



February infringements' package: key decisions

Brussels, 25 February 2016

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 (see Annex I and II), aim to ensure proper application of EU law for the benefit of citizens and businesses.

The key decisions taken by the Commission (including, 34 reasoned opinions and 3 referrals to the Court of Justice of the European Union) are presented below and grouped by policy area. The Commission is also closing 108 cases where 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. Agriculture and Rural Development

(For more information: Daniel Rosario - tel.: +32 229 56185, Clémence Robin – tel.: +32 229 52509)

A letter of formal notice

Agriculture: Commission asks GREECE to amend its law on compulsory cooperatives membership

The European Commission is requesting **Greece** to amend its Compulsory Law 6085/1934 which prevents individual wine growers in the island of Samos, Greece, from producing and marketing wine independently. This law obliges Samos wine growers to be members of local cooperatives which in turn have to deliver their entire must and grapes production to Samos UVC, who has the exclusive right of producing and marketing Samian wine. In the light of the fact that a more detailed complaint was received on 21 January 2015, the Commission is sending [another](#) additional letter of formal notice. If Greece fails to reply in a satisfactory way within two months, the Commission may send to the Greek authorities a reasoned opinion.

2. Climate Action

(For more information: Anna-Kaisa Itkonen - tel.: +32 229 56186, Nicole Bockstaller – tel.: +32 229 52589)

A Reasoned opinion

Fuel Quality: Commission requests ITALY to ensure the implementation of the European fuel quality standards

The European Commission is urging **Italy** to adopt and notify national transposition measures of the [Commission Directive 2014/77/EU](#) on the [quality of petrol and diesel fuels](#). The purpose of this directive is to update references to the fuel technical standards sold within the EU. The Directive had to be implemented by 11 June 2015. Despite a letter of formal notice sent to Italy and other eight Member States on 22 July 2015, Italy is the only Member State that has not notified to the Commission its national measures to comply with these standards. Remaining open infringement cases in other Member States are about to be closed. The European Commission has sent a request to Italy in form of a reasoned opinion. Italy now has two months to notify the Commission of the measures taken to transpose the directive; otherwise, the Commission may decide to refer Italy to the Court of Justice of the EU. The Court may then decide to impose financial sanctions.

3. Energy

(For more information: Anna-Kaisa Itkonen - tel.: +32 229 56186, Nicole Bockstaller – tel.: +32 229 52589)

Reasoned opinions

Energy Efficiency: Commission requests SPAIN to fully comply with the Buildings Directive

By sending a reasoned opinion, the European Commission has requested **Spain** to fully comply with all the requirements of the Energy Performance of Buildings Directive ([Directive 2010/31/EU](#)). Under this

Directive, Member States must establish and apply minimum energy performance requirements for new and existing buildings, ensure the certification of buildings' energy performance, and require the regular inspection of heating and air conditioning systems. In addition, the Directive requires Member States to ensure that all new buildings are 'nearly zero-energy' from 2021 onwards (2019 - for public buildings). A detailed examination of the national legislation transposing the Directive revealed some shortcomings regarding the definition of the 'nearly zero-energy' buildings standards and their application in time. The Commission further found that the exemptions from the requirements of the Directive introduced by the national legislation went beyond what was foreseen by the Directive. Spain has two months to notify the European Commission of the measures taken to remedy this situation, following that the Commission may decide to refer the case to the Court of Justice of the EU. More information about the [Energy Performance of Buildings Directive](#) is available on the website of [DG Energy](#).

Internal energy market: Commission urges AUSTRIA, BELGIUM, and CROATIA to fully comply with the Third Energy Package

The European Commission sent reasoned opinions to **Austria** and **Belgium** requesting them 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 provisions for a proper functioning of energy markets, including rules on unbundling of transmission system operators from energy suppliers and producers, on strengthening national regulators and on improved functioning of retail markets to the benefit of consumers. **Austria** has incorrectly transposed several unbundling requirements concerning the independent transmission operator unbundling model and has not fully respected rules concerning the powers of the national regulatory authority. **Belgium** did not correctly transpose some of the rules on ownership unbundling, making it nearly impossible for other undertakings than the national gas and electricity incumbent system operators to develop and manage interconnectors to other EU Member States. Belgium also did not correctly transpose certain rules on the powers of the national regulator and consumer provisions. The Commission also sent today a reasoned opinion to **Croatia** concerning its gas market rules. The current national framework creates unjustified barriers to the export of domestic gas production, restricts gas imports from other Member States and leads to delayed gas market opening, contrary to the rules on free movement of goods in the [TFEU](#) and the Gas Directive, and the Gas Regulation ([Regulation \(EC\) No 715/2009](#)). The existing price regulation for non-household customers and the regime on access to and capacity allocation of storage do not fully comply with EU internal energy market rules. Member States have two months to inform the European Commission of the measures taken to remedy the situation, following which the Commission may decide to refer the cases to the Court of Justice of the EU.

