Commission). Delays exist mainly as regards foodstuffs and consumer protection.

17. Encouraging results with industrial products and telecommunications were obtained following the Commission's "package meetings" with government departments of the Member States concerned (see Commission report pp. 9 and 10). The barriers in respect of which the Commission initiated proceedings were varied (see loc. cit. p. 12).

18. In the field of technical regulations, the situation is generally satisfactory, particularly concerning pharmaceutical products where 92% of transposition measures have been taken. Yet the delays in the sector of foodstuffs are a cause for concern, since only less than half of the required measures have been adopted.

19. As for the opening-up of public procurement, the Commission's comments reveal shortcomings in the following areas:

- interpretation of the scope of the directives and the excluded sectors;
- the criteria for selecting those eligible to bid, and
- the stipulations made in contract documents and the way these are applied when selecting bids.

20. In the field of services, in particular financial services, Parliament notes with satisfaction that the Commission intends to increase vigilance in monitoring the application of the directives concerned. The situation seems to be very unsatisfactory indeed. Thus, as regards compliance with the Court's ruling of 4 December 1986 concerning non-life insurance and coinsurance, only Denmark has passed legislation. Also, it is worth pointing out that less than 20% of the legislation necessary for the

transposition of the three directives in force (legal protection, credit and non-life) has been adopted⁹.

2. A People's Europe

21. In this part of the report the Commission gives an account of its actions in four different sectors:
 - Free movement of persons
 - Right of establishment and recognition of qualifications
 - Employment and social policy
 - Consumer protection.

22. This is, a specially sensitive area of deep concern to individuals and Members of the European Parliament. In particular, Parliament cannot but strongly criticize the Commission's statement according to which "the importance of the work being done by the five Member States party to the Schengen Agreement and by all Twelve in the ad hoc Immigration Working Party should be emphasized" (p. 24). This statement is surprising when it is well known that Member States are drawing up international conventions with the ambiguous participation of the Commission, in fields which are clearly related to the abolition of controls on persons and thus to the Single Market (see also Commission's report of 23.11.1990, pp. 9-11). Parliament considers unfair, unrealistic and counterproductive for it, the only elected body of the European Communities, to be put to one side in such an important area of Community law.

23. In the area of consumer protection, it is true that in 1989 the Commission created within its services a separate department responsible for consumer policy, but the report explicitly admits that the Commission is ill-equipped to deal with a great many of the complaints

24. As regards the sector of employment in the public service, the Commission published a Memorandum on 18 March 1988 (OJ C 72 p. 2) in which it appears that there are many instances of employment in the public service subjected to a nationality requirement, contrary to Article 48(4) EEC Treaty as interpreted by the Court of Justice. It is thus positive in this context that the Commission commits itself in the report (par. 128, p. 29) to commence general infringement proceedings under Article 169 in the course of 1990 against all Member States concerned and in priority areas where infringements were found to exist (i.e. education, non-military research, health services, bodies operating a public service on commercial lines). Parliament expects detailed information in this area in forthcoming annual reports.

3. Other

The Report refers to a number of other areas where the Commission has been active. These include the Environment, under which it is stated that "On-the-spot visits must be limited to exceptional cases, because there are not enough staff and the Commission does not have mobile measuring stations to enable it to measure the pollution of the environment or analyze the samples". This is thoroughly unsatisfactory since it is a

⁹ See above-mentioned communication from the Commission of 5.10.1990, p. 5

central feature of the Rule of Law that the law is obeyed and if scientific evidence cannot be adduced for this kind of reason, something is very wrong. Against this background it is particularly unfortunate that Parliament's suggestion that the European Environmental Agency be given powers of carrying out on-the-spot controls was not accepted (COM(89) 303 final).

It is also extraordinary that, apparently, "some Member States seem to be unaware of the fact that they are under a legal obligation to introduce such programmes" (par. 156 of the report).

