



## October infringements package: key decisions

Brussels, 10 October 2019

Overview by policy area

In its monthly package of infringement decisions, the European Commission pursues legal action against Member States for failing to comply with their obligations under EU law. These decisions, covering various sectors and EU policy areas, aim to ensure the proper application of EU law for the benefit of citizens and businesses.

The key decisions taken by the Commission are presented below and grouped by policy area. The Commission is also closing 120 cases in which the issues with the Member States concerned have been addressed without the Commission needing to pursue the procedure further.

For more information on the EU infringement procedure, see the full [MEMO/12/12](#). For more detail on all decisions taken, consult the [infringement decisions' register](#).

### 1. Environment

(For more information: Enrico Brivio – tel.: +32 229 56172, Ana Crespo Parrondo – tel.: +32 229 81325)

*Reasoned opinions*

#### **Liability for damages to the environment: Commission calls on DENMARK to adapt its national legislation in order to fully transpose the Environmental Liability Directive**

The Commission is urging **Denmark** to correctly incorporate rules on environmental liability into its national law, to ensure sufficient protection for citizens. The Environmental Liability Directive ([Directive 2004/35/CE](#)) establishes a legal framework for environmental liability based on the 'polluter pays' principle, with the aim of preventing and remedying environmental damage. Such damage includes damage to water, to protected species and natural habitats, and to soil. Under the Directive, natural or legal persons, including environmental NGOs, adversely affected or likely to be adversely affected by environmental damage have the right to ask the competent authority to take remedial action. Denmark limits the definition on which protected species and natural habitats can be affected by an environmental damage under the Directive and this means that not all protected species and natural habitats are in the scope of the legislation. In addition, the system in place in Denmark does not ensure that the polluter is required to take immediate remedial action when an environmental damage occurs. The Commission has therefore decided to send Denmark a reasoned opinion. Denmark has two months to comply. Otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

#### **Environmental impact assessment: Commission calls on LITHUANIA to improve its domestic rules**

The Commission is calling on **Lithuania** to finalise the adaptation of its national laws to take into account modifications to the Environmental Impact Assessment Directive ([Directive 2014/52/EU](#)). The aim of this Directive is to ensure that an adequate impact assessment for projects likely to have significant effects on the environment is done before they are approved. The European Commission opened infringement proceedings against Lithuania in July 2017. The new provisions on impact assessment have not yet been fully incorporated into the national laws governing the extractive sector because the legislation in question is currently being revised. The Commission is now sending a reasoned opinion. If Lithuania fails to act within two months from receipt of the reasoned opinion, the Commission may decide to refer the case to the Court of Justice of the EU.

#### **Animal welfare: Commission calls on SLOVENIA to correctly enact measures on the protection of laboratory animals**

The Commission decided today to send a reasoned opinion to **Slovenia** for its failure to adequately transpose multiple provisions of the Laboratory Animals Directive into national legislation - many national provisions are unclear, incomplete or ambiguous. There have been significant delays in legislative amendments following the letter of formal notice in July 2017. EU rules on the protection of

animals used for scientific purposes ([Directive 2010/63/EU](#)) were adopted in September 2010, and it was agreed that EU rules would be transposed into national law by 10 November 2012. The Directive ensures a high level of animal welfare while safeguarding the proper functioning of the internal market. These EU rules also aim to minimise the number of animals used in experiments and require alternatives to be used where possible. If Slovenia fails to act within two months from receipt of the reasoned opinion, the Commission may decide to refer the case to the Court of Justice of the EU.

#### **Air Quality: Commission calls on FINLAND to improve domestic rules**

The Commission considers that **Finland** has not transposed the National Emission Ceilings Directive ([2016/2284/EU](#)) on the whole of the Finnish territory as there is no legislation in place in the Åland Province which would implement the Directive and make its requirements applicable in the Province. The Directive on the reduction of national emissions of certain atmospheric pollutants, which entered into force on 31 December 2016, is the main legislative instrument to achieve the 2030 objectives of the [Clean Air Programme](#). This Directive sets national reduction commitments for the years 2020 to 2029 and from 2030 onwards, for the five pollutants (sulphur dioxide, nitrogen oxides, volatile organic compounds, ammonia and fine particulate matter) responsible for acidification, eutrophication and ground-level ozone pollution. These lead to significant negative impacts on human health and the environment. The aim is to reduce the health impacts of air pollution by half compared to 2005. Hence, the Commission has decided to send a reasoned opinion. Finland has two months to take action. Otherwise the Commission may decide to refer the case to the Court of Justice of the EU.

#### **Marine environment: Commission calls on BULGARIA, CYPRUS, LITHUANIA, MALTA and IRELAND to comply with their reporting obligations on the protection of their marine waters**

The Commission is urging **Bulgaria, Cyprus, Lithuania, Malta and Ireland** to comply with the reporting obligations on the environmental status of marine waters under the Marine Strategy Framework Directive ([Directive 2008/56/EC](#)). The Directive provides a comprehensive framework to protect the EU's seas and oceans, and ensures that their resources are managed sustainably. In June 2008, Member States agreed to review and update their assessment of the environmental status of the waters concerned, the environmental impact of human activities, their determination of good environmental status and their environmental targets by 15 October 2018. The Member States concerned failed to submit reports to the Commission by the required deadline. As a result, the Commission opened the infringement proceedings by sending a letter of formal notice to these Member States. In reply to the letter of formal notice, **Ireland** committed to having a draft revision completed by the end of 2019 and it was expected that the final text of the revision would be submitted to the Commission by the end of March 2020. **Bulgaria** committed to submit the revision to the Commission by 30 June 2020, while **Malta** expected the official notification to be submitted by 31 December 2019. The **Cypriot** authorities recognised that there have been delays in reviewing and submitting the required documents and stated they are making best efforts to transmit the reports as soon as possible. **Lithuania** expects to finalise the updates required by the Directive by the end of January 2020. As no reports have been received since the deadline expired, the Commission has decided to send a reasoned opinion. The Member States concerned will have two months to take action. Otherwise, the Commission may decide to refer the case(s) to the Court of Justice of the EU.

