



April infringements package: key decisions

Brussels, 27 April 2017

Overview by policy area

In its monthly package of infringement decisions, the European Commission is pursuing 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 (including 4 letters of formal notice, 45 reasoned opinions, 11 referrals to the Court of Justice of the European Union, and 2 closures) are presented below and grouped by policy area. The Commission is also closing 155 cases in which the issues with the Member States concerned have been solved 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. Employment, Social Affairs and Inclusion

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A reasoned opinion

Health and safety: Commission sends reasoned opinion to the CZECH REPUBLIC urging them to notify transposition of the Classification, Labelling and Packaging of substances and mixtures Directive

By issuing the present reasoned opinion, the Commission urges the **Czech Republic** to notify all their measures for the transposal into national law of the Directive on classification, labelling and packaging of substances and mixtures ([Directive 2014/27/EU](#)). This Directive aims at ensuring the coherence of EU legislation on chemicals and an appropriate level of workers' health and safety protection when hazardous chemical substances and mixtures are present in the working environment. The Directive was due to be transposed into national legislation by 1 June 2015. The Czech authorities have notified a number of national transposing measures, but several provisions of this Directive still appear to be lacking national counterparts. Therefore, after giving the Czech Republic the opportunity to submit its observations in reply to its letters of formal notice, the Commission is now inviting the country to take the necessary measures to fully comply with the Directive. If the Czech Republic fails to bring its national legislation into line with EU law within two months, the Commission may decide to refer the cases to the Court of Justice of the EU.

2. Energy

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Reasoned opinions

Internal Energy Market: Commission requests HUNGARY to fully comply with the Third Energy Package

The European Commission has formally requested **Hungary** to ensure the correct implementation and application of the Electricity Directive ([Directive 2009/72/EC](#)) and the Gas Directive ([Directive 2009/73/EC](#)). The Directives are part of the Third Energy Package and contain key legal provisions which allow energy markets to function properly. These include rules on the unbundling of the transmission network operators from energy suppliers and producers, on strengthening the independence and the powers of national regulators, and on provisions benefitting consumers. A letter of formal notice was sent to Hungary in February 2015 and, since compliance with EU law was not yet in place, a reasoned opinion was issued in [December 2016](#). In addition to the grievances set out in the reasoned opinion, the Commission found that Hungary recently adopted amendments to its energy legislation which jeopardise the right of market operators to a full judicial review of the national

regulator's decisions on network tariffs. Therefore, the Commission is now sending an additional reasoned opinion. Hungary has two months to inform the Commission of the measures taken to remedy the situation, following which the Commission may decide to refer the case to the Court of Justice of the EU. More information about the [EU Internal Market legislation](#) is available on the website of [DG Energy](#).

Renewables: Commission requests POLAND to fully comply with EU legislation on biofuels

Today, the European Commission decided to send an additional reasoned opinion to **Poland** with regard to restrictions in the Polish law against certain imported biofuels and raw materials for biofuel. This follows the Commission's decision in [May 2016](#) to refer the case to the Court of Justice. Following changes in the Polish legislation made after May 2016, the Commission has updated its assessment and calls on Poland to remedy the remaining issues of non-compliance. The Polish biofuel legislation is not fully in line with the Renewable Energy Directive ([Directive 2009/28/EC](#)) and with Article 34 of Treaty on the Functioning of the EU ([TFEU](#)) on the free movement of goods. Firstly, hydrotreated vegetable oil (HVO) - a biofuel that is not produced in Poland, but imported from other Member States - cannot be placed on the market in Poland due to the absence of fuel quality requirements for HVO. Secondly, preferential treatment is given to fuel operators who source at least 70% of their biofuels from producers based in Poland and from raw materials from a limited number of countries, thus discriminating biofuels manufacturers and raw material producers in other countries. The Renewable Energy Directive requires all Member States to ensure that at least 10% of all energy consumed in transport comes from renewable sources by 2020. Biofuels can be used to achieve this target, provided that they meet the Directive's [sustainability criteria](#). Member States also must treat sustainable biofuels and their raw materials equally regardless of their origin. Poland has two months to inform the Commission of the measures taken to remedy the situation, following which the Commission may decide to refer the case to the Court of Justice of the EU. More information about the [EU Renewables legislation](#) is available on the website of [DG Energy](#).

3. Environment

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Referrals to the Court of Justice of the European Union

Waste: Commission refers ROMANIA to Court of Justice for failing to adopt national measures on waste management and waste prevention

The European Commission is taking **Romania** to the Court of Justice of the EU for failing to review and adopt its national waste management plan and waste prevention programme, in line with the objectives of EU Waste Framework Directive ([Directive 2008/98/EC](#)) and the circular economy.

Despite earlier warnings from the Commission, the Romanian authorities have failed to review and update their national waste management plan and waste prevention programme. This revision should have taken place at the latest by 2013. The Commission initiated the infringement procedure in September 2015 and sent a reasoned opinion to Romania in [May 2016](#), urging the authorities to promptly adopt these core instruments required by the waste legislation. For more information, please refer to the full [press release](#).