II. ASSESSMENT OF THE PROGRESS MADE IN IMPLEMENTING COMMUNITY LAW

25. The current situation shows a considerable improvement on the previous annual report. Of the 107 measures in force and requiring transposition, one quarter have been transposed in all the Member States but more than half have been transposed in at least 8 Member States¹⁰. The rate of transposition has increased continuously, as described in the previous chapter of this report.
26. Yet in some areas, in particular regarding the White Paper, important delays remain which can jeopardize the coming into force of the Single Market. Furthermore, beyond the question of the transposition of Community law by the Member States, two other questions deserve further scrutiny by the Parliament, especially because they were either ignored or only partly examined in the Commission's report. In particular, mention shall be made of the following questions:
- the need to include in future reports an account of the way national courts apply Community law, in particular Article 177 (preliminary rulings)
 - the problem of non-compliance with the judgments of the Court of Justice and remedies to be envisaged.

A. The general problematic of transposing Community law

27. As it was shown before, some progress has been made in transposing Community law into national law. It has to be acknowledged that some Member States have made considerable efforts, in particular in some areas of the White Paper. The Commission has equally endeavoured, through cooperation with the Member States at a political and administrative level, to speed up the transposition. Unfortunately, as regards the transparency and codification of Community law - which can contribute decisively to facilitating the transposition of Community law - the Commission has been rather passive.

1. Some existing difficulties in the sphere of the Member States

28. As from the previous annual report, it is remarkable that all countries have reduced the number of delays observed in 1988¹¹. But worries still

¹⁰ Updated numbers taken from Commission's progress report of 23.11.90

¹¹ the situation has further improved after September 1989 (see Commission's communication of 5.10.1990, p. 3)

remain regarding the implementation of legislation already adopted or still to be approved¹².

29. According to the Commission, the delays are due, above all, to the administrative organization of the Member States concerned and not to any lack of will on their part. In this respect, an analysis of the votes cast within the Council on those proposals approved by qualified majority since July 1987 (i.e. when the Single European Act entered into force) shows that there is no relation between the position taken within the Council and delays in transposition¹³.
30. Failure to transpose is often due to a lack of coordination within Member States between negotiators and those who are called upon to ensure implementation. Moreover, in some Member States constitutional procedures are somewhat cumbersome, thus making the implementation process too slow.
31. Member States should therefore strengthen or create structures responsible for implementing Community law. Italy has offered a good example having established an annual "Community Act"¹⁴ intended to settle all of its Community obligations. Parallel to this innovation, the competent authorities could, already at the stage of the negotiation, give instructions to the officials responsible to fix adequate procedures for the implementation of Community law.
32. Parliament has been constantly concerned with this matter and in June 1990, in the context of the 6th report, approved the idea of the setting up, within the Committee on Legal Affairs, of a working group on the implementation of the White Paper. The task of the latter is mainly to establish continuing relations with parliaments and national governments on the ways in which the Member States are implementing Community legislation to bring the internal market into being.
33. The Commission, in its turn, made serious endeavours during 1989 to improve this situation. It is worth therefore evaluating its efforts in the present report.

2. Evaluation of the Commission's actions in 1989

34. The Commission has made proposals to improve the situation of the implementation of Community law in four different sectors:
 - action in relation to the transparency of national transposition measures and codification,
 - the strengthening of infringement procedures,
 - generalization of holding global meetings with each Member State to discuss the stage reached in the transposition process,

¹² the Member States will be called on to transpose, in full or in part, 33 measures in 1991, 22 in 1992 and 7 in 1993, not counting legislation not yet adopted

¹³ loc. cit. p. 2

¹⁴ Act n° 86 of 9 March 1989, the so-called "La Pergola Law" (Official Journal of 10 March 1989). See the commentary on this law in the previous Parliament report (OJ N° C 231, 17.9.1990, p. 230, paras 27 and 28)

- development of administrative cooperation between the Member States.

These three last points will be examined hereafter, while the first will be analyzed in a separate paragraph below.

