

# THEMATIC DIGEST

Supporting analyses for committees



## POLICY DEPARTMENTS

### Empowering parliaments and enforcing citizens' rights in the implementation and application of Union law

Inter-parliamentary committee meeting - Brussels, 27 November 2018

#### Purpose

The European Parliament's Committees on Legal Affairs and on Petitions are holding an Interparliamentary Committee Meeting on 27 November 2018, to look into the empowerment of parliaments and the enforcement of citizens' rights in the implementation and application of EU law. National parliamentarians will participate in discussions on the transposition, implementation and application of EU law, including from the point of view of national parliaments, together with members of both committees, experts and EU institutional representatives. The role of complaints to ombudsmen and petitions to parliaments as instruments to detect breaches of EU law will be looked into with European Ombudsman Emily O'Reilly, amongst others.

#### Inside

This publication contains supporting analyses provided by the European Parliament's Policy Departments to support committees in their work related to the issues that are being dealt with by this meeting. Scan the QR codes or click on the titles for access.



#### Publications

[Europe for Citizens: towards the next programme generation](#) - May 2018

The aim of this study is to provide a qualitative analysis on the Europe for Citizens programme. With citizenship being a key element of democracy, citizens' participation is needed for democracy to function. Since interests and challenges touching citizens do not follow state borders, it is important to allow for citizens' activity to also cross borders. The funding distributed through the Europe for Citizens (EfC) programme, which addresses the complex challenges and promises related to democracy, citizenship and diversity, is therefore crucial. The analysis in this publication draws insights from academic research focusing on the EfC programme, and experiences of the beneficiaries of the programme. The question regarding decision-making via delegated and implementing acts is analysed through the Council Regulation (2014) on the EfC and the related work programmes in 2014-2018.



DG IPOL and DG EXPO Policy Departments

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[Monitoring the implementation of EU law: tools and challenges](#) - November 2017

The European Union is founded on the rule of law, which is one of the values stated under Article 2 of the Treaty of the European Union (TEU). Ensuring implementation of EU law is at the heart of this principle. However, there have been longstanding issues with the implementation and enforcement of EU law. Recent studies on the evaluation of certain pieces of EU legislation show that while the objectives of EU Directives remain relevant, their lack of effectiveness is linked to the lack of implementation. This paper presents the evolution of the EU enforcement policy as part of the principle of rule of law in the Union. It provides information on the main actors responsible for the implementation and enforcement of EU law and trends related to the transposition and application of European legislative acts according to the latest information available. It browses through the different measures within the EU enforcement policy, including the recent developments on the use of the EU Pilot tool.



[Protection of procedural rights in OLAF administrative investigations: OLAF Final Reports as criminal evidence](#) - July 2017

This paper analyses two crucial and interconnected aspects of the current legal framework on the investigations conducted by OLAF: the procedural safeguards for the individuals subject to the administrative investigations conducted by OLAF, and the admissibility in evidence of OLAF Final Reports in national criminal proceedings. The European Anti-Fraud Office (OLAF) was established in April 1999 under the pressure of a political crisis at EU level, which culminated in the resignation of the Santer Commission in March of that year. Over the years, the number of OLAF investigations has grown considerably, leading to the opening of 219 investigations and the recommendation to recover 631 million euros in 2016. This publication looks into the state of the art and its shortcomings, in the double perspective of the coherent protection of the EU's financial interests and of the respect of fundamental rights provided by the EU Charter of Fundamental Rights.



[The role of national parliaments in the EU after Lisbon: potentialities and challenges](#) - March 2017

The Treaty of Lisbon provided a legal recognition of the democratic significance of national parliaments. It refers to national parliaments in terms of their information rights, their participation in the procedures of revision of the treaty, their control over the field of Freedom, Security and Justice and their possibility to cooperate with each other and with the European Parliament. This study assesses the implementation of the Lisbon Treaty provisions on national parliaments and other related developments since 2009. The issues that are looked into include the treaty provisions on national parliaments, the Early Warning Mechanism, dialogue between national parliaments and the European Commission, the extending networks of inter-parliamentary cooperation, the parliamentary dimension of budgetary and economic coordination and the challenges raised by on-going developments of the European legislative procedure.