Waste: Commission refers SLOVENIA to the Court of Justice over illegal landfills

The European Commission is taking **Slovenia** to Court of Justice of the EU for its failure to close and rehabilitate 28 illegal landfills which represent a serious risk for human health and the environment.

Despite earlier warnings from the Commission, Slovenia has failed to take measures against 28 noncompliant landfills, as required by EU rules on landfilling (Landfill Directive, [Council Directive 1999/31/EC](#)). Under the Directive, Member States must recover and dispose of waste in a manner that does not endanger human health and the environment, prohibiting the abandonment, dumping or uncontrolled disposal of waste. Slovenia was obliged to close and rehabilitate these substandard municipal and industrial landfills by 16 July 2009. Due to insufficient progress in addressing the issue, the Commission sent an additional reasoned opinion in [April 2016](#), urging the authorities to adequately deal with 35 uncontrolled sites, which – although not in operation – still posed a threat to human health and the environment. Some progress was made, but for 28 landfills the necessary measures – to clean them up and close them – had still not been completed by March 2017. In an effort to urge Slovenia to speed up the process, the Commission is bringing the Slovenian authorities before the Court of Justice of the EU. For more information, please refer to the full [press release](#).

Reasoned opinions

Waste: Commission requests BELGIUM to enact EU rules on e-waste

The European Commission urges **Belgium** to ensure that EU rules on waste electrical and electronic equipment ([WEE, Directive 2012/19/EU](#)) also become effective in the Walloon region, an obligation which was due to be fulfilled by 14 February 2014. Waste of electrical and electronic equipment (WEEE), such as computers, TV-sets, fridges and cell phones, is one of the fastest growing waste streams in the EU. If not properly managed, this can cause major environmental and health problems because of their hazardous content. Moreover, the production of modern electronics requires the use of scarce and expensive resources (for example, around 10% of total gold worldwide is used for their production). To improve the environmental management of WEEE and to contribute to a circular economy, improving the collection, treatment and recycling of electronics at the end of their life is essential. If the Belgian authorities fail to send a satisfactory response within two months, the Commission may decide to refer Belgium to the Court of Justice of the EU.

Waste: Commission calls on BELGIUM to enact EU law on waste batteries

The Commission requests **Belgium** to ensure that the Walloon region brings its legislation on waste batteries and accumulators in line with the new EU Batteries Directive ([Directive 2013/56/EU](#)), an obligation which was due to be fulfilled by 1 July 2015. Every year, approximately 800 000 tons of automotive batteries, 190 000 tons of industrial batteries, and 160 000 tons of consumer batteries enter the EU. The revised and updated Batteries Directive, which aims to minimise the negative impact of waste batteries and accumulators on the environment, lays down rules on the marketing and labelling of batteries containing hazardous substances. This Directive requires Member States to fix quantified collection and recycling targets for batteries and accumulators. The Directive applies to all sorts of batteries and to all operators involved in the life cycle of batteries and accumulators, for instance, producers, distributors and end-users and, in particular, those operators directly involved in the treatment and recycling of waste batteries and accumulators. If the Belgian authorities fail to send a satisfactory response within two months, the Commission may decide to refer Belgium to the Court of Justice of the EU.

Environmental damage: Commission urges BELGIUM and the CZECH REPUBLIC to adjust its laws on environmental liability

The European Commission is urging **Belgium** and the **Czech Republic** to correctly enact rules on environmental liability into their 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 bodies, protected species or natural habitats, or soil. Under the Directive, natural or legal persons and 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. As regards **Belgium**, while the Directive has been enacted properly by its regions, there is still a gap in the federal law (applicable to the Belgian marine waters) regarding the remedial action which can be required and by whom. The Commission is, therefore, sending a reasoned opinion. Concerning the **Czech Republic**, the Commission is calling on to correctly enact rules on a review procedure into its national law to ensure that competent authorities take action against environmental damage on the basis of observations by citizens and environmental NGOs. As these rights have not been correctly enacted in the Czech law, the European Commission sent the letter of formal notice in April 2016. If the Member States fail to act within two months, it may be referred to the Court of Justice of the EU.

Waste: Commission requests FINLAND to enact EU rules on waste into its national laws

The Commission is urging **Finland** to complete the enactment of EU waste legislation into its national laws. The Directive on waste ([Commission Directive \(EU\) 2015/1127](#)) sets out a list of operations for the recovery of energy from waste. Local climate conditions in the EU influence the amounts of energy that can technically be used or produced by incineration facilities dedicated to the processing of municipal solid waste. The Directive thus establishes conditions for these facilities based on their energy efficiency, which is calculated by using a climate correction factor. Member States had to bring into force national measures to comply with this law by 31 July 2016. The Finnish mainland has not transposed its provision on climate correction factor, justifying it by Finland's climatic conditions. Based on existing evidence, the Commission finds no justification for lacking transposition. Following a letter of formal notice sent by the Commission in September 2016, the European Commission is now sending a final warning. If Finland fails to act within two months, the case may be referred to the Court of Justice of the EU.