35. As for the strengthening of infringement procedures, Parliament is definitely in favour of a stronger approach, in particular as regards the non-implementation of the directives related to the Single Market. It is certainly the best way of keeping credible the date of 31 December 1992. Parliament considers, however, that the Commission does not keep it fully informed on the manner in which it acts preventively or decides not to bring annulment proceedings or to withdraw those already initiated.
36. Furthermore, although Parliament shares the Commission's new approach to speed up the infringement procedures, it cannot back the Commission's rather bureaucratic approach in the handling of individual complaints, parliamentary questions and petitions. As was clearly shown before, the number of these complaints increases considerably year after year and yet the Commission does not seem to have created new mechanisms fit to deal with this new development. It goes without saying that this increase in the number of complaints demonstrates a great interest and concern on the part of European citizens in their shared future within the Community. Not only does the Commission omit to give the necessary details of these complaints, as requested in Parliament's previous report, but it also seems to discourage applicants from submitting their complaints to it (see p. 31). The Commission should handle this part of its activities more seriously and give a fuller account to Parliament in the next report, namely by providing a survey on the subject matters, Member States concerned, time needed to take action and on the outcome of the complaints.
37. This same criticism applies to the holding of meetings with each Member State to discuss the level reached of transposition. The very principle of organising and speeding up the so-called "package meetings", which aim to survey the general situation as regards, in particular, the implementation of Community law, is extremely welcome. However, here again, the lack of information conveyed to Parliament is most frustrating. This is particularly sad since Members of the European Parliament, even if not members of national Parliaments, have considerable contacts with them and so should be able to exercise influence on the legislatures in the Member States. It is understood, for example, that these meetings have been particularly useful with Spain and Portugal. But the annual report is not sufficiently explicit on the pace of those meetings, on the other Member States concerned and on the problems of non-compliance with Community law encountered by the Commission's representatives. In this context, Parliament encourages the Commission to convene systematically these type of meetings even before the deadline for application of the directives with the competent state authorities. In other words, a preventive approach should be deemed as more efficient and, politically speaking, less visible. The Commission could therefore, in this context, call on the Member States to forward to it, one year before the expiry of the deadline for transposition laid down in the directive, details of the measures to be taken for its transposition into national legislation.
38. Incidentally, Parliament insists that when at all possible, and bearing in mind the principle of subsidiarity, the Commission could simply endeavour

to propose directly applicable regulations, like it does with the measures to dismantle customs and tax formalities (see resolution adopted by Parliament on 21 November 1990, B3-1999/90, para. 5).

39. Finally, another significant measure introduced by the Commission in 1989 is the development of exchanges of officials between national administrations and the setting-up of information networks.
40. Regarding the programme of exchanges of officials between national administrations, it is managed by the European Institute of Public Administration in MAASTRICHT and financed half by the Community and half by the Member States concerned. These programmes are foreseen for certain key areas of the White Paper, namely certification, public procurement, diplomas and pharmaceutical products. This follows the MATTHAUES programme which was launched in 1989 and concerns the customs authorities.
41. As for the information networks, the idea is the creation of networks for the transmission of data between administrations particularly in the fields of transport, telecommunications, energy and training.
42. Parliament entirely agrees with both initiatives and believes that they contribute to a closer cooperation between Member States and a better knowledge by national authorities of the Community legislation which they have to apply. These programmes deserve in principle Parliament's support, provided that the latter is kept sufficiently informed. Also, they should ultimately serve the national citizen's interests and thus receive appropriate publicity in the Member States.

C. TRANSPARENCY, SIMPLIFICATION AND CODIFICATION OF COMMUNITY LAW

43. It is well known that the Parliament, and in particular the Committee on Legal Affairs and Citizens' Rights has been concerned with this matter. It has been fully developed in the GARCIA AMIGO Report of 26 May 1989 (OJ n° C 158, 26.6.1989, p. 386) (which incidentally is not mentioned by the Commission) as well as in the last Parliament report on the sixth annual report. First of all, it is necessary to refer explicitly to these two documents in order to avoid repetition.
44. As for the transparency of national transposition measures, it should be mentioned that in 1989, following a repeated request from Parliament¹⁵ (taken over by the Commission), the Council agreed, at its meeting of Ministers of Internal Market of 9 November 1990, that Member States must refer explicitly to the Community legislation in the national legal instruments transposing it into national law ("interconnexion").
45. Regarding the transparency and simplification of Community law, another significant result has been achieved in 1989: the creation by the Commission of a new data-base - INFO 92. This is accessible by Videotex and covers all instruments adopted under the White Paper whatever their legal form. This base provides, furthermore, an analysis of the measures and a Table giving the references to the national incorporating or

¹⁵ see JANSSEN VAN RAAY and above-mentioned DE GUCHT reports on the 5th and 6th annual reports

implementing measures for all the Member States. It is no doubt a most useful tool and to illustrate its need and its success is the fact that 1 250 contracts have already been concluded with users. This Commission initiative is warmly welcome and should be pointed out here.

