



REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

Enforcing EU law

The Commission has improved its management of infringement cases, but closing them still takes too long

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This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 265 of the [Financial Regulation](#) and to be published together with the Special Report.

I. THE COMMISSION REPLIES IN BRIEF

The Commission welcomes the European Court of Auditors' (ECA) special report of their audit on infringement procedures, as it is an opportunity to further reflect on its working methods for enforcing EU law.

The Commission accepts nine of the ten recommendations made by the ECA and is committed to implementing the necessary changes to improve its performance in detecting potential infringements, in handling infringement cases and in monitoring on its enforcement action.

However, the Commission does not accept one recommendation. The Commission considers that monitoring work progress on its enforcement activities is essential, but underlines that benchmarks are meant for internal use to the Commission, not strict targets. The Commission believes that it is essential to prioritise effectiveness and efficacy, which goes beyond quantitative benchmarks, as infringement cases can be multifaceted and require careful consideration, especially for cases where the necessary measures to ensure compliance with EU law may take a long time. See also section II.2.

Furthermore, the Commission is committed to transparency and provides regular updates on its enforcement activities through various channels. The Commission also engages in regular dialogue with stakeholders, including Member States, the European Parliament, and civil society, to ensure that its enforcement work is transparent and accountable. See also section II.3 and the reply to recommendation 4.

Finally, while the Commission accepts most of the recommendations made by the ECA, it emphasises that the Commission's work on compliance promotion, prevention of breaches of EU law and support provided to Member States in transposing and implementing EU law, are crucial to avoid problems emerging at a later stage. The 2024-2029 Political Guidelines call for a further shift in the focus of the Commission's work on implementation. The Commission's enforcement activities should be seen in the context of the Commission's work on implementation in a broader sense.

II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

1. Detecting potential infringements of EU law

The Commission welcomes the ECA's acknowledgement that it has improved its management to detect potential infringements, as highlighted in the report¹. The Commission notes the positive findings on its efforts to enhance the detection of potential breaches of EU law. The Commission appreciates the observation of the ECA on its IT tools' potential for further development² and is committed to enhancing their functionalities to better support case management and monitoring.

¹ See ECA observations 22-28 and conclusion 76

² See ECA observations 68-69 and conclusion 83

However, the Commission acknowledges that timeliness remains a challenge³. The complexity, variety and volume of EU legislation, combined with the need to ensure thorough and accurate assessments in order to meet the legal standards required by the Court of Justice of the European Union, can lead to delays. Nevertheless, the Commission is committed to continuing its efforts to streamline its processes and improve its performance in this area.

The Commission agrees that planning is essential to ensuring that it can manage its workload effectively and that planning should start as early as possible, in particular to supervise the transposition process of directives in an appropriate manner⁴.

2. Bringing Member States into compliance with EU law

The Commission notes the ECA's observation that it managed to resolve most infringement cases before sanctions are proposed, and it is pleased that its efforts to resolve cases through dialogue and cooperation with Member States have been recognized⁵. The Commission would like to underline that this approach is often the most effective way to achieve compliance with EU law, as it allows for a more collaborative and less confrontational approach. The Commission also takes note of the ECA's conclusion that infringement cases take too long to resolve⁶.

The Commission would like to provide some context to the challenges it faces in resolving infringement cases in a timely manner. The complexity of the cases, combined with the need to ensure that Member States are given a fair opportunity to respond to the Commission's concerns and, eventually, comply with EU law, can lead to delays. The effectiveness of the Commission's enforcement work is not only determined by its handling speed, but it must also stand up to legal scrutiny and have a real impact on the ground. This work is often complex and each case requires individual attention calibrated to its nature. Both the factual and the legal parameters of an infringement may significantly change in the course of the procedure, requiring new assessments and further dialogue with Member States. The Court of Justice has repeatedly acknowledged the Commission's discretion in deciding on the timing of the different steps it takes when exercising its powers under Article 258 TFEU.

The Commission also notes that the fact that complex cases need more time has been recognised in Commission communications⁷, regarding the indicative target of reaching a decision upon complaints within 1 year, and in case law of the Court of Justice of the European Union. This recognition highlights the need for a nuanced approach to enforcement, one that takes into account the specific circumstances of each case. The Commission is committed to continuing its efforts to streamline its processes and improve its performance in this area, while also ensuring that the quality and effectiveness of its enforcement work are not compromised.

The Commission agrees that effective case management is crucial to ensuring that infringement cases are resolved in a timely manner. The Commission is currently reviewing its internal procedures and exploring ways to enhance its capacity to manage complaints, EU Pilot files and infringement cases, including through the use of new technologies.