Birds and habitats directives: Commission calls on CROATIA to correctly enact EU law on nature protection into its national legislation

The European Commission requested **Croatia** today to fully enact EU legislation on the conservation of

wild birds, natural habitats and of wild fauna and flora into its national laws. EU law on Birds ([Directive 2009/147/EC](#)) and Habitats ([Council Directive 92/43/EEC](#)) is the cornerstone of Europe's nature conservation policy and establish the EU wide Natura 2000 ecological network of protected areas, safeguarded against potentially damaging developments. Having identified serious shortcomings in the Croatian legislation relating to the obligations concerning the site and species protection, the Commission sent letters of formal notice to Croatia in February, April and September 2016. The Croatian authorities still have failed to adequately transpose the obligation to avoid the deterioration of protected habitats and significant disturbance of the species, and to ensure proper assessment of certain plans on Natura 2000 sites. In addition, the Croatian law has added new exemptions not envisaged under the Directives, undermining thus the level of protection. As Croatia keeps postponing the amendments to the main national measure transposing the two nature Directives, the Commission is now sending final warnings in both cases. If Croatia fails to act within two months, the case may be referred to the Court of Justice of the EU.

Air quality: Commission urges ITALY to take action against small particulate matter (PM10) to safeguard public health

As **Italy** has failed to address persistently high levels of small particulate matter (PM10) which pose a major risk to public health, the European Commission requests **Italy** to take appropriate actions against PM10 in order to ensure good air quality and safeguard public health. The PM10 pollution in Italy is predominantly caused by emissions from energy and heating, transport, industry and agriculture. This is a final warning and it covers 30 air quality zones across Italy, where the daily limit values for the airborne particles (PM10) have been exceeded since they came into force on 1 January 2005. Italy was already found in breach of the relevant EU legislation in an earlier ruling of the Court of Justice of the EU (see the Court ruling of 19 December 2012, [C-68/11](#)), concerning years 2006 and 2007. For the **daily** limit value, the 30 affected zones are in the regions of: Lombardia, Veneto, Piemonte, Toscana, Emilia-Romagna, Friuli-Venezia Giulia, Umbria, Campania, Marche, Molise, Puglia, Lazio and Sicilia. In addition, this warning also refers to exceedances of the **annual** limit value in 9 zones: Venezia-Treviso, Vicenza, Milano, Brescia, two zones of Pianura lombarda, Torino and Valle del Sacco (Lazio). If Italy fails to act within two months, the case may be referred to the Court of Justice of the EU. For more information, please refer to the full [press release](#).

Nature protection: Commission warns POLAND over increased logging in the Białowieża Forest

The European Commission is requesting **Poland** to refrain from large scale logging in the Białowieża Forest, one of the last remaining primeval forest complex in Europe and an environmentally protected site, as part of the Natura 2000 network. On 25 March 2016, the Polish authorities adopted a decision approving a modification to the forest management plan for the Białowieża Forest District. The decision allows for a three-fold increase in timber harvesting as well as for active forest management measures in areas which were so far excluded from any intervention. The Polish authorities justify the increased logging by the need to combat the infestation of the bark beetle and to ensure public safety, but the available evidence shows that these measures are not compatible with the conservation objectives of the site and exceed those necessary for ensuring the safe use of the forest. The logging is likely to adversely affect the conservation of the Natura 2000 site's habitats and species as well as cause irreparable biodiversity loss. In June 2016, the Commission sent a letter of formal notice to the Polish authorities urging them to make sure that the conservation and protection requirements of the EU's rules on Birds ([Directive 2009/147/EC](#)) and Habitats ([Council Directive 92/43/EEC](#)) are complied with on this site. As the logging is already being carried out in the forest, including the removal of 100-year and older trees and operations in the habitats which according to the Natura 2000 management plan should be strictly protected, the Commission is now sending a final warning. Due to the threat of a serious irreparable damage to the site the Commission is urging the Polish authorities to reply within one month instead of a customary two-month deadline. If Poland fails to address this breach of EU law within given time, the case may be referred to the Court of Justice of the EU.

Waste: Commission calls on POLAND to enact EU law on waste into its national laws

The Commission is requesting **Poland** to fully enact EU waste legislation into its national laws. The Directive on waste ([Commission Directive \(EU\) 2015/1127](#)) sets out a list of operations for the recovery of energy from waste. Local climate conditions in the EU influence the amounts of energy that can technically be used or produced by incineration facilities dedicated to the processing of municipal solid waste. The Directive thus establishes conditions for these facilities based on their energy efficiency, which is calculated by using a climate correction factor. Member States had to bring into force national measures to comply with this law by 31 July 2016. As Poland has still not transposed its provisions, and the timetable for adoption of national measures is remote and tentative, the Commission decided to issue a final warning. If Poland fails to act within two months, the case may be referred to the Court of Justice of the EU.