Offshore oil and gas: Commission requests GREECE, the NETHERLANDS, and PORTUGAL to transpose the Offshore Safety Directive

The European Commission formally requested **today Greece, the Netherlands, and Portugal** to take actions to ensure the transposition of the Offshore Safety Directive ([Directive 2013/30/EU](#)) into national law. The Directive requires that Member States put in place a set of rules to help prevent accidents as well as to respond promptly and efficiently should such accidents occur in an offshore oil or gas installation. For instance, before exploration or production begins, companies must prepare a Major Hazard Report for their offshore installation; when granting licenses, EU countries must ensure that companies are well financed and have the necessary technical expertise; information on how companies and EU countries keep installations safe must be made available to citizens, and companies are fully liable for environmental damages caused to protected marine species and natural habitats. The Directive had to be transposed into national law by 19 July 2015. The Commission sent today reasoned opinions to Greece, the Netherlands, and Portugal asking them to comply with EU rules. If the Member States do not comply with this obligation within two months, the Commission may decide to refer them to the Court of Justice of the EU and ask for financial penalties. In the course of the second semester of 2015, the Commission launched infringement procedures for non-transposition or incomplete transposition of the Offshore Safety Directive against 15 Member States. The Commission continues to monitor the implementation of the Directive and will address any shortcomings in the coming infringement cycles. More information about the [Offshore Oil and Gas safety](#) is available on the website of [DG Energy](#).

4. Environment

(For more information: Enrico Brivio – tel.: +32 229 56172, Iris Petsa – tel.: +32 229 93321)

Reasoned opinions

Waste: Commission requests DENMARK to enact EU rules on mining waste

The European Commission is urging **Denmark** to bring its legislation into full conformity with EU rules

on the management of waste from extractive industries. The Mining Waste Directive ([Directive 2006/21/EC](#)) aims to prevent or reduce as far as possible any adverse effects on human health and the environment, brought about as a result of the management of waste from extractive industries. Member States had to bring into force the measures necessary to comply with this Directive before 1 May 2008. As a number of shortcomings in the Danish legislation may lead to a lower level of protection for human health and the environment, the Commission sent a letter of formal notice in September 2011, followed by an additional letter of formal notice in February 2015. Although Denmark intended to fix some of the issues identified, this was not done in time and significant gaps in enactment still remain. The Commission is, therefore, now sending a reasoned opinion. If Denmark fails to act within two months, the case may be referred to the Court of Justice of the EU.

Waste: Commission requests ITALY to enact EU rules on waste batteries

The European Commission is urging **Italy** to bring 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. 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. It inquires Member States to fix quantified collection and recycling targets for batteries and accumulators. Since Italy had not informed the Commission of any enacting legislation, a letter of formal notice was sent on 23 September 2015. Italy subsequently informed the Commission of legislative provisions that were due to be adopted, but no official confirmation of adoption was received. The Commission is, therefore, sending a reasoned opinion. If Italy fails to act within two months, the case may be referred to the Court of Justice of the EU.

Waste: Commission asks SLOVENIA to adopt measures on waste management and waste prevention

The Commission is urging **Slovenia** to draw up strategic waste management and waste prevention plans which are the cornerstone of any national policy on waste management, in line with the objectives of the [Directive 2008/98/EC](#) and the [circular economy](#). The waste management plans were meant to be adopted by Member States by 12 December 2013 and are a prerequisite for using EU funds. In 2013, Slovenia adopted a national programme for the management of municipal waste, but a waste management plan covering all waste streams is still missing. Slovenia should also have adopted the [Waste Prevention Programme](#) by 12 December 2013 which should aim to reduce the amount of waste generated at source. The Commission is, therefore, sending a reasoned opinion. If Slovenia fails to act within two months, the case may be referred to the Court of Justice of the EU.

The Nitrates Directive: Commission inquires ESTONIA to combat water pollution caused by nitrates

The European Commission is urging **Estonia** to take measures to combat water pollution caused by [nitrates](#). Nitrates are essential for plants and are widely used as fertilisers, but excess levels cause severe water pollution, with health, economic and environmental consequences. The Commission finds that the Estonian national legislation still does not include sufficient measures to reach the objectives of the [Council Directive 91/676/EEC](#) with regard to the establishment of the action programme for zones vulnerable to nitrates pollution. Some of the shortcomings include too short periods when the land application of fertilizers is prohibited and no clear methodology for the general requirement of balanced fertilisation. The Commission is sending a reasoned opinion urging the Estonian authorities to comply with EU law in this area. If they fail to do so within two months, the Commission may refer the case to the Court of Justice of the EU.