#### *Letters of formal notice*

#### **Environmental impact assessment: Commission calls on DENMARK, SWEDEN, GREECE, AUSTRIA, LUXEMBOURG, PORTUGAL, SLOVENIA, SLOVAKIA and CROATIA to improve domestic rules**

The Commission is urging Denmark, Sweden, Greece, Austria, Luxembourg, Portugal, Slovenia and Croatia to bring their national legislation into line with the Environmental Impact Assessment Directive ([EIA Directive 2011/92/EU](#)). The Directive ensures that the impact on the environment of public and private projects is assessed before they are authorised. EU Member States adopted new EU legislation in April 2014 ([Directive 2014/52/EU](#)), reducing the administrative burden and improving the level of environmental protection, while making business decisions on public and private investments more sound, predictable and sustainable. For **Denmark**, the shortcomings include unclear national rules for adopting projects by legislative acts, incorrect enactment of provisions on the consultation of the public and of authorities and incorrect national provisions on the required content of development consent decisions. For **Sweden**, the shortcomings include incorrect national requirements on screening and authorization of a number of project categories listed in the Directive, incorrect enactment of provisions on the consultation of the public and of authorities and incorrect national provisions on the required content of development consent decisions. **Greece** has also failed to transpose various provisions of the EIA Directive or failed to transpose them correctly. According to the Greek legislation, the EIA Directive does not, automatically, apply to all national defence projects. However, according to the EIA Directive, such an exclusion is possible only after a case by case examination of the project and only if the Member State considers that the application of the EIA procedure would have adverse

effect on defence or civil emergencies purposes. It has also failed to create a legal provision obliging the Hellenic authorities, when the Hellenic Republic is the affected Member State by a project in the territory of another Member State, to inform the public about the decision taken by another Member State. Regarding **Austria**, this case addresses a number of problematic aspects of the Austrian law transposing the amended EIA Directive. It follows up on the relevant case law of the Court on thresholds for the assessment of specific projects. This concerns, in particular, inappropriate thresholds excluding from the scope of the Directive projects relating to the extraction of petroleum and natural gas ([C-531/13](#)), deforestation ([C-329/17](#)) and urban planning. The case also addresses the new Austrian law on infrastructure projects in the 'special public interest' (Standortentwicklungsgesetz) adopted in 2019. In the case of **Luxembourg**, there are concerns about the public participation procedures. The case seeks clarification on the possibility of consulting the public under the 1964 Rural Law because it does not foresee electronic consultation of, or contributions by, the public, and that the EIA report is part of the documentation disseminated. Regarding **Portugal**, the Commission has identified several shortcomings in the legislation adopted to transpose the amended EIA Directive. The key issues include the scope of the Directive, public consultation rules, rules on transboundary environmental impact assessment procedures, and the definition of certain of the projects listed in the Annexes. In **Slovenia**, the main shortcomings concern the timeframes in transboundary procedures, the lack of a requirement for the competent authorities to take into account the results of preliminary verifications or assessments of the effects on the environment, and the incorrect transposition of the requirements to adapt the monitoring parameters to nature, location and size of the project and to the significance of its effect on the environment. Slovenian legislation also does not provide sufficient penalties for violations of national provisions adopted pursuant to the EIA Directive. For **Slovakia**, the shortcomings relate mainly to the timeliness of the decisions, to possible conflicts of interest as well as to the lack of effective, proportionate and dissuasive penalties. In the case of **Croatia**, new Croatian legislation introduces a specific procedure for authorisation of projects for exploitation of gravel and sand by extraction from renewable deposits in watercourses and other surface water bodies. The Commission considers that the legislation constitutes a flagrant breach of the environmental assessments' provisions in the Habitats Directive ([Council Directive 92/43/EEC](#)), Water Framework Directive ([Directive 2000/60/EC](#)) and the Environmental Impact assessment Directive, as the legislation entails that certain projects for exploitation of gravel and sand are excluded from requirements for assessing water status and environmental impacts of such exploitation. Therefore, the Commission decided today to send letters of formal notice to the Member States concerned, giving them two months to reply to the arguments raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

### **Marine environment: Commission calls on FINLAND to protect its marine waters**

The Commission urges **Finland** to correctly implement the requirements under the Marine Strategy Framework Directive ([Directive 2008/56](#)). The Directive provides a comprehensive framework to protect the EU's seas and oceans, and ensures that their resources are managed sustainably. The Commission considers that Finland has not correctly implemented the requirements of the Directive into national law notably as regards the elements to be taken into account when assessing the state of marine waters, establishing environmental targets and drawing up marine strategies for such waters. As a result, the Commission decided today to send a letter of formal notice to Finland, which now has two months to reply. Otherwise, the Commission may decide to send a reasoned opinion.

### **Waste: Commission urges 15 Member States to comply with their reporting obligations under EU waste legislation**

EU waste laws require Member States to report data to the Commission. A total of 15 Member States have, to date, failed to meet their obligations under a variety of laws, including the Directives on waste electrical and electronic equipment, on batteries and accumulators and waste batteries and accumulators, on end-of life vehicles, and **packaging and packaging waste, as well as the Regulation on shipments of waste**. Under [Directive 2012/19/EU](#) on waste electrical and electronic equipment, Member States are obliged to report to the Commission on the progress made towards the implementation of the targets, within a certain number of months of the end of the period covered, on the basis of a structure defined by the Commission. Member States also have to provide the Commission with a detailed description of how the data have been compiled. To date, **Romania, Malta and Sweden** have failed to meet their obligations as the 2015 reports were not provided. Under [Directive 2006/66/EC](#) on batteries and accumulators and waste batteries and accumulators, Member States are obliged to transmit reports to the Commission on the collection rates set by the Directive within a certain number of months of the end of the year covered and to indicate in the report how the data necessary to calculate the collection rate have been obtained. They are also obliged to report on the levels of recycling achieved in each calendar year concerned and whether the recycling efficiencies required in the Directive have been met. To date these obligations have not been met by **Romania, Bulgaria, France, Italy, Malta, Greece, Sweden, Slovenia, Lithuania, The Netherlands, Spain,**