Illegal logging: Commission requests SLOVAKIA to correctly apply the EU Timber Regulation

The European Commission is calling on **Slovakia** to step up efforts to comply with EU law to counter the trade in illegally harvested timber. The EU Timber Regulation (EUTR, [Regulation \(EU\) No 995/2010](#)) prohibits the placing of illegally harvested timber on the European market, laying down the obligations of operators who place timber and timber products on the EU internal market for the first time as well as the obligations of traders. Slovakia had to fully implement the Regulation into the national legislation by 3 March 2013. However, the Slovak authorities still need to provide evidence for rules on penalties in case of Regulation breach to ensure effective application of the Regulation. The Commission sent a letter of formal notice in December 2016. If Slovakia fails to act within two months, the case may be referred to the Court of Justice of the EU.

Nature: Commission calls on the UNITED KINGDOM to protect blanket bog habitats

The Commission is urging the **United Kingdom** to stop burning blanket bog habitats within upland Natura 2000 sites in England and to take measures to restore the damaged habitats. Blanket bogs are considered to be priority habitats under the Habitats Directive ([Council Directive 92/43/EEC](#)) when they are active (i.e. non-degraded), and their conservation status in England is seriously declining. For a number of years, the UK authorities allowed the damaging practice of burning blanket bogs within the English Special Areas of Conservation (SACs), without the appropriate assessment required by the Habitats Directive. The Commission warned the United Kingdom of those breaches of the Habitats Directive in a letter of formal notice sent in April 2016. As the burning of blanket bog habitats within the protected sites still continues, a final warning is now sent. The UK has two months to provide a response; otherwise, the case may be referred to the Court of Justice of the EU.

4. Financial Stability, Financial Services and Capital Markets Union

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Referrals to the Court of Justice of the European Union

Commission refers CROATIA, CYPRUS, PORTUGAL and SPAIN to the Court of Justice for failing to fully enact EU rules on mortgage credit

The European Commission has decided to refer **Croatia, Cyprus, Portugal and Spain** to the Court of Justice of the EU for not enacting the Mortgage Credit Directive (MCD) in their national legal systems. The Mortgage Credit Directive had to be transposed by Member States by 21 March 2016. Croatia, Cyprus, Portugal and Spain have still to comply with this obligation.

The [Mortgage Credit Directive \(Directive 2014/17/EU\)](#) aims to create an EU-wide mortgage credit market with a high level of consumer protection. The main provisions include conduct rules for providers, including an obligation to assess consumer creditworthiness and disclose information, competence and knowledge requirements for staff, provisions regarding certain aspects of mortgage credit, such as early repayment, foreign currency loans, tying practices, financial education, property valuation and arrears and foreclosures and a EU passport for credit intermediaries who meet the admission requirements in their home Member State. The Member States' failure to implement the Directive means that consumers in these Member States cannot benefit from the protection guaranteed by the Directive when taking out their mortgage loans or when they experience difficulties repaying it. In addition, credit intermediaries cannot passport their commercial activities, depriving consumers in Croatia, Cyprus, Portugal and Spain of potentially better credit offers from lenders from outside these Member States. This impedes competition and leads to less choice and higher prices. For more information, please refer to the full [press release](#).

Commission refers IRELAND to the Court of Justice over failing to apply EU rules on financial reporting

The European Commission has decided to refer **Ireland** to the Court of Justice of the EU over failing to transpose the Accounting Directive into its national legal system. A timely and correct implementation of the Accounting Directive is an important step to improve and simplify financial reporting which is particularly important for small companies. The Accounting Directive ([Directive 2013/34/EU](#)) - which repeals Council Directives [Fourth Council Directive 78/660/EEC](#) and [Seventh Council Directive 83/349/EEC](#) - aims to reduce the administrative burden for small companies and improve the quality and comparability of the information disclosed in financial reports. It sets out EU-wide rules on annual financial statements, consolidated financial statements and related reports of certain types of undertakings. Member States had to transpose these rules into national law by 20 July 2015. To date, Ireland has not yet implemented the Directive. As a result, the Commission has now decided to refer the case to the Court of Justice and request that penalties be imposed on Ireland. For more information, please refer to the full [press release](#).

Reasoned opinions

Commission requests BELGIUM to apply EU rules on *whistle-blowers*

In 2015, the Commission adopted an implementing Directive as regards the reporting to competent authorities of actual or potential infringements of the Market Abuse Regulation ([Commission Implementing Directive \(EU\) 2015/2392](#), so-called "Whistle-blowing" Directive). This Directive is part of the Market Abuse rulebook and requires Member States to establish effective mechanisms to enable the reporting of infringements of the Market Abuse Regulation. It contains provisions to protect those who report such infringements and further specifies procedures to protect whistle-blowers and reported persons, including follow-up arrangements on reports by whistle-blowers and protection of personal data. Member States had to enact these rules into national law by 3 July 2016. Having missed this original deadline, letters of formal notice were sent to a number of Member States in September 2016, including **Belgium**. As the Commission is not aware of a transposition of the rules into national law, it is issuing a reasoned opinion to the Belgian authorities, requesting them to bring national legislation on whistle-blowing in line with EU law. If Belgium fails to act within two months, the case may be referred to the Court of Justice of the EU.