³ See ECA observations 48-58 and conclusion 81

⁴ See ECA observations 23-28 and conclusion 77

⁵ See ECA observations 41-47 and conclusion 80

⁶ See ECA observations 48-58 and conclusion 81

⁷ See in particular Commission Communication, 'EU law: Better results through better application', C(2016)8600

3. Monitoring and reporting on enforcement action

The Commission agrees that monitoring and reporting are essential components of effective enforcement, as they enable the Commission to track its progress, identify areas for improvement, and provide stakeholders with information on its activities. However, it is important to distinguish between internal monitoring and public reporting.

The Commission is currently reviewing its reporting requirements and exploring ways to enhance the transparency of its enforcement activities. The Commission understands the importance of benchmarks in measuring its performance and ensuring that it is meeting its objectives. However, the Commission would like to clarify that, while benchmarks are a useful tool to support the Commission's enforcement work, they cannot be the only factor that determines the effectiveness of its action. There is also limited added value in publicly sharing information on benchmarks. Instead, public scrutiny over the Commission's enforcement activities are guaranteed by ensuring access to information on how long cases take to be resolved, on how many infringement cases are opened and in what areas. Public reporting must carry some added value, focusing on meaningful information, by creating peer pressure, encouraging the scrutiny of stakeholders, etc.

The Commission notes the positive findings on its efforts to provide transparency and accountability in this area. The Commission recalls that its public register and its annual reports on monitoring the application of EU law already provide a wealth of information on its enforcement activities, including the number of cases handled, the types of infringements addressed, the outcomes achieved, and whether financial sanctions were imposed. The Commission is committed to building on this foundation to provide even more detailed and useful information in the future.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

Recommendation 1: Improve planning and documentation of transposition and conformity checks

The Commission should improve the planning and documentation of transposition and conformity checks by:

- (a) planning the work required for enforcing directives as early as possible, in particular the need for staffing and possible external expertise; and**
- (b) ensuring that DGs record all the checks' start and end dates.**

(Target implementation date: December 2025)

The Commission **accepts** recommendations 1(a) and 1(b).

Recommendation 2: Improve handling of complaints, petitions and EU Pilot dialogue

The Commission should improve the handling of complaints, petitions and EU Pilot dialogue by:

- (a) systematically recording information that has reached the Commission through other channels (such as petitions) in the relevant complaint file, and grouping grievances of a similar nature;**
- (b) developing guidelines for interpreting complaint prioritisation criteria such as “serious damage to EU financial interests” and “systematic failure to comply with EU law” to improve consistent application across directorates-general;**
- (c) systematically updating complainants on the changes in the status of their complaints to enhance transparency; and**
- (d) defining criteria for prolonging EU Pilot cases beyond the 9-month deadline to ensure consistency and appropriate monitoring.**

(Target implementation date: December 2025)

The Commission **accepts** recommendations 2(a), 2(b), 2(c) and 2(d).

Recommendation 3: Reinforce infringement case management and update, where necessary, the methodology for proposing sanctions

The Commission should reinforce its infringement case management and sanctions by:

- (a) monitoring progress in case-handling to identify potential bottlenecks and take proactive steps to address them by adjusting the necessary resources and priorities in a more timely manner if necessary; and**
- (b) reviewing the methodology for proposing sanctions to ensure they represent a sufficient deterrent.**

(Target implementation date: December 2027 (a), December 2026 (b))

The Commission **accepts** recommendations 3(a) and 3(b).

Recommendation 4: Strengthen monitoring and reporting on enforcement activities

The Commission should enhance its monitoring and reporting on enforcement activities by:

- (a) monitoring handling times, including against all relevant indicative benchmarks, supported by the continuous improvement of the Commission’s IT system for case management; and**
- (b) reporting annually on the Commission’s performance against all public indicative benchmarks.**

(Target implementation date: December 2026)

The Commission **accepts** recommendation 4(a), building on a continuous improvement of its IT system for case management, subject to availability of resources.

The Commission **does not accept** recommendation 4(b).

The Commission is already publishing a vast amount of information and data on its enforcement actions, including on the handling time of infringement cases, EU pilot dialogues and complaints. The Commission remains committed to continuously improving the information published, including publishing general trends in a more user-friendly and timely manner.

The indicative benchmarks were designed for a purely internal use and not for public reporting. Furthermore, focusing the public reporting on meeting numerical targets could risk leading to a prioritisation of speed over thoroughness. It is also for that reason that the Stocktaking Report⁸ has recommended a more qualitative approach, focusing on improving our working methods and enhancing public scrutiny over the Commission's enforcement work by publishing meaningful information on the *Europa* website.

⁸ Stocktaking report on the Commission working methods for monitoring the application of EU law, SWD(2023) 254 final