**Hungary, Ireland and Portugal** for 2016 and/or 2017. Under [Directive 2000/53/EC](#) on end-of life vehicles, Member States are required to report to the Commission on the targets set by the Directive together with an appropriate description of the data used. **Romania, Denmark and Slovenia** have not met their obligations to date, as the 2015 or 2016 reports were not provided. Under [Regulation \(EC\) No 1013/2006](#) of the European Parliament and of the Council of 14 June 2006 on shipments of waste Member States are obliged to send reports to the Commission on the application of the Waste shipments Regulation. To date, **Romania** has not provided a report for 2017. Lastly, under [Directive 94/62/EC](#) on packaging and packaging waste, Member States are required to provide the Commission with data on the implementation of recovery and recycling targets for packaging waste, within 18 months of the end of the relevant year, by means of the formats established by the Commission, and to send to the Commission an appropriate description of how the data have been compiled (so-called 'quality check report'). To date, **Lithuania** has failed to provide the quality check report for 2016. The Commission has therefore decided to send letters of formal notice to all fifteen Member States. If action is not taken within two months a reasoned opinion may be issued.

### **Animal welfare: Commission calls on 4 Member States to correctly enact measures on the protection of laboratory animals**

The Commission has decided to send letters of formal notice to **Denmark, Finland, Austria and Latvia** regarding shortcomings in their enactment of EU rules on the protection of animals used for scientific purposes ([Directive 2010/63/EU](#)) into domestic law. The Directive was adopted in September 2010, and it was agreed that EU rules would be transposed into national law by 10 November 2012. The Directive ensures a high level of animal welfare while safeguarding the proper functioning of the internal market. These EU rules also aim to minimise the number of animals used in experiments and require alternatives to be used where possible. For **Denmark**, the shortcomings in domestic laws include incorrect enactment of requirements for authorisations required for both the operators on one hand and for the individual projects on the other, incorrect rules on the administrative procedures for authorising project applications and insufficient requirements for the personnel both caring for the animals and dealing with animal testing. In the case of **Finland**, the shortcomings include incorrect rules on the administrative procedures for granting project applications, incorrect enactment of rules relating to the information to be recorded for the animals used and incorrect requirements on the accommodation and care of the animals. In the case of **Austria**, the Austrian transposition of the Directive is not completely satisfactory. Key issues include obligations concerning the competence of personnel and the designation of a veterinarian, and the rules on project evaluation. For **Latvia**, the shortcomings in domestic laws include, amongst others, incorrect transposition of provisions on subject and scope, use of certain animals in procedures and of some provisions on authorisation. The Member States concerned have two months to reply to the arguments raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

*A closure*

### **Waste: Commission closes case against SLOVAKIA after Court ruling implemented**

On 4 July 2018, the Court of Justice of the EU gave its judgment in Case [C-626/16](#) (Commission v Slovakia), concerning the non-implementation of the Court's judgment in case [C-331/11](#) (Commission v Slovakia of 25 April 2013), concerning failure of the Slovak Republic to fulfil its obligations pursuant to Article 14 a) and c) of [Council Directive 1999/31/EC](#) of 26 April 1999 on the landfill of waste. On orders of the Court, **Slovakia** had paid the lump sum of EUR 1 000 000 which was designed to ensure that future repetition of similar infringements of EU law are effectively prevented. According to the evidence submitted by the Slovak authorities, parts 2a and 2b of the landfill Považský Chlmec were closed in accordance with Article 13 of the Landfill Directive on 31 July 2018, and part 2c) of the same landfill was closed on 28 December 2018. Article 13 of the Directive lays down requirements for landfill site closure and after-care procedures. As Slovakia was in non-compliance until 27 December 2018, it also had to pay a daily penalty payment of € 885 000 in total. As all parts of the Považský Chlmec landfill are now closed, compliance with the judgment in case C-331/11 has been reached and the Commission is able to close the case.

2. Financial Stability, Financial Services and Capital Markets Union

(For more information: Vanessa Mock – tel.: +32 229 56194, Guillaume Mercier – tel.: +32 229 80564)

*Reasoned opinions*

### **Financial services: Commission requests 8 Member States to apply new EU rules on institutions for occupational retirement provision (IORPs)**

The Commission decided today to send reasoned opinions to **Cyprus, Greece, Luxembourg, Portugal, Romania, Slovenia, Spain and Sweden** for not complying with their obligation to



transpose EU rules on institutions for occupational retirement provision (IORPs) ([Directive \(EU\) 2016/2341](#) – IORP II). The Directive provides for a comprehensive regulatory framework regarding the activities and supervision of institutions for occupational retirement provision. Member States were obliged to transpose EU rules into national legislation by 13 January 2019. However, Cyprus, Greece, Luxembourg, Portugal, Romania, Slovenia, Spain and Sweden have not yet communicated to the Commission the required national measures. If the measures to enact this Directive are not notified within two months from the reasoned opinion, the Commission may decide to refer the Member States concerned to the Court of Justice of the EU.