[The legisprudential role of national parliaments in the European Union](#) - March 2017

This briefing addresses the role of national parliaments in the law-making process of the European Union. There are four key findings. Firstly, national parliaments' contribution to the law-making process at European level should focus on the overall rationality of the draft legislative proposals. The Early Warning Mechanism must not be limited to considerations regarding the breach of the principle of subsidiarity. Secondly, the "green card" would be a significant way to channel the impetus and knowledge of national parliaments into the legislative procedure at European level. Thirdly, the "red card" would strengthen the role of national parliaments concerning the control of compliance with the principle of subsidiarity review and would transform them in the main guardians of this principle. Finally, the more informal Political Dialogue procedure could be enhanced to acknowledge the legisprudential role assigned to national parliaments.



[Subsidiarity to enhance cooperation between EU institutions and national parliaments](#) - March 2017

The Lisbon Treaty has entrusted national parliaments with the responsibility to monitor the respect of the principle of subsidiarity in new EU legislative proposals adopted in areas of non-exclusive EU competence (Early Warning System (EWS)). This paper gives an overview of the role of subsidiarity in relations between national parliaments and EU institutions. It finds that while subsidiarity was already introduced in the Maastricht Treaty, the creation of the EWS contributed most to the closer cooperation between EU institutions and national parliaments. It also finds that of the EU institutions, the European Commission is the main interlocutor of parliaments in this framework. It concludes that challenges remain, in particular in relation to the limited scope offered by the EWS. National parliaments are eager to play a role in EU affairs, but they want this role to be positive rather than negative as currently envisaged by the Treaties.



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### [Referendums on EU Matters](#) - January 2017

To date there have been 60 referendums on EU-related matters since the 1970s. This study's point of departure is that a new period in the use of direct democracy on EU matters is beginning. Since the mid-2000, referendums have come to play an increasingly central role in discussions of the EU's constitutional and political future. This study pays particular attention to a series of referendums that have taken place and that cannot easily be accounted for within the existing framework of EU-related referendums. Examples include the Irish referendum on the Fiscal Compact in 2012, the Greek bailout referendum in 2015, the Dutch EU-Ukraine association agreement referendum in 2016, and the Hungarian referendum on mandatory refugee redistribution. It analyses the political and legal dynamics behind these referendums and argues that a period of increasing political uncertainty with regard to the European project has started.



### [The implementation of the Mediation Directive](#) - November 2016

This compilation includes papers that examine the application of Mediation Directive in the Member States, and its relationship with both judicial proceedings and other forms of alternative and online dispute resolution. The papers propose possible avenues to improve the situation, in particular by promoting a better use of mediation and Alternative Dispute Resolution (ADR), and facilitating the intra-EU recognition of settlements. The five papers included in this compilation deal with the following: Achieving a balanced relationship between mediation and judicial proceedings; the relationship between formal and informal justice: the courts and alternative dispute resolution; the relationship between mediation and other forms of alternative dispute resolution, mediation; private international law: improving free circulation of mediation agreements across the EU; and online mediation and dispute resolution: legal and practical issues.



### [Implementation of the Ambient Air Quality Directive](#) - April 2016

Exposure to elevated air pollution levels has substantial negative impacts on human health and the environment. The main pollutants are particulate matter (PM10, PM2.5), nitrogen dioxide (NO2) and ozone (O3). The Ambient Air Quality Directive therefore sets thresholds and objectives for the permissible concentrations of air pollutants. In 2014, PM10 and NO2 limit values were exceeded in all but five Member States. As of October 2016, the European Commission had infringement procedures against 19 of the 28 Member States open - amounting to a total of 29 infringement procedures covering three pollutants. This study analyses air pollution hotspots in Europe and infringement procedures launched by the European Commission against Member States in non-compliance. In addition, four hotspots, Milan, London, Krakow and Plovdiv, are studied in more detail with respect to pollutant levels and approaches to air quality improvement.



### [Rebooting the Mediation Directive: assessing limited impacts, proposing new measures](#) - January 2014

The Mediation Directive has not yet solved the so-called EU Mediation Paradox. Despite its proven and multiple benefits, mediation in civil and commercial matters is still used in less than 1% of the cases in the EU. This study, which solicited the views of up to 816 experts from all over Europe, clearly shows that this disappointing performance results from weak promediation policies, whether legislative or promotional, in almost all Member States. The experts strongly supported a number of proposed non-legislative measures that could promote mediation development. More fundamentally, the majority view of these experts suggests that introducing a mitigated form of mandatory mediation may be the only way to make mediation happen in the EU. The study proposes two ways to reboot the Mediation Directive: amend it, or request that each Member State commit to a simple, balanced relationship target number, between civil litigation and mediation.