The Habitats Directive: Commission asks GREECE to step up nature protection measures

The European Commission is urging **Greece** to step up protection for indigenous habitats and species by introducing an appropriate level of protection for areas designated under the [Natura 2000](#) network. In line with the Habitats Directive ([Council Directive 92/43/EEC](#)), Member States had six years to designate protected areas under their national law (technically, turning them from "[Sites of Community Interest](#)" (SCIs) into [Special Areas of Conservation](#)" (SACs), and to adopt the required measures for improving the status of habitats and species present on these sites. Following the expiry of this six-year period, Greece has formally designated all its SCIs as SACs, but has not established the required priorities and conservation measures for any of the sites. This significant gap in compliance with key obligations under the Habitats Directive prevents the sound protection and management of the sites, and constitutes a major threat to the good functioning and the coherence of the Natura 2000 network as a whole. The Commission is, therefore, sending a reasoned opinion, giving Greece two months to reply. If Greece fails to act, the Commission may take the matter to the Court of Justice of the EU.

SEVESO III: Commission urges DENMARK, LUXEMBOURG, and SLOVENIA to enact EU rules on prevention of industrial accidents

The European Commission is urging **Denmark, Luxembourg, and Slovenia** to send information about how the Seveso III Directive ([Directive 82/501/EEC](#)) is being enacted in their domestic law, an obligation which was due to be fulfilled by 31 May 2015. The Directive and its predecessors – Seveso Directives I and II – aim to prevent major accidents involving dangerous substances and limit their consequences on citizens and the environment. This new Directive, which entered into force on 1 June 2015, takes into account a number of changes in EU legislation, including on the classification of chemicals, and increased rights for citizens to access information and justice. After Denmark, Luxembourg, and Slovenia missed the original deadline, the European Commission sent letters of formal notice in July 2015. The Commission is now sending reasoned opinions, and if the Member States in question fail to act within two months, these cases may be referred to the Court of Justice of the EU.

5. Internal Market, Industry, Entrepreneurship and SMEs

(For more information: Lucia Caudet – tel.: +32 229 56182, Heli Pietila – tel.: +32 229 64950)

A referral to the Court of Justice of the European Union

Notaries: Nationality requirement for notaries: Commission refers the Czech Republic to Court of Justice of the EU

The European Commission has decided to take **the Czech Republic** before the Court of Justice of the EU due to the fact that this country only allows Czech nationals to take up and practice the profession of notary in the Czech Republic, thus excluding nationals from other Member States. In the Commission's view, this nationality requirement runs contrary to rules on freedom of establishment and cannot be justified under [Article 51 of TFEU](#), which concerns activities linked to official authority. The Commission considers that the activities exercised by Czech notaries do not present any significant differences from those assessed by the Court of Justice where the Court concluded that the nationality requirement the countries in question imposed on accessing the notarial profession was not in compliance with EU law. As the Czech Republic has maintained its position, the Commission has decided to refer the matter to the Court of Justice of the EU. A similar [case against Hungary](#) is currently pending in the Court of Justice of the EU. The Commission is also closely following the situation in the other Member States. For more information, please refer to the full [press release](#).

Reasoned opinions

Services Directive: Commission urges GREECE to remove restrictions in the area of mediation services

The European Commission requested today in a reasoned opinion Greece to remove continuing restrictions in the area of mediation services. Mediation is a process where two or more parties attempt to settle their dispute with the assistance of a mediator. The restrictions on providers offering training for mediators in Greece include specific legal form and shareholding requirements. Currently, training for mediators in Greece has to be provided by non-profit companies set up by at least one Greek bar association and one of the Greek Chambers. The Commission believes that the requirements on legal form and shareholding do not fulfil the three-step test defined in the Services Directive ([Directive 2006/123/EC](#), Article 15), which allows requirements to be imposed on service providers if they are non-discriminatory, justified by an overriding reason relating to the public interest and proportionate. In addition, the recognition of qualifications of mediators obtained in other Member States is in Greece subject to discriminatory and disproportionate conditions which are deemed incompatible with the Directive on the Recognition of Professional Qualifications ([Directive 2013/55/EU](#)) as well as with freedom of establishment (Article 49 of [TFEU](#)). Greece has now two months to notify the Commission of measures taken to remedy the situation; otherwise, the European Commission may decide to refer Greece to the Court of Justice of the EU.