### **Financial Services: Commission requests SPAIN to fully apply new EU rules on insurance distribution**

The European Commission decided today to send a reasoned opinion to **Spain** for not complying with its obligation to apply all provisions of the [Insurance Distribution Directive \(IDD\)](#). In particular, the Commission calls on Spain to put in place provisions implementing both the new requirements for information to be given to consumers before they sign insurance contracts, as well as the new consumer protection standards for the sale of investment products with insurance elements. Overall, the Insurance Distribution Directive aims at improving the way insurance products are sold in the EU. The new rules apply to all sellers of insurance products, including sales through websites or as an add-on to goods or services. They ensure greater transparency in price and costs of insurance products, and higher standards of protection to ensure that consumers are offered products that meet their needs. The Commission's request to Spain takes the form of an additional reasoned opinion, after a first reasoned opinion was sent on 8 March 2019. If the measures to enact this directive are not notified within two months, the Commission may decide to refer Spain to the Court of Justice of the EU.

### **Solvency II: Commission calls on ROMANIA to apply amended rules on bank resolution**

The Commission decided today to send a reasoned opinion to **Romania** for not transposing into national law the [Bank Creditor Hierarchy Directive \(Directive \(EU\) 2017/2399\)](#) that amends Bank Recovery and Resolution Directive (BRRD – Directive 2014/59/EU). The Bank Creditor Hierarchy Directive requires Member States to amend the insolvency ranking of unsecured debt instruments. This will facilitate the bail-in of debt instruments by resolution authorities during a crisis, while ensuring a minimum impact on financial stability and on taxpayers. Member States were obliged to transpose this Directive into national law and to communicate to the Commission the text of those measures by 29 December 2018. To date, Romania has not transposed it into national law. If Romanian authorities do not reply satisfactorily within two months, the Commission may refer the matter to the Court of Justice of the EU.

### **Financial services: Commission urges SPAIN to apply rules on payment services**

The European Commission decided today to send a reasoned opinion to **Spain** for not complying with its obligation to apply all provisions of the [second Payment Services Directive \(Directive \(EU\) 2015/2366\)](#). The Directive modernises the legislative framework for payments in the EU, for instance by introducing strict security requirements for electronic payments and for the protection of consumers' financial data as well as opening the EU payment market to companies offering new payment services. Furthermore, the Directive prohibits surcharging - additional charges for payments with consumer credit or debit cards, both in shops or online. The European Commission sent a letter of formal notice to Spain in March 2018. To date, Spain has not fully transposed this Directive into national law, although Member States agreed to do so by 13 January 2018. As a result, the Commission is issuing a reasoned opinion to Spain, requesting it to bring its legislation in line with EU law. If it fails to act within two months, the Commission may decide to refer the case to the Court of Justice of the EU.

#### *Letters of formal notice*

### **Financial Services: Commission requests ROMANIA to comply with EU rules on the sale of insurance products by distributors from other Member States**

The European Commission decided today to send a letter of formal notice to **Romania** regarding the conditions for the sale of insurance products by insurance distributors from other Member States. The Commission urges Romania to adjust national rules setting restrictive conditions insurance distributors from abroad who want to sell products to Romanians. Under Romanian rules, foreign insurance distributors must always collaborate with a Romanian distributor and can only sell products on a one-off basis and at the specific request of a Romanian customer. These conditions prevent insurance distributors from making effective use of their basic freedom to provide services within the internal market. If the Romanian authorities do not reply satisfactorily within two months, the Commission may decide to send a reasoned opinion.

### 3. Internal Market, Industry, Entrepreneurship and SMEs

(For more information: Lucia Caudet – tel.: +32 229 56182, Sophie Dupin de Saint Cyr – tel.: +32 229 87278)

#### *Reasoned opinions*

#### **Trade marks: Commission asks 7 Member States to transpose the Trade Mark Directive**

The Commission decided today to send reasoned opinions to **Bulgaria, Cyprus, France, Greece, Latvia, Romania and Slovenia** requesting them to take the necessary measures to fully transpose the Trade Mark Directive ([Directive \(EU\) 2015/2436](#)), **following letters of formal notice sent in March 2019**. The Directive constitutes an important step in modernising and further harmonising EU trade mark law. It brings a number of significant changes, including a revised trade mark definition adapted to the digital age, new grounds precluding trade mark registration, new rules on counterfeit goods in transit as well as new provisions to harmonise trade mark procedures across EU Member States. EU Member States were required to transpose the **Directive** into national legislation by 14 January 2019. The Member States concerned have failed to notify or fully transpose the measures transposing the Directive to the Commission. They now have two months to take the necessary measures to comply with the reasoned opinion. Without a satisfactory response, the European Commission may decide to refer them to the Court of Justice of the EU.

#### **Pressure equipment: Commission calls on THE NETHERLANDS to comply with EU rules ensuring the safety of pressure equipment**

The Commission decided today to send a reasoned opinion to **the Netherlands**, requesting the correct transposition of the Pressure Equipment Directive ([Directive 2014/68/EU](#)), after a letter of formal notice sent [in March 2018](#). The Directive covers a broad range of pressure equipment, both for industrial use such as compressors and heat exchangers, as well as consumer products such as fire extinguishers and pressure cookers. It ensures the safety of pressure equipment, clarifies responsibilities for manufacturers, importers and distributors and sets out rules on the supervision of such products by conformity assessment bodies. The Commission holds that the Dutch national measure adopted in order to transpose the Directive extends its scope to certain installations to which it is not intended to apply. This has the effect of undermining the correct, uniform and efficient implementation of the Directive in all Member States. The Netherlands now has two months to address the comments raised by the Commission. Without a satisfactory response, the European Commission may decide to refer the Netherlands to the European Court of Justice.

#### *Letters of formal notice*

#### **Professional qualifications: Commission calls on BELGIUM and SPAIN to respect EU rules on the recognition of professional qualifications**

The Commission decided today to send complementary letters of formal notice to **Belgium and Spain** regarding the conformity of their national legislation and practice with EU rules on the recognition of professional qualifications ([Directive 2005/36/EC](#) as amended by [Directive 2013/55/EU](#)). The EU has put in place a modern system, which helps to make labour markets more flexible and further facilitates the provision of services between Member States. It is essential that Member States implement and apply correctly this system so that professionals can fully enjoy its benefits. Specifically, the Commission is addressing Belgium regarding the compliance of their training programmes for general care nurses with EU rules and Spain regarding the conformity of their legislation on sworn translators and interpreters. Member States have now two months to reply to the arguments put forward by the Commission; otherwise the Commission may decide to follow up with the sending of a reasoned opinion.