### [Ensuring implementation and application of EU Law and evaluating effectiveness](#) - July 2013

Due to the longstanding problems of implementation and enforcement of EU law, the Commission has developed a policy on implementation and enforcement, which includes measures to promote compliance before initiating infringement procedures. The aim of this study is to assess the implementation of EU law and the effectiveness of the tools developed by the Commission. It sheds some light on what the current trends are regarding the transposition of EU law and why Member States fail to transpose on time. To improve monitoring and reduce the recourse to infringement procedures, the Commission has developed the EU Pilot. In addition, other measures have been put in place to assist Member States with implementation. This study assesses such tools, including correlation tables, conformity checking, scoreboards and barometers, guidelines, implementation plans, networks and committees, inspection, package meetings, fitness checks, legal reviews, and reporting.



### [Fact Sheet on the right to petition](#) - updated regularly

Since the entry into force of the Treaty of Maastricht, every EU citizen has had the right to submit a petition to the European Parliament, in the form of a complaint or a request, on an issue that falls within the EU's fields of activity. The right to petition aims to provide EU citizens and residents with simple means of contacting the European institutions with complaints or requests for action. Petitions are examined by Parliament's Committee on Petitions, which then takes a decision on their admissibility and is responsible for dealing with them. Depending on the circumstances of the case, the Committee on Petitions may request the European Commission to investigate or to provide information regarding compliance with relevant EU law, refer the petition to another European Parliament Committee, refer the petition to the relevant institution or authority, or take any other action considered appropriate in response to the petition.



### [Fact Sheet on the European Ombudsman](#) - updated regularly

The European Ombudsman conducts inquiries into cases of maladministration by EU institutions, bodies, offices and agencies, acting on his or her own initiative or on the basis of complaints from EU citizens. The Ombudsman is entirely independent in the performance of his or her duties, especially from any government or institution. The Ombudsman is appointed by the European Parliament for the duration of the parliamentary term. When the Ombudsman establishes an instance of maladministration, he or she refer the matter to the concerned institution or other body, which then has a period of three months to respond with its views on the matter at hand. The Ombudsman will then draft a final report on the issue, and forward this report to the person lodging the complaint, the institution involved and the to the European Parliament. The Ombudsman also submits a yearly report to the European Parliament on the outcome of his or her enquiries.



### [Fact Sheet on communication policy](#) - updated regularly

Communication policy is not governed by specific provisions in the Treaties, but stems naturally from the EU's obligation to explain its functioning and policies, and 'European integration' more generally, to the public. The need for effective communication has a legal basis in the Charter of Fundamental Rights of the EU, which guarantees the right of all citizens to be informed about European issues. Three major programmes have been developed: Europe for Citizens, Communicating Europe in Partnership, and the European Citizens' initiative. Europe for Citizens focusses on the historical coming into being of the European project and on increasing democratic engagement and civic participation. Communicating Europe in Partnership creates interinstitutional communication priorities. The European Citizens' Initiative has allowed citizens to become more directly involved in new legislation and European issues since its formal launch in 2012.



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## Policy Departments

The policy departments provide high-level independent expertise, analysis and advice at the request of committees and other parliamentary bodies. Their expertise covers all areas of Parliamentary activity. They deliver policy analysis in a wide variety of formats, feeding directly into the legislative work of committees or members' delegations. They also organise events, including workshops and expert panels to enhance Parliament's analytical capacity and develop common approaches.

[www.europarl.europa.eu/supporting-analyses](http://www.europarl.europa.eu/supporting-analyses)



## Fact Sheets on the EU

Available in 23 languages, the Fact Sheets give an overview of European integration and of Parliament's contribution to the process. They cover five themes: the EU at work; Economy, science and quality of life; Cohesion, growth and jobs; Fundamental rights, security and justice; and the EU's external relations.

[www.europarl.europa.eu/factsheets](http://www.europarl.europa.eu/factsheets)