Single market: Commission urges four Member States to comply with the Services Directive in the area of regulated professions

The European Commission is taking further steps in its infringement procedures against **Austria, Cyprus, Germany, and Poland** on the grounds that their national rules include excessive and unjustified obstacles in the area of professional services. Despite the exchanges held with the four Member States, the Commission continues to consider that requirements imposed on certain service providers in these Member States run counter to the Services Directive ([Directive 2006/123/EC](#)). Today's action concerns as follows: seat requirements for patent attorneys, legal form and excessive shareholding requirements for architects, engineers, patent attorneys and veterinarians, and restrictions on multidisciplinary companies for architects, engineers and patent attorney in Austria; shareholding requirements for all engineering professions, including civil engineers and architects in Cyprus; minimum and maximum tariffs for architects and engineers in Germany and minimum tariffs for patent agents in Poland. The Commission's request to Austria, Cyprus, Germany, and Poland takes

the form of a reasoned opinion. Member States now have two months to notify the Commission of measures taken to remedy the situation; otherwise, the Commission may decide to refer them to the Court of Justice of the EU. Today, the Commission also decided to send a reasoned opinion to **Greece** due to continuing restrictions in the area of training of mediators. For more information, please refer to the full [press release](#).

6. Mobility and Transport

(For more information: Jakub Adamowicz – tel.: +32 229 50595, Alexis Perier - tel.: +32 229 69143)

Referrals to the Court of Justice of the European Union

Railway safety: Commission refers POLAND to the Court of Justice of the EU

The European Commission has decided to refer **Poland** to the European Court of Justice of the EU for failing to correctly transpose and implement [Directive 2004/49/EC](#) on the Community's railway safety. The [Directive 2004/49/EC](#) requires Member States to establish an independent safety authority, an independent accident and incident investigation body, and to define common principles for the management, regulation and supervision of railway safety. Poland has failed to fully transpose and implement the Directive at national level. More specifically, Polish legislation does not guarantee that the investigation of serious accidents and incidents is performed by the independent investigating body and Poland is also failing to ensure the independence of the safety authority. For more information, please refer to the full [press release](#).

Commission proposes fines and refers PORTUGAL back to the Court of Justice of the EU

The Commission has decided to refer **Portugal** to the Court of Justice of the EU (the Court) for failing to comply with a [previous judgement of the Court](#) concerning EU rules on balancing the accounts of rail infrastructure managers. In [Judgement C-557/10 of 25 October 2012](#), the Court ruled that Portugal was in breach of EU law ([first railway package](#)) for not adopting the national measures necessary to ensure that the accounts of the rail infrastructure manager are balanced. To date, Portugal has still not adequately addressed this problem. The Commission is asking the Court to impose a lump sum from the date of the first judgment until Portugal has rectified the infringement, leading, up to now, to a sum of EUR 5 385 995. It is also proposing a daily fine of EUR 40 401, which would be paid from the date of the second Court ruling until Portugal correctly complies with EU law. These penalties, proposed by the Commission under the Lisbon Treaty, take into account the seriousness of the infringement, its duration, and the deterrent effect reflecting the ability to pay of the Member State. The final decision on the penalties rests with the Court.

Reasoned opinions

Air transport: Commission asks BELGIUM to comply with EU law on airport charges

The European Commission has requested Belgium to correctly transpose and implement [Directive 2009/12/EC](#) on airport charges. Airport charges are fees that airlines pay to airports for using their infrastructure. The Directive sets minimum standards for the calculation of airport charges in order to avoid discrimination and ensure fair competition among all airlines using EU airports. Member States had to bring into force the measures necessary to comply with the Directive by 15 March 2011. To date, Belgium has not yet correctly transposed the provisions concerning the setting up of an independent supervisory authority to settle disputes over charges between airports and airlines. The request was sent in the form of a complementary reasoned opinion under the EU infringement procedure. Belgium has two months to notify the European Commission of the measures taken to fully transpose the Directive; otherwise, the Commission may decide to refer Belgium to the Court of Justice of the EU.