Commission urges CYPRUS, SPAIN, CROATIA, LUXEMBOURG, the NETHERLANDS and PORTUGAL to apply rules on payment accounts

Today, the European Commission has decided to send formal requests to **Cyprus, Spain, Croatia, Luxembourg, The Netherlands and Portugal** to notify the full enactment of the Payment Accounts Directive ([Directive 2014/92/EU](#)). The Directive gives all legal EU residents the right to a basic payment account for a reasonable fee, regardless the place of residence. It also improves the transparency of payment account fees and makes it easier to compare and switch. To date, the above-mentioned Member States have not transposed this Directive into national law, although they were required to do so by 18 September 2016. As a result, the Commission is issuing reasoned opinions to the concerned Member States, requesting them to bring their legislation in line with EU law. If they fail to act within two months, the case may be referred to the Court of Justice of the EU.

Commission requests ROMANIA and SPAIN to implement new rules on Settlement Finality

In the wake of the financial crisis, rules on the central clearing of derivatives were introduced in 2012 as part of global efforts to mitigate systemic risks to financial stability. To that end, the EU also amended its financial rules to further minimise risks linked to the insolvency of transaction participants set out in the [Settlement Finality Directive \(Directive 98/26/EC\)](#). Specifically, the amended (in the [Regulation \(EU\) No 648/2012](#)) Settlement Finality Directive protected system operators that provided collateral security to another system operator and was to promote financial stability of the financial markets, further facilitating cross-border business and competitiveness. **Romania and Spain** have not notified the Commission of the measures they are taking to apply this specific amendment although these rules should have been implemented by all Member States by 17 August 2014. Having missed this original deadline, letters of formal notice were sent to Romania and Spain in September 2016. This is why the Commission is issuing now reasoned opinions to Romania and Spain, requesting them to bring their legislation in line with EU law. If they fail to act within two months, the case may be referred to the Court of Justice of the EU.

5. Internal Market, Industry, Entrepreneurship and SMEs

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A referral to the Court of Justice of the European Union

Services: Commission refers GREECE to the Court of Justice over restrictions on mediation services

The European Commission has today decided to take **Greece** to the Court of Justice of the EU on the grounds that Greek legislation on providers of mediation training services and on the recognition of the professional qualifications of mediators obtained in other EU Member States is against EU law. Mediation is a process where two or more parties attempt to settle their dispute with the assistance of a mediator. In Greece, only non-profit companies set up by at least one Greek Bar association and one of the Greek Chambers are allowed to provide training to future mediators. The Commission considers that such requirements on legal form and shareholding structure are contrary to the freedom of establishment (Article 49 [TFEU](#)) as well as the Services Directive (Article 15 of [Directive 2006/123/EC](#)). The Commission also considers that in Greece, the recognition of mediator qualifications obtained in other EU Member States is subject to discriminatory and disproportionate conditions. These conditions are incompatible with the freedom of establishment (Article 49 [TFEU](#)), the free movement of workers

(Article 45 [TFEU](#)) and the Directive on the Recognition of Professional Qualifications ([Directive 2005/36/EC](#)). Since Greece has not taken the necessary measures to bring its legislation in line with EU rules following the Commission's [reasoned opinion](#) in February 2016, the Commission has decided to refer Greece to the Court of Justice of the EU.

Reasoned opinions

Postal services: Commission requests BELGIUM to remove restrictive licencing conditions

The European Commission decided to send a reasoned opinion to **Belgium** today, requesting the removal of restrictive licensing conditions in the postal sector, such as the need to ensure postal distribution at least twice a week within two years of taking up activity, ensure progressive territorial coverage within five years of operation and apply a uniform tariff across Belgium. Such requirements create a disproportionate barrier to establishment of postal operators in the internal market and do not comply with the EU's Postal Services Directive ([Directive 97/67/EC](#) as amended by Directives [2002/39/EC](#) and [2008/6/EC](#)). With this reasoned opinion, the Commission requests the removal of these restrictive conditions. Belgium now has two months to inform the Commission of measures taken to remedy the situation. Otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

Electrical, electronic and mechanical engineering: Commission urges 3 Member States to transpose new market surveillance rules

The European Commission decided to send reasoned opinions today to **Cyprus, Ireland and Portugal**, requesting them to transpose EU Directives in the areas of electrical, electronic and mechanical engineering. The Directives share the objective of enhancing market surveillance by allowing the tracing of non-compliant products on the EU market. Specifically, the Commission is requesting: **Ireland and Portugal** to transpose the Directive on lifts and safety components for lifts ([Directive 2014/33/EU](#)) which lays down the requirements that need to be met to place lifts and lift safety components on the EU market while ensuring a high level of safety for lift users and maintenance staff; **Portugal** to transpose the Directive on pressure equipment ([Directive 2014/68/EU](#)), which covers a broad range of industrial equipment, such as compressors and heat exchangers, but also to consumer products such as fire extinguishers and pressure cookers; and **Cyprus** to transpose the Directive on electromagnetic compatibility ([Directive 2014/30/EU](#)) and the Low Voltage Directive ([Directive 2014/35/EU](#)), the first of which ensures that electrical and electronic equipment does not generate, nor is affected by, electromagnetic disturbance while the latter lays down the essential safety requirements for electrical equipment designed for use within certain voltage limits such as for example in household appliances, cables and power supply units. The Commission is today addressing the reasoned opinions on the grounds that the three Member States in question have not yet transposed these Directives into national legislation. Member States should have transposed these directives by 19 April 2016 with the exception of the Directive on pressure equipment, which should have been transposed into national law by 18 July 2016. The three Member States addressed now have two months to notify the Commission of the full transposition of the Directives; otherwise, the Commission may decide to refer them to the Court of Justice of the EU.