46. Unfortunately the same progress is not obvious in the area of codification of Community law. As Parliament stated already, though "one of the reasons behind the difficulties encountered in the transposition of directives into national law and the application of Community law is the complex and/or barely comprehensible nature thereof"¹⁶. The Commission admits that it is a lengthy and difficult task and points out as areas of Community law already codified the following: Seventh VAT directive, cosmetics and the labelling of foodstuffs. Parliament is aware that the codification work is complex and possibly costly; yet it urges the Commission once again to:

- rework texts which have undergone several amendments, each time a substantial change is planned and, at all events, before the fifth proposed amendment; where reworking the text is impractical, suggests that the wording of the texts in force be coordinated;
- submit, starting with the next report on the application of Community law, a multi-annual programme for the simplification and codification of Community law on a sector-by-sector basis.

The rapporteur is fully aware that when the Commission submits a codified text the underlying texts would be explicitly or even implicitly abrogated by the new text. This is a reason why the Commission apparently hesitates in playing the codification card in order to avoid jeopardizing the future of provisions that had been the fruit of difficult political compromise. In order to avoid this, Parliament should commit itself, as regards codified texts, to tabling amendments only to the new provisions and not to those already in force.

B. Application of Community law by national courts and the need to improve the education and training of the legal profession in the field of Community law

1. Application of Community law by the national courts

47. Like its predecessor, the seventh annual report merely contains a small number of "significant judgments of national courts of final instance" and a table indicating the number of preliminary rulings of the Court of Justice.
48. As for the rulings of the highest national courts, the Commission comes to the conclusion that the actual principle of the primacy of Community law is respected and that awareness of the need to apply Community rules is increasing, irrespective of the nature of the proceedings or the stage they have reached. According to the Commission, during 1989 no instance of national supreme courts have given judgments inconsistent with Community law. This conclusion in itself is encouraging but would have more weight were the Commission willing to draw up a list of judgments

¹⁶ DE GUCHT report, loc. cit., para. 10, p. 6

actually given by the national supreme courts applying or interpreting Community law.

49. As for the preliminary rulings pursuant to Article 177 of the EEC Treaty, during 1989 the Court received 139 requests from all Member States, in particular: 47 from Germany, 28 from France and 18 from the Netherlands (see p. 72 et seq.). In this respect, reference should be made to Parliament's previous report drafted by Mr DE GUCHT¹⁷ in which it was stressed the necessity to include in these annual reports, on the one hand, a complete list of the rulings handed down by national courts of last instance applying Community law including the manner in which they interpret Article 177 of the EEC Treaty and, on the other hand, a list broken down by Member State of the requests for a preliminary ruling submitted to the Court of Justice, the types of court submitting them and the cases of non-compliance with the rulings of the Court of Justice.
50. It is known that the preliminary rulings represent a fundamental mechanism for the good functioning of the Communities. It aims not only at preventing divergencies in the interpretation of Community law by the national courts but also enables the latter to obtain from the Court of Justice a decision on the interpretation or the validity of the Community acts they are called on to apply.
51. The Commission obviously does not question the importance of this part of the application of Community law but has always refused to comply with Parliament's repeated requests, without even indicating the reasons for such a refusal. This is even more surprising since the Court of Justice has set up a system for monitoring all judgments and decisions of the courts in the Member States which relate to the application of Community law or make reference to it. Thus, albeit being aware that the inclusion of this survey would inevitably enlarge the Commission reports, the Parliament can only but insist on the importance of them in order to have a general view on the matter and proceed to a strict scrutiny of the evolution on the manner in which the national courts act.
52. If this seems not feasible to the Commission, Parliament is prepared to consider the possibility that the Commission provides this study in a separate document on which it will give an opinion.
53. Finally, and in the context of the preliminary rulings, it is worth recalling that in the last report the Parliament requested the Commission to submit a proposal designed to resolve at European level the question of costs incurred by the parties to the main actions, possibly by the creation of a Community fund. Here also the Commission did not say a word.

Similarly as to the question of the necessity to alert the legal profession to the provisions of the Community law.