#### **Public procurement: Commission asks 4 Member States to provide information on their national public procurement and concessions rules**

The Commission decided today to send letters of formal notice to **Estonia, Latvia, Lithuania and Portugal** regarding the conformity of their national legislation with EU rules on Public Procurement and Concessions. The new rules ([Directive 2014/24/EU](#), [Directive 2014/25/EU](#) and [Directive 2014/23/EU](#)) had to be transposed by Member States into national law by 18 April 2016. These letters are the result of the compliance checks undertaken by the Commission to see whether national legislation complies with the EU Directives. They follow letters of formal notice to 15 Member States [in January 2019](#) on the same matter. Today's decisions complete the first round of checks for all the Member States by addressing Member States where transposition was completed with important delays, and therefore required later assessments. It is without prejudice to any potential follow-up action of the first package from January 2019. Member States have now two months to reply to the arguments put forward by the Commission. Otherwise the Commission may decide to follow up with a reasoned opinion.

### 4. Justice, Consumers and Gender Equality

(For more information: Christian Wigand – tel.: +32 229 62253, Sara Soumillon - tel.: +32 229 67094)

*Referral to the Court of Justice of the European Union*

### **Rule of Law: European Commission refers Poland to the Court of Justice to protect judges from political control**

Today, the European Commission decided to refer Poland to the Court of Justice of the EU regarding the new disciplinary regime for Polish judges, requesting an expedited procedure. On [3 April 2019](#), the Commission launched this infringement procedure on the grounds that the new disciplinary regime undermines the judicial independence of Polish judges and does not ensure the necessary guarantees to protect judges from political control, as required by the Court of Justice of the EU. Specifically, the Polish law allows ordinary court judges to be subjected to disciplinary investigations, procedures and sanctions on the basis of the content of their judicial decisions, including the exercise of their right under Article 267 of the Treaty on the Functioning of the European Union (TFEU) to request preliminary rulings from the Court of Justice of the EU. Moreover, the new disciplinary regime does not guarantee the independence and impartiality of the Disciplinary Chamber of the Supreme Court, which is composed solely of judges selected by the National Council for the Judiciary, which is itself politically appointed by the Polish Parliament (Sejm). Furthermore, the new disciplinary regime does not ensure that a court 'established by law' will decide in the first instance on disciplinary proceedings against ordinary court judges. Instead, it empowers the President of the Disciplinary Chamber to determine, on an ad-hoc basis and with an almost unfettered discretion, the disciplinary court of first instance to hear a given case brought against an ordinary court judge. The new regime no longer guarantees that cases are processed within a reasonable timeframe, allowing the Minister of Justice to keep charges pending over ordinary court judges through disciplinary officers appointed by the Minister. The new regime also affects ordinary court judges' right of defence. In short, judges are not insulated from political control and thus judicial independence is violated. On 3 April 2019, the Commission addressed a [letter of formal notice](#) to Poland. Following a thorough analysis of the response received, the Commission concluded that the response did not alleviate the legal concerns, and took the next step in the process, sending a reasoned opinion on [17 July 2019](#). In its latest response, Poland again failed to address the Commission's concerns. The Commission has therefore decided to refer Poland to the Court of Justice of the EU. In view of the potential impact of the disciplinary regime on judicial independence, a request for an expedited procedure is warranted, to obtain a final judgment as soon as possible. This would also be in line with the Commission's [Communication of 17 July 2019](#) entitled "Strengthening the rule of law within the Union - A blueprint for action", which underlines that building on its existing approach to enforcement and on developing case law of the Court of Justice of the EU, the Commission will pursue a strategic approach to infringement proceedings related to the rule of law, requesting expedited proceedings and interim measures whenever necessary. For more information, please refer to the full [press release](#).

*A reasoned opinion*

### **Anti-discrimination: Commission sends reasoned opinion to SLOVAKIA urging the country to comply with EU rules on equal treatment of Roma schoolchildren**

Today, the European Commission decided to send a reasoned opinion to **Slovakia**, calling upon the country to comply with EU rules on equality. The EU [Racial Equality Directive](#) prohibits discrimination on grounds of racial or ethnic origin in a number of key areas of life, including education. In Slovakia, however, a disproportionate share of Roma children are placed in special schools or classes for children with mental disabilities and there are also different ways of marginalisation in mainstream education, by placing Roma children in separate Roma-only classes or in Roma-only schools. Following the letter of formal notice sent in April 2015, Slovakia has undertaken several measures intending to tackle this problem. However, after carefully assessing the measures and monitoring the situation on the ground, the Commission concluded that they are not yet sufficient to resolve the problem. School discrimination on grounds of ethnic origin remains a serious issue. Slovakia now has two months to respond and take the relevant action; otherwise, the Commission may decide to refer the matter to the Court of Justice of the EU.

*Letters of formal notice*

### **Civil justice: The Commission calls on ROMANIA to notify measures taken to comply with EU rules on debt recovery**

Today, the Commission decided to send a letter of formal notice to **Romania** for failing to notify the measures taken to comply with EU rules on recovering debt from debtors in other Member States (the [European Account Preservation Order Regulation](#), Regulation 2014/655/EU). Debt recovery is a particular challenge for small and medium-sized enterprises (SMEs), with around a million SMEs facing problems with cross-border debts in the EU every year. The Regulation, which entered into force in

January 2017, introduced the [European Account Preservation Order \(EAPO\)](#), a simple and cost-effective way to block funds owed in the debtor's bank account, aimed at reclaiming some of the €600 million which was being lost annually due to long and costly legal procedures preventing companies from recovering money owed to them outside their home country. Under the Regulation Member States are obliged to communicate to the Commission how they transposed into their national law rules such as the methods of obtaining account information, the competent authorities responsible for obtaining this information and the courts competent for legal challenges of an [EAPO](#). Romania now has two months to reply to the arguments raised by the Commission. If Romania does not reply in a satisfactory manner within two months, the Commission may send a reasoned opinion.