Free movement of goods: Commission requests ROMANIA to remove restrictions on the installation of LPG filling stations

The Commission today decided to send a reasoned opinion to **Romania** requesting it to take action that would allow the installation of LPG filling stations for motor vehicles and domestic gas cylinders. Currently, Romanian law imposes requirements for the installation of new LPG stations, including those lawfully manufactured and marketed in another Member State. Romania has also failed to adopt the technical regulations and rules on fire safety certificates required to install new LPG stations. The Commission is sending the reasoned opinion on the grounds that this situation de facto prohibits the creation and cross-border selling of LPG filling stations which runs against the Treaty provisions on free movement of goods (Articles 34-36). Romania now has two months to notify the Commission of measures taken to remedy the situation. Otherwise, the Commission may decide to refer Romania to the Court of Justice of the EU.

6. Mobility and Transport

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Referrals to the Court of Justice of the European Union

Maritime transport: Commission refers PORTUGAL to the Court for failing to respect its flag State obligations

The European Commission decided today to refer **Portugal** to the Court of Justice of the EU for failing to respect its obligations as a flag State^[*]. The Commission issued two separate referrals to the Court of Justice concerning flag state requirements on one hand, and monitoring and reporting activities of its recognised organisations on the other hand. On Flag State requirements, Portugal has failed to comply with its obligations to develop, implement and maintain a quality management system for the operational parts of the flag State-related activities of its administration, which is to be certified in accordance with the applicable international quality standards (Article 8(1) of [Directive 2009/21/EC](#)). As per this Directive, the certified quality management system should have been in place by June 2012. To date, Portugal has, however, failed to do so. On Monitoring and reporting activities, Portugal has failed to comply with its monitoring and reporting obligations under [Directive 2009/15/EC](#). The Directive requires Member States to monitor the recognised organisations acting on their behalf to check the compliance of vessels with international maritime conventions. Each Member State must provide other Member States and the Commission every two years with a report on the results of such monitoring activities. Portugal has, however, failed to submit such reports for the six organisations it recognises. For more information, please refer to the full [press release](#).

Letters of formal notice

Road transport: Commission takes action against the AUSTRIAN minimum wage legislation

The European Commission initiated today an infringement procedure against **Austria** concerning the application of the "Austrian Act to Combat Wage and Social Dumping" (in German - *Lohn- und Sozialdumping-Bekämpfungsgesetz*) to the road transport sector. The Commission believes that this practice restricts the EU internal market disproportionately. Whilst fully supporting the principle of national minimum wages, the Commission considers that the application of the Austrian legislation to all international transport operations with unloading and/or uploading on the Austrian territory restricts the freedom to provide services and the free movement of goods in a disproportionate manner. In particular, the application of the Austrian measures to international transport operations which do not have a sufficient link to Austria cannot, in the Commission's view, be justified, as it creates disproportionate administrative burdens which prevent the internal market from functioning properly. The Commission considers that more proportionate measures are available to safeguard the social protection of workers and to ensure fair competition, whilst allowing for free movement of services and goods. Therefore, following an exchange of information with the Austrian authorities and a thorough legal assessment of the Austrian measures, the Commission decided today to send a letter of formal notice to Austria. This constitutes the first step in the infringement procedure. The Austrian authorities now have two months to respond to the arguments put forward by the Commission in the letter of formal notice. For more information, please refer to the full [press release](#).

Road transport: Commission requests LUXEMBOURG, POLAND and PORTUGAL to establish national electronic register

The European Commission requested **Luxembourg, Poland** and **Portugal** today to comply with judgements of the Court of Justice of the EU related to the good functioning of the internal market for road transport. In 3 judgements from 2016^[†], the Court found these Member States to be in breach of EU law ([Regulation \(EC\) No 1071/2009](#)) for not having established national electronic registers of road undertakings and for not having interconnected those with the registers of the other Member States. National electronic registers of road undertaking are database which contain some information (such as the name, address and number of vehicles) on all companies that have been authorised to perform commercial operations by a Member State. EU law requires these national registers to be interconnected in order to create a European Register of Road Transport Undertakings ([ERRU](#)). This EU-wide register allows for a better exchange of information between Member States and a better enforcement of existing legislation, including the [social acquis](#). It guarantees that offenders can be identified when they commit offences abroad. This results in a better and socially fairer internal market for transport. To date, Luxembourg, Poland and Portugal have not established and interconnected their national registers and have therefore failed to comply with the judgements of the Court. The Commission is today requesting these Member States to swiftly do so by addressing them a letter of formal notice under [Article 260\(2\)](#) of the Treaty of the Functioning of the EU (TFEU). The Luxembourgish, Polish and Portuguese authorities now have two months to notify the Commission of the measures taken to ensure compliance with the respective judgements. Should they fail to do, the Commission may bring the case before the Court, specifying the amount of the lump sum or penalty payment to be paid by the Member State concerned. For more information, please refer to the full [press release](#).