¹⁷ loc. cit., pp. 13 and 14

2. The absolute need to improve the education and training of the legal professions in the field of Community law

54. This is another example of Parliament's recommendations falling on deaf ears. From the outset, Parliament has been fully concerned with the lack of a generalised knowledge and awareness of Community law.
55. Basically, the situation can be described as follows: a course of study on Community law in University Law faculties is not compulsory in all Member States; likewise, to qualify as a practising lawyer there is no need ever to have specifically studied the subject at all. The situation is slightly different in some Member States as far as the qualification for judges is concerned (e.g. Portugal). Yet two years before January 1993 it would seem self-evident that at least all newly nominated judges and newly qualified lawyers be obliged to have a proper knowledge of Community law.
56. Parliament notes with satisfaction that the Commission is fulfilling this gap for national officials dealing in some areas of Community law (see for example MATTAEUS programme above-mentioned), but a serious effort has now to be made for the legal profession in the Member States. The Commission should make concrete proposals in the next annual report.
57. In the meantime, and in view of the apparently total inertia from the Commission, the Committee on Legal Affairs and Citizens' Rights will propose soon a European Law Academy¹⁸.

B. Non-compliance with the judgments of the Court of Justice

58. The number of court judgments which have not yet been complied with remained at much the same level as the previous year (82 compared with 86 in 1988) (p.III). A total of 26 new procedures based on Article 171 of the EEC Treaty were initiated in 1989. This record of non-compliance is appalling and seriously undermines the fundamental principles of a Community based on law.
59. This brings us to the well-known legal gap in the EEC Treaties as regards the non-existence of sanctions for non-compliance with a Court's judgment. Already in 1984 Parliament proposed in its draft Treaty of European Union that the Court should be entitled to apply a sanction to the States responsible for an infringement of Community law (Articles 43 and 44). This idea has now been taken up in the Third Interim Report of the Committee on Institutional Affairs (report submitted by Mr MARTIN on the Intergovernmental Conference in the context of Parliament's strategy for European Union - Doc. A3-0270/90), adopted by Parliament on 21 November 1990. This report proposes a modified version of Article 171 which would read as follows:

"The Court may combine its judgments with financial sanctions against the Member State that has been found to be in default. The amount and method of collection of such sanctions shall be determined by a regulation adopted by the Community in accordance with the procedure laid down pursuant to Article 188(b).

¹⁸see Motion for a Resolution by Mr LANGES and others on a European Law Academy (Doc. B3-271/90)

The Court may also impose on recalcitrant States other sanctions such as suspension of right to participate in certain Community programmes, to enjoy certain advantages or to have access to certain Community funds".

The Committee on Legal Affairs and Citizens' Rights believes that this provision, were it eventually adopted, constitutes the appropriate remedy for the existing lacuna in the EEC Treaty.

O P I N I O N

(Rule 120 of the Rules of Procedure)

of the Committee on Petitions

for the Committee on Legal Affairs and Citizens' Rights

Draftsman: Mr José Maria Gil-Robles

At its meeting of 20 September 1990 the Committee on Petitions appointed Mr GIL ROBLES draftsman.

At its meeting of 28 January 1991 it considered the draft opinion and adopted the conclusions by 17 votes in favour with 1 abstention.

The following took part in the vote: REDING, chairman; PAGOROPOULOS and MONNIER-BESOMBES, vice-chairmen; GIL-ROBLES, draftsman; CASSIDY, COIMBRA MARTINS, DEFRAIGNE, DILLEN, GASOLIBA I BÖHM, GUTIERREZ DIAZ, HAPPART, LAMBRIAS, MAHER, MIRANDA DE LAGE, NEWMAN, NEWTON DUNN, SCHMIDBAUER and WILSON.

I - Introduction

In its resolution of 9 February 1983¹⁹ Parliament called on the Commission to submit to it an annual report on the application of Community law. If legal provisions are to be effective it is essential for them to be applied correctly. As the volume of Community law has increased, appropriate monitoring of its application has also become more important. Hence Parliament, the legitimate representative of the Community's citizens, has delivered its opinion on the annual reports and formulated conclusions and recommendations aimed at obtaining an increasingly explicit and transparent picture of how the Commission carries out its task of monitoring the application of Community law.

The Committee on Petitions keeps an eye on all this and needs the Commission's active collaboration in order to deal with the growing number of petitions submitted to it by Community citizens. One result of this continuing relationship is this opinion for the Committee on Legal Affairs and Citizen's Rights, which is responsible for examining the seventh annual report submitted by the Commission²⁰.