#### 5. Migration, Home Affairs and Citizenship

(For more information: Tove Ernst – tel.: +32 229 86764, Katarzyna Kolanko - tel.: +32 229 63444, Ciara Bottomley – Tel.: +32 229 69971)

#### *Reasoned opinion*

#### **HUNGARY: Commission takes next step in the infringement procedure for non-provision of food in transit zones**

Today, the European Commission decided to address a reasoned opinion to **Hungary** concerning the non-provision of food to persons held in the Hungarian transit zones at the border with Serbia. This concerns persons whose applications for international protection have been rejected, and who are waiting to be returned to a third country. In the Commission's view, compelling returnees to stay in the Hungarian transit zones amounts to *de facto* detention under the [EU's Return Directive](#). The Commission finds that failure to provide food in these circumstances does not respect obligations under Article 16 of the Return Directive and Article 4 of the Charter of Fundamental Rights of the European Union. The Commission sent a letter of formal notice to Hungary on 26 July 2019. As the Hungarian Government's reply did not address the Commission's concerns, and given the urgency of the situation, the Commission decided to send a reasoned opinion with a deadline of 1 month for Hungary to respond. The Commission invites the Hungarian authorities to comply with the relevant EU rules within this timeframe. Otherwise, the Commission may decide to refer the case to the Court of Justice. The European Court of Human Rights has already granted interim measures in several instances, obliging Hungary to provide food to persons detained in the transit zones. In [July 2018](#), the Commission referred Hungary to the Court of Justice in a case relating to the detention of asylum seekers in the Hungarian transit zones. The case is currently pending before the Court. For more information, please refer to the full [press release](#).

#### *Reasoned opinions and closures*

#### **Common European Asylum System: Commission steps up monitoring of implementation of EU rules**

The European Commission decided today to send a reasoned opinion to **Slovenia** for failing to communicate national legislation which transposes EU rules on reception conditions for asylum seekers ([Directive 2013/33/EU](#)). The Reception Conditions Directive aims to harmonise reception conditions throughout the EU and to guarantee a dignified standard of living for asylum seekers in full respect of their human rights. The Reception Conditions Directive entered into force on 19 July 2013 and Member States had until 20 July 2015 to communicate national transposition measures to the Commission. The Slovenian authorities missed the initial deadline and, to date, have not notified all transposition measures. The Commission addressed a letter of formal notice to Slovenia in [September 2015](#) and is now following up with a reasoned opinion, the second step in an infringement procedure. The Commission invites the Slovenian authorities to comply with the relevant EU rules within two months. Otherwise, the Commission may decide to refer the case to the Court of Justice. The Commission has decided to close the infringement procedures against **Czechia, Germany, Malta** and **Spain** as they have now transposed the Reception Conditions Directive ([Directive 2013/33/EU](#)) into national law. Finally, the Commission also decided to close the infringement procedures against **Belgium, Czechia, Germany** and **Slovenia** as they have now transposed the Asylum Procedures Directive ([Directive 2013/32/EU](#)) into national law. The Asylum Procedures Directive forms part of the Common European Asylum System and establishes common procedures for granting and withdrawing international protection.

#### *Letters of formal notice*

#### **Security Union: Commission calls on BULGARIA and PORTUGAL to comply with the EU Cybercrime Directive**

The European Commission decided today to open infringement procedures by sending letters of formal notice to **Bulgaria** and **Portugal** for the incorrect implementation of certain provisions of the Directive on Attacks against Information Systems ([Directive 2013/40/EU](#)). The Directive is an essential element



of the EU's legal framework in the fight against cybercrime and requires Member States to strengthen national cybercrime laws and introduce tougher criminal sanctions, including for large-scale cyber-attacks. Member States are also obliged to improve cooperation between their authorities through operational points of contact, available 24 hours a day 7 days a week. The Commission has assessed national legislations implementing the Directive and identified a number of issues in Portuguese and Bulgarian laws, in particular regarding certain offences and the respective penalties. Bulgaria and Portugal now have two months to respond to the arguments put forward by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

#### **Security Union: Commission calls on GREECE to fully implement EU rules on forensic service providers**

The European Commission has today sent a letter of formal notice to Greece for non-communication of national measures taken to implement the Framework Decision on the Accreditation of forensic service providers carrying out laboratory activities ([Council Framework Decision 2009/905/JHA](#)). Those EU rules allow for intensified exchange of forensic information and ensure that the results of laboratory activities carried out by accredited forensic service providers in one Member State are recognised by the law enforcement authorities in any other Member State. Adopted by the Council on 30 November 2009, the Framework Decision should have been implemented by Member States by 30 May 2016. Greece has failed to notify national implementing measures and this is why the Commission decided to open infringement procedure by sending a letter of formal notice. Greece now has two months to notify the Commission of measures taken to ensure full implementation of the Framework Decision. Otherwise, the Commission may decide to send a reasoned opinion.