Reasoned opinions

Rail transport: Commission requests AUSTRIA to correctly transpose EU legislation on certification of train drivers

The European Commission decided to send a reasoned opinion to **Austria** today for failing to correctly transpose the European rules on certification of train drivers ([Directive 2007/59/EC](#)). The Commission has identified a number of shortcomings in the implementation of the Directive. Firstly, the Austrian competent authority, which is for instance tasked with the licensing of the train drivers, is not the responsible safety authority, as required by the Directive. Furthermore, the Commission has concerns about the content and frequency of the medical checks necessary for the driving licences to remain valid. The Commission opened the infringement procedure in November 2015. If the Austrian authorities fail to send a satisfactory response within two months, the Commission may decide to refer Austria to the Court of Justice of the EU.

Rail transport: Commission calls on GERMANY to fully transpose EU law on rail interoperability

The Commission has requested **Germany** to bring its national rules into line with EU law on railway interoperability ([Directive 2008/57/EC](#)). In particular, the request concerns the exclusion of the regional transport networks from the application of the [interoperability](#) requirements as well as the obligations of the infrastructure manager vis-à-vis the applicant should further checks be required. EU legislation on rail interoperability aims to make different European infrastructure, rolling stock, signalling and other subsystems of the rail system compatible with one another, to facilitate the cross-border circulation of trains and to enable the rail sector to compete more effectively with other transport modes. Member States had to transpose this Directive by 19 July 2010, and its proper implementation remains obligatory under the recently adopted [Fourth Railway Package](#). Today's request takes the form of reasoned opinion, following the opening of the infringement case in February 2016. If the German authorities fail to act within two months, the Commission may refer the case to the Court of Justice of the EU.

Maritime transport: Commission calls on BELGIUM and IRELAND to correctly implement maritime safety legislation

The Commission requested **Belgium** and **Ireland** today to correctly implement EU law establishing the fundamental principles governing the investigation of accidents in the maritime transport sector ([Directive 2009/18/EC](#)). As regards **Belgium**, the Belgian Federal Authority responsible for investigating shipping accidents has not commenced activities and has no staff. Belgium has, therefore, not correctly implemented the Directive. As concerns **Ireland**, the Commission has a number of concerns regarding the independence of the members of the Marine Casualty Investigation Board ([MCIB](#)) that has been established. The Belgian and Irish authorities have been given two months to respond to the arguments put forward by the Commission; otherwise, Commission may decide to refer them to the Court of Justice of the EU.

Maritime safety: Commission requests IRELAND, ITALY and ROMANIA to transpose rules on marine equipment

The Commission has urged **Ireland**, **Italy** and **Romania** to fully transpose EU rules on marine equipment ([Directive 2014/90/EU](#)). The main purpose of the Directive is to enhance safety at sea and to prevent marine pollution through the uniform application of the relevant international instruments. It relates to marine equipment placed on board of EU ships, and ensures the free movement of such equipment within the EU. The Directive had to be implemented by 18 September 2016 at the latest. Ireland, Italy and Romania have not yet notified the Commission of measures transposing the Directive into national law. As a result, the Commission decided today to send reasoned opinions to Ireland, Italy and Romania. They now have two months to notify the Commission of measures taken to bring national legislation into line with EU law; otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

Rail transport: Commission asks AUSTRIA, BELGIUM, GERMANY and SLOVENIA to transpose rules on language requirements

The Commission has asked **Austria**, **Belgium**, **Germany** and **Slovenia** to fully transpose EU rules regarding language requirements of train drivers. These rules are laid down in [Commission Directive \(EU\) 2016/882](#), which amended existing provisions on the certification of train drivers operating locomotives and trains on the railway system in the EU (Directive 2007/59/EC). The Directive provides for more flexibility by giving the possibility of exempting drivers going to the first station after the border with the neighbouring Member State from certain level language requirements. The prerequisites for this exemption are the equal treatment of all applicants for exemption, transparency of the procedure and the absence of any impact on safety. While the Commission Directive had to be implemented by 1 July 2016, Austria, Belgium, Germany and Slovenia have not yet notified the Commission of measures transposing it into national law. As a result, the Commission decided today to

send reasoned opinions to Austria, Belgium, Germany and Slovenia. They now have two months to notify the Commission of measures taken to bring national legislation into line with EU law; otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

Rail transport: Commission requests the UK to adopt uniform rules concerning the contract of use of infrastructure in international rail traffic

The Commission has called on the **United Kingdom** to apply the rules on liability in contracts between infrastructure managers and railway undertakings laid down in (the appendix E of) the Convention concerning International Carriage by Rail ([COTIF](#)). All EU Member States that have railways are party to COTIF - a convention that governs international rail transport. As the UK does not apply the rules contained in appendix E, it cannot exercise its voting rights on related questions in the decision-making bodies of the Intergovernmental Organisation for International Carriage by Rail ([OTIF](#)). The EU has a clear interest that all appendixes of COTIF, including this one, remain compatible with EU law and it needs the support of all of its Member States to maintain this situation. If the UK authorities fail to complete the process within two months, the Commission may decide to refer the case to the Court of Justice of the EU.