Air transport: Commission asks POLAND to end discriminatory airport charges treatment at Wrocław Airport

The European Commission has asked **Poland** to amend the system of airport charges applied at [the Wrocław Nicolaus Copernicus Airport](#). [Regulation \(EC\) No 1008/2008](#), on common rules for the operation of air services in the EU, establishes a principle of freedom to provide aviation services in the EU. It also precludes Member States from imposing more onerous conditions on the operation of intra-EU air services than those imposed on domestic services. The Commission considers that the airport charges in place at this airport represent an unjustified burden on the provision of cross-border aviation services in the EU. The request was sent in the form of a reasoned opinion. Poland has two months to notify the Commission of the measures taken to amend the system of airport charges at this airport; otherwise, the Commission may decide to refer Poland to the Court of Justice of the EU.

Maritime transport: Commission requests CYPRUS to correctly implement maritime safety legislation

The European Commission has requested **Cyprus** to correctly implement [Directive 2009/16/EC](#) on Port

State control. Port State control involves inspection of foreign ships in national ports to verify that the condition of the ship and its equipment comply with the requirements of the applicable international conventions. Such inspections also verify that the vessel is manned and operated in compliance with applicable international law as well as the competency of the master and officers on board. EU legislation provides that the overall inspection burden is shared between all EU coastal states and that each Member State is supposed to inspect an assigned number of vessels. Since 2011, Cyprus has not inspected the required number of vessels. It is therefore the Commission's view that Cyprus has failed to implement Directive 2009/16/EC. Cyprus has two months to notify the Commission of all measures taken to ensure correct implementation of the Directive; otherwise, the Commission may decide to refer Cyprus to the Court of Justice of the EU.

Road transport: Commission requests SPAIN to respect EU rules on access to the occupation of road transport operator

The European Commission has decided to send a reasoned opinion to **Spain** for failing to fulfil the requirements of [Regulation \(EC\) No 1071/2009](#) on the conditions which must be met by undertakings in order to operate in the road transport market. One criterion is for undertakings to have at their disposal one or more vehicles registered in the Member State of establishment. Spanish legislation, however, requires undertakings to have at their disposal at least three vehicles instead of just one. The Commission considers that this requirement is disproportionate and potentially discriminates against small hauliers, which very often have only one vehicle at their disposal and are excluded from the road transport market. Spain has now two months to respond; otherwise, the Commission may decide to refer Spain to the Court of Justice of the EU.

Road transport: Commission asks POLAND to correctly apply EU rules on maximum weights and dimensions of lorries

The European Commission has asked **Poland** to respect its obligations under [Council Directive 96/53/EC](#) which sets inter alia the rules for the maximum total weight and weights per axle of heavy goods' vehicles in national and international transport. According to the Directive, lorries of up to 40 tonnes of total weight, and a maximum of 11.5 tonnes for the driving axle, should be allowed to travel freely on the road networks of Member States with only a few exceptions, for example, in national parks or small villages. However, Poland obliges such vehicles to pay for a special permit on around 97% of its network. After extensive contacts with the Polish authorities, the Commission sent today a request in the form of a reasoned opinion. Poland has two months to notify the Commission of the measures taken to correctly apply the Directive; otherwise, the Commission may decide to refer Poland to the Court of Justice of the EU.

Road transport: Commission requests ROMANIA to comply with the Directive on Road Charging

The European Commission has requested **Romania** to fulfil all the requirements of [Directive 2011/76/EU](#) on road charging for heavy goods vehicles. Under this Directive, Member States must establish or modify relevant definitions (for example, of "toll" and an "infrastructure charge") and ensure that user charges are proportionate and that their revenues are used to recover infrastructure costs. A detailed examination of the Romanian national legislation revealed that the Directive has not been transposed correctly. Romania has two months to notify the Commission of measures taken to remedy this situation; otherwise, the Commission may decide to refer it to the Court of Justice of the EU.

Rail transport: Commission requests seven Member States to transpose the Directive

The Commission has requested **Bulgaria, the Czech Republic, Germany, Greece, Latvia, Luxembourg, and Romania** to transpose [Directive 2012/34/EU](#) establishing a single European railway area. The Directive contains the basic provisions for market opening in the railway sector. It lays down the rules for the management of infrastructure and rail transport activities, the criteria for licensing rail companies, and principles and procedures for setting and collecting infrastructure charges and for allocating infrastructure capacity as well as regulatory supervision. Member States had to bring into force the measures necessary to comply with the Directive by 16 June 2015. On 22 July 2015, the European Commission sent a letter of formal notice to a number of Member States. The above seven Member States have so far not communicated any measures to the Commission. They have two months to do so; otherwise, the Commission may refer them to the Court of Justice of the EU.

MEMO/16/319

Press contacts:

[Alexander WINTERSTEIN](#) (+32 2 299 32 65)
[Uldis SALAJEVS](#) (+32 2 296 75 60)

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

Related documents
[Annexes EN.pdf](#)