#### **Security Union: Commission calls on 4 Member States to respect EU exclusive competence in the area of automated DNA, fingerprint and vehicle registration data exchange (Prüm Decisions)**

The Commission decided today to launch infringement procedure by sending letters of formal notice to **Austria, Bulgaria, Hungary and Romania** for signing an agreement with 5 Western Balkan countries on the automated exchange of DNA data, dactyloscopic data and vehicle registration on 13 September 2018. The Commission considers the agreement is in breach of EU exclusive competence in the area, especially since the exchange of such data between Member States is covered by the Prüm Council Decisions ([Council Decisions 2008/615/JHA](#) and [2008/616/JHA](#)). The Member States concerned have two months to reply to the arguments raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

#### **Child protection: Commission calls on 13 Member States to enforce EU rules on combating child sexual abuse**

Today, the Commission decided to send letters of formal notice to 13 Member States (**Austria, Belgium, Croatia, Czechia, Greece, Estonia, Finland, France, Hungary, Luxembourg, Latvia, Poland and Slovenia**) for failing to implement EU rules on combating the sexual abuse and sexual exploitation of children and child pornography ([Directive 2011/93/EU](#)). The EU has strict rules criminalising child sex abuse across Europe, that include penalties for offenders, protection for child victims and measure to help prevent such offences from taking place in the first place. The Directive also includes special measures to fight online child sexual abuse and sexual exploitation. Due to the comprehensive nature of the Directive, many Member States faced delays when implementing the new measures. However, to ensure effective protection of children from sexual abuse and sexual exploitation, all Member States must fully comply with the provisions of the Directive. This is why the Commission has decided to launch infringement procedures against 13 Member States for the incorrect implementation of the Directive into national law. The Member States concerned now have two months to respond to the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

#### **Visa Policy: Commission calls on CZECHIA to comply with EU rules on visa refusal**

Today, the European Commission decided to send an additional letter of formal notice to **Czechia** concerning the incorrect implementation of the right to appeal against a visa refusal under the EU Visa Code ([Regulation 810/2009/EU](#)). The Code in particular obliges Member States to ensure a right of appeal against a visa refusal, annulment and revocation. In addition, Member States must provide individuals with sufficient legal remedies, in line with the EU Treaties and the EU Charter of Fundamental Rights respectively. The Commission has sent a first letter of formal notice to Czechia in February 2013 and a reasoned opinion in February 2014. While the Czech authorities have initially engaged to address the outstanding concerns, the Commission considers that Czech legislation still does not fully comply with requirements set out in the Visa Code and the obligations under the Charter of Fundamental Rights of the European Union. Czechia has two months now to reply to the arguments raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

#### **6. Mobility and Transport**

(For more information: Enrico Brivio – tel.: +32 229 56172, Stephan Meder - tel.: +32 229 13917)

#### *Reasoned opinions*

#### **Road safety: Commission urges SPAIN to fully deploy the eCall emergency call centres infrastructure**

The Commission decided today to send a reasoned opinion to **Spain** for not having fully deployed the emergency call centres infrastructure necessary to receive and handle the 112 eCalls as required by EU rules ([Directive 2010/40/EU](#)). The eCall system automatically dials Europe's single emergency number 112 in the event of a serious road accident and communicates by use of Europe's satellite navigation system Galileo the vehicle's location to the emergency services. It is estimated that eCall will cut response time by up to 40-50%, thereby saving hundreds of lives every year. The Spanish authorities now have two months to respond to the arguments raised by the Commission. Otherwise, the Commission may refer the case to the Court of Justice of the EU.

#### **Rail Transport: Commission calls on SPAIN to correctly transpose EU rules establishing a single railway area**

The Commission decided today to send a reasoned opinion to **Spain** for failing to correctly transpose and apply the EU legislation establishing a single European railway area ([Directive 2012/34/EU](#)). The Commission takes the view that the rail regulatory framework in Spain is in breach of several provisions of the Directive, concerning inter alia the functions and resources of the regulatory body, the management independence of the infrastructure manager - in particular as regards infrastructure charges and State financing arrangements - and the management of the railway undertakings according to commercial principles. Spain has two months to reply to the arguments raised by the Commission. Otherwise, the Commission may refer the case to the Court of Justice of the EU.

#### **Aviation safety: Commission calls on HUNGARY to comply with EU rules on technical requirements and administrative procedures related to air operations**

The Commission decided today to send a reasoned opinion to **Hungary** for failing to comply with some of the European technical requirements and administrative procedures related to air operations in civil aviation ([Regulation \(EU\) No 965/2012](#)). This Regulation lays down detailed rules for air operations with aeroplanes, helicopters, balloons and sailplanes, including ramp inspections of aircrafts of operators. Due to a lack of sufficient personnel, Hungary has however failed to verify compliance with the safety requirements applicable to organisations or type of operations. Hungary has two months to reply to the arguments raised by the Commission. Otherwise, the Commission may refer the case to the Court of Justice of the EU.

#### *Letters of formal notice*

#### **Maritime transport: Commission urges BULGARIA to comply with EU rules on marine equipment**

The Commission decided today to send a letter of formal notice to **Bulgaria** for failing to comply with EU law on marine equipment ([Directive 2014/90/EU](#)). The common EU safety and environmental rules concern equipment, such as life jackets, sewage cleaning systems and radars, on board EU-flagged ships. Bulgaria has failed to ensure that marine equipment (on board of Bulgarian flagged vessels) always complies with the requirements of the Directive, and is not conducting market surveillance on an adequate scale. Bulgaria has two months to respond to the concerns raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

#### **Transport: Commission calls on BELGIUM to correctly apply EU rules on driving licences**

The Commission decided to send a letter of formal notice to **Belgium** to correctly implement the EU Directive on driving licences ([Directive 2006/126/EC](#)). These updated rules on driving licences introduced new driving licence categories, a harmonised validity of the driving licence document and established a network to exchange driving licence information (RESPER). The new rules will help reduce the possibility of fraud, guarantee the freedom of movement for EU drivers and reinforce safety on European roads. In particular, the Commission considers that Belgium has failed to fulfil its obligations because it places undue obligations on the driving licence holder for the replacement of their European driving licenses in the event of loss or theft. Belgium has two months to respond to the concerns raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

#### **Single European railway area: Commission calls on GERMANY to fully transpose EU law**

Today, the Commission decided to send a letter of formal notice to **Germany** for failing to transpose certain provisions of the EU rules on establishing a single European railway area ([Directive 2012/34/EU](#)). The Directive aims to create a single European rail area, notably on the power of national regulators, improved framework for investment in rail, and fair and non-discriminatory access

to rail infrastructure and rail related services. In November 2012, Member States adopted the Directive and agreed to transpose these rules into national law by 16 June 2015. Germany now has two months to reply. Otherwise, the Commission may decide to send a reasoned opinion.