7. Justice, Consumers and Gender Equality

(For more information: Christian Wigand – tel.: +32 229 62253, Melanie Voin - tel.: +32 229 58659)

Reasoned opinions

Commission calls on GREECE to implement the EU Victims' rights Directive

The Commission urges **Greece** to implement the EU Directive establishing minimum standards on the rights, support and protection of victims of crime ([Directive 2012/29/EU](#)). The Directive gives victims of crime clear rights to information, protection, and access to support services in all Member States. It grants the victims the right to participate in proceedings if they want and are helped to attend the trial. This Directive also ensures that vulnerable victims are identified – such as children, victims of rape, or those with disabilities – and are properly protected. Every year across the EU, an estimated 1 in 7 people fall victim to crime. The Victims' Rights Directive had to be [translated into national law](#) by 16 November 2015. Greece has not notified any national rules implementing this EU law to the European Commission. As a result, the Commission is officially calling on the Greek authorities to take actions and has, therefore, decided to send a reasoned opinion. If the Greek authorities fail to act within two months, the case may be referred to the Court of Justice of the EU.

Non-discrimination in the workplace: Commission invites HUNGARY to complete transposition of the Maternity Leave Directive

The Commission has called on **Hungary** to **correctly and completely implement** EU law on equal treatment of men and women in employment and occupation (Equal Treatment Directive, [Directive 2006/54/EC](#)) as well as the Maternity Leave Directive ([Council Directive 92/85/EEC](#)). Under the Equal Treatment Directive, EU countries may only authorise differences of treatment based on a characteristic related to sex under strict conditions. However, Hungarian law provides an exception to the prohibition of discrimination on the grounds of sex that is much broader than the one authorised by this Directive. Then, the Maternity Leave Directive states that employers have a duty to adapt working conditions for pregnant or breastfeeding workers to avoid a risk to their health or safety. However, Hungarian law does not provide this obligation in a clear and comprehensive manner. The Commission sent a letter of formal notice to Hungary on these matters in September 2016. Hungary's reply to the letter of formal notice was not yet able to solve these two issues. The Commission has, therefore, decided to send to the Hungary a reasoned opinion. If the Hungarian authorities fail to act within two months, the case may be referred to the Court of Justice of the EU.

8. Taxation and Customs Union

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

A referral to the Court of Justice of the European Union

Taxation: Commission refers ITALY to the Court of Justice over excise duty reductions for petrol and diesel

The European Commission has decided to refer **Italy** to the Court of Justice of the EU for failing to apply the national excise duty rate on petrol and diesel purchased by motorists resident in the Friuli Venezia Giulia region. Currently, the Italian authorities grant a price reduction on motor fuel to

motorists that reside in the Friuli Venezia Giulia region. The Commission considers this to be a reduction of excise duties on diesel and petrol used as motor fuel, posing an obstacle to the proper functioning of the EU internal market and infringing EU rules. EU rules on energy taxation (the Energy Taxation Directive, [Council Directive 2003/96/EC](#)) provide for minimum rates of taxation on energy products. Substantial differences in national excise duty levels could impede the proper functioning of the internal market and lead to so-called 'fuel tourism'. Member States are only allowed to apply differentiated national excise duty rates to the same products when explicitly authorised by the Energy Taxation Directive. Regional reductions, such as that granted by Italy, are not allowed by the Energy Taxation Directive and are in breach of EU law. For more information, please refer to the full [press release](#).

Closures

Taxation: Commission successfully resolves cases in GREECE and SLOVAKIA to protect consumers who purchase their cars in another Member State

The Commission closed today infringement procedures against **Greece** and **Slovakia**. In the Slovak case, the infringement procedure was originally initiated due to the fact that the Slovak car registration tax did not take into account the real value of second-hand cars purchased in another Member States. As a result, citizens paid a higher tax on such cars than on those second-hand cars purchased in Slovakia. Following action by the Commission, the Slovak authorities amended its legislation in February 2017 leading to a reduction in the tax levied on second-hand cars purchased in other Member States. In the Greek situation, the EU infringement procedure was originally opened to ensure the proper implementation of a judgement issued by the Court of Justice of the EU on car registration tax (case [C-66/15](#): Commission v Greece). The ruling said that levying the full amount of registration tax on a car rented or leased by a Greek resident from a company established in another Member State - without taking into account the actual duration of the car lease - was inconsistent with EU law. Following the judgement, the Greek authorities amended its legislation to provide for a registration tax on cars based on the actual duration of the lease contract.

[*]The flag State of a vessel is the State under whose laws the vessel is registered or licensed.

[†] **Luxembourg**: Judgment of 1 December 2016 (case [C-152/16](#))

Poland: Judgment of 5 October 2016 (case [C-23/16](#))

Portugal: Judgment of 5 October 2016 (case [C-583/15](#))

MEMO/17/1045

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