II - Assessment of the report

A. Its date of submission

On 23 May 1985 the Commission undertook to submit its annual reports before the end of March each year. It still has not kept this promise although the delay in submitting the report has been considerably reduced.

B. Its form

The Commission is still ignoring Parliament's recommendations as to how the report's presentation could be improved. The Committee on Petitions feels that it is particularly unfortunate that:

- inadequate information is given regarding the deadline for dealing with and giving a decision on complaints and infringements detected by the Commission's own inquiries (table 12, mentioned twice in paragraph 4(a), is not specific enough);
- it is not stated how many of the 352 'cases detected by the Commission's own inquiries' (paragraph 4(a)) are the result of parliamentary questions, petitions and the Commission's own initiative;
- it is not stated how many cases were closed following regularization of infringements and how many were closed for other reasons, nor are these reasons specified;
- hardly any information is given regarding the nature of the infringements, such as the number of persons involved, the duration, the repercussions etc.;
- it is not specified in which cases the Commission took steps to suspend payment of funds when a Member State failed to comply with judgements of the Court of Justice (cf paragraph 4(e) of the report).

¹⁹ OJ No C 68, 14.3.1983

²⁰ COM(80) 288 final

C. Its contents

- (a) On several occasions the Commission mentions its efforts to ensure that cases are dealt with as rapidly as possible (paragraphs 4(a) and 5(d)). However, these efforts do not seem to have been sufficient to achieve satisfactory results, at least as far as dealing with petitions is concerned.

According to information made available to the Committee on Petitions, at the end of 1989 the Commission was still dealing with three petitions from 1986, 19 from 1987, 66 from 1988 and 150 from 1989, in addition to those which were the subject of letters of formal notice or reasoned opinions, 2 of which were from 1986, 1 from 1987, 6 from 1988 and 12 from 1989. In view of the fact that the number of petitions is increasing and, according to the report itself, the number of complaints is too, more effective measures obviously need to be taken in order to reduce the time taken to deal with petitions.

- (b) European citizens find it illogical and incomprehensible that projects or activities which benefit from Community financial aid may be the subject of infringements without the funding being suspended or withdrawn. In this connection the report says:

'In some cases - where the instruments or programmes making Community funding available make provision for payment to be suspended if a Member State is in breach of Community law - the Commission is in a position to exert financial pressure to secure enforcement.' (Paragraph 4(e)).

However, the possibility of suspending payment or demanding the repayment of aid in the event of non-compliance should always be mentioned in the instruments and programmes authorizing such funding in order to prevent scandalous situations arising.

The experience of the Committee on Petitions has also shown that in this field coordination among various Directorates-General of the Commission and between them and the European Investment Bank should be improved.

- (c) The Commission recognizes that the response given to complaints concerning Member States' application of Community law in the field of consumer protection (cf paragraph 133) and the environment (cf paragraph 150) is unsatisfactory. However, it does not say what steps it intends to take to remedy the situation, nor does it even state that such steps need to be taken. This attitude is unacceptable and Parliament must demand that the Commission adopt the necessary provisions to tackle its responsibilities in these areas.

- (d) In the report there is a glaring omission, in that there is no mention of application of Community law by the Commission itself in relation to its staff. Admittedly there have been very few petitions on this subject but they have made the Committee on Petitions concerned that Community rules may not be properly observed by the very authorities one of whose main tasks is to monitor such observance. Hence future reports should contain precise and detailed information regarding complaints submitted by the staff of the European Communities regarding infringement of Community law and how they are dealt with and resolved.

III - Conclusions

1. Annual reports must be submitted in the form requested by Parliament, giving the information referred to in this opinion and within the time limit originally laid down by the Commission itself.
2. The Commission must take steps to ensure that complaints and petitions are dealt with as rapidly as possible and, in the fields of the environment and consumer protection, more effectively. These measures should be the subject of a separate paragraph in the next annual report.
3. All the acts, regulations and programmes authorizing Community funding must mention that payment of funds may be suspended or repayment demanded in the event of failure to comply with Community law. The annual reports should contain detailed information regarding the use made by the Commission of its powers in this area.
4. Future annual reports should contain precise and detailed information regarding complaints submitted by the staff of the European Communities regarding infringements of Community law by Community institutions and other bodies and on how such cases are dealt with and resolved.