### **Road transport: Commission requests GERMANY to upgrade the connection of its national electronic registers on road hauliers to the new European Registers of Road Transport Undertakings version**

The Commission has decided to send a letter of formal notice to **Germany** for failing to upgrade the connection between its respective national registers on road transport undertakings and the new version of European Registers of Road Transport Undertakings ([ERRU](#)), as required by the [Commission Implementing Regulation \(EU\) 2016/480](#). The ERRU allows the exchange of information on road transport undertakings established within the EU and between Member States. It is an essential instrument to ensure enforcement of EU legislation. The implementation of a new and enhanced version of ERRU requires Member States to adapt their systems at national level. The deadline for establishing an upgraded connection of national electronic registers expired on 30 January 2019. If the authorities from Germany fail to send a satisfactory response within two months, the Commission may decide to send a reasoned opinion.

### **Safety requirements for tunnels: Commission sends letters of formal notice to 5 Member States**

The European Commission sent today letters of formal notice to **Belgium, Bulgaria, Croatia, Italy and Spain** for not complying with [Directive 2004/54/EC](#). This Directive sets out minimum safety measures relating to the infrastructure and operation of tunnels. It applies to all tunnels in the trans-European road network, with lengths of over 500 metres. The Member States concerned have not implemented the full set of required infrastructural measures to ensure the highest safety standards in certain tunnels falling within this scope. The concerned Member States now have two months to notify the Commission of measures taken to remedy this situation. Otherwise, the Commission may adopt reasoned opinions.

### **Road transport: Commission requests the UNITED KINGDOM to comply with the Directive on Road Charging**

Following an initial letter of formal notice in April 2016, the European Commission has addressed an additional letter of formal notice today, requesting **the United Kingdom** to fulfil all the requirements of the [Eurovignette Directive \(1999/62/EC\)](#) on road charging for heavy goods vehicles. This Directive sets principles regarding when Member States apply annual taxes, tolls or vignettes to heavy goods vehicles. The Commission views the levy introduced for heavy goods vehicles by the United Kingdom in 2014 to be a tax that can be charged solely by the Member State of registration. The Commission also considers that the levy discriminates against foreign hauliers as compared to UK hauliers, which are compensated through a reduction on the annual tax paid of vehicles registered in the United Kingdom. The United Kingdom has until 31 October to notify the Commission of measures taken to remedy this situation.

#### **7. Taxation and Customs Union**

*(For more information: Vanessa Mock – tel.: +32 229 56194, Patrick Mc Cullough – tel.: +32 229 87183)*

*Referral to the Court of Justice of the European Union*

### **Taxation: Commission refers HUNGARY to the Court for failing to apply the minimum EU excise duty on cigarettes**

The Commission decided today to refer **Hungary** to the Court of Justice for failing to apply the minimum EU threshold for excise duty on cigarettes set out in EU rules on manufactured tobacco. Hungary was allowed a long transitional period until 31 December 2017 in order to gradually increase the excise duty on cigarettes and reach the required minimum threshold. Currently, the excise duty applied by Hungary remains below the EU threshold, generating distortions of competition with other Member States and is at odds with the EU health protection policy. Common EU rules ([Council Directive 2011/64/EU](#)), which aim to ensure the proper functioning of the internal market and a high level of protection for human health, require Member States to charge an excise duty on cigarettes of at least 60% of the applicable weighted average retail price of cigarettes and not lower than €90 per 1,000 cigarettes. The 60% rule does not apply if the excise duty level is at least €115 euros per 1,000 cigarettes. For more information, please refer to the full [press release](#).

*A reasoned opinion*

### **Taxation: Commission requests that ITALY communicate national transposition measures as regards VAT obligations for supplies of services and distance sales of goods**

The European Commission decided today to send a reasoned opinion to **Italy** following its failure to communicate national transposition measures around the place of supply of services and on rules governing invoices for VAT purposes as required by EU law (Article 1 of [Council Directive 2017/2455](#) amending Directive 2006/112/EC and Directive 2009/132/EC). The rules are part of a broader package of measures agreed by EU Member States in 2017 to improve VAT collection in e-commerce and cut down on VAT fraud in the sector. The deadline to comply was 31 December 2018. If Italy does not act within the next two months, the Commission may decide to bring the case before the Court of Justice of the EU.

*A letter of formal notice*

**Taxation: Commission requests that GERMANY withdraw recent legal changes affecting European businesses selling goods online to German consumers**

The Commission decided today to send a letter of formal notice to **Germany** in relation to its new legislation on distance sales of goods sold through digital marketplaces. According to German law, as of 1 October 2019, a marketplace becomes jointly and severally liable for the VAT due on goods being sold by EU companies through its platform when transport for these goods begins or ends in Germany. This liability can be avoided only if marketplaces produce a paper certificate which has been provided by the German Tax Administration to businesses selling on their electronic platform. The Commission considers this obligation as an inefficient and disproportionate measure that hinders the free access of EU businesses to the German market in violation of EU Law. Furthermore, this measure comes as EU Member States have already agreed on common and more efficient measures to combat VAT fraud – those rules will come into force on 1 January 2021. The obligations put on the marketplace operators to avoid the joint and several liability go beyond what is provided for by the EU rules and are at odds with the goals of the Digital Single Market Strategy for Europe. If Germany does not act within the next two months, the Commission may send a reasoned opinion to the German authorities.

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Press contacts:

[Natasha BERTAUD](#) (+32 2 296 74 56)

[Maya ANGELOVA](#) (+32 2 296 27 63)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)