



December infringements package: key decisions

Brussels, 8 December 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, aim to ensure the proper application of EU law for the benefit of citizens and businesses.

The key decisions taken by the Commission (including 7 letters of formal notice, 77 reasoned opinions, 3 referrals to the Court of Justice of the European Union, and 4 closures) are presented below and grouped by policy area. The Commission is also closing 67 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. Energy

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

A reasoned opinion

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

The European Commission 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, including 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. The Commission found that the current Hungarian gas legislation still allows the Hungarian government to determine some of the terms and conditions for connection and access to national networks, the terms and conditions for the provision of balancing services, and the terms and conditions for access to cross-border infrastructures. According to the Gas Directive the exclusive competences on these matters should belong to the National Regulatory Authority. In addition, the national legislation excludes certain types of costs from the calculation of network electricity and gas tariffs. A letter of formal notice was sent to Hungary in February 2015. Since compliance with EU law is not yet in place, the Commission is now sending a reasoned opinion. The Member State 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](#).

2. Environment

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

Referrals to the Court of Justice of the European Union

Waste: Commission takes ITALY back to the Court and proposes fines

The European Commission is taking Italy back to the Court of Justice of the EU for its failure to fully and completely comply with the Court's judgment of 2012. The Italian authorities have still to ensure that urban waste water is adequately collected and treated in 80 agglomerations across the country out of the 109 covered by the first judgment to prevent serious risks to human health and the environment. On 19 July 2012, the Court of Justice of the EU ruled (case [C-565/10](#)) that the Italian authorities were violating EU law ([Council Directive 91/271/EEC](#)) by not adequately collecting and treating the [urban waste water](#) discharged by 109 agglomerations (towns, cities, settlements). Four years later, this issue remains unaddressed in 80 agglomerations, covering more than six million people. These include areas in seven Italian regions: Abruzzo (one agglomeration), Calabria (13

agglomerations), Campania (seven agglomerations), Friuli-Venezia Giulia (two agglomerations), Liguria (three agglomerations), Puglia (three agglomerations), and Sicilia (51 agglomerations). The lack of adequate collection and treatment systems for these 80 agglomerations poses significant risks to human health, inland waters and the marine environment. The Commission is calling on the Court of Justice of the EU to impose a lump sum payment of €62,699,421.40. The Commission is also proposing a daily penalty payment of €346,922.40 if full compliance is not achieved by the date when the Court issues its ruling. The final decision on the penalties rests with the Court of Justice of the EU. For more information, please refer to the full [press release](#).

Birds Directive: Commission refers FRANCE to the Court of Justice over its failure to protect wild birds

The European Commission is taking **France** to the Court of Justice of the EU for failing to address continued violations of EU legislation on the conservation of wild birds ([Directive 2009/147/EC](#)). Member States are obliged to ensure that all provisions of the [Birds Directive](#) are respected, including with regard to deliberate killing or capture. The Birds Directive prohibits activities that directly threaten birds, such as their deliberate killing or capture, destruction of nests and removal of eggs, and associated activities (e.g., trading in live or dead birds) with special emphasis on the protection of habitats for endangered and migratory species. This Commission action follows a [reasoned opinion](#) sent to France in June 2016. The ortolan bunting is a migratory bird species in decline in Europe, and the aforementioned illegal practices are strictly prohibited under EU legislation on the conservation of wild birds. Despite earlier commitments by the French authorities, illegal practices relating to the deliberate killing or capture of the ortolan bunting continue. These activities in France jeopardise the conservation efforts undertaken by other Member States. Therefore, to urge France to correctly enforce the Birds Directive on the ground, the Commission is taking this matter to the Court of Justice of the EU. For more information, please refer to the full [press release](#).

Reasoned opinions

Waste: Commission calls on CYPRUS to adopt measures on waste management and waste prevention

The Commission is urging **Cyprus** to adopt and update plans to prevent and manage waste, into line with the objectives of EU waste legislation ([Directive 2008/98/EC](#)) and the circular economy. Such plans and programmes are intended to reduce the impact of waste on human health and the environment, and to improve resource efficiency across the EU. Member States have to re-evaluate their waste management plans at least every six years and revise them as appropriate. Cyprus failed to revise, extend or replace the existing national waste management for the coming period, while also lagging behind in waste prevention. The Commission sent a letter of formal notice in October 2015, urging the Cypriot authorities to adopt the necessary waste documents. Although Cyprus has taken some measures in the field of municipal waste, the necessary plans for other waste streams are still missing. The Commission is, therefore, sending a reasoned opinion. If Cyprus fails to act within two months, the case may be referred to the Court of Justice of the EU.

Birds Directive: Commission requests FINLAND to protect wild birds in the province of Åland

The European Commission is calling on **Finland** to end the practice of illegal spring hunting of male eiders in the province of Åland, Finland, which has been authorised yearly since 2011, between 1 and 20 May. Under the [Birds Directive](#) ([Directive 2009/147/EC](#)), the killing of wild birds is banned, but some species, such as eiders (*Somateria mollissima*), may be hunted as long as this does not occur during the breeding or spring migration season, or provided that the conditions for an exception from the hunting ban are fulfilled. Recent scientific data clearly showed that this waterfowl species faces rapid population decline in Finland (40%), in the Baltic Sea area (50%) as well as on the European and global level, and that its conservation status is of increasing concern. Under such circumstances, the hunting of the eider males during the eider's reproductive period in Åland is strictly forbidden under EU law. The conditions for an exception from this rule are also not fulfilled due to its unfavorable conservation status and the fact that the authorised hunting quota does not represent small numbers of the species population. The Commission sent an additional letter of formal notice in February 2015. As Finland has continued its practice of authorising spring hunting of male eiders and, thus, failed to take measures to comply with this Directive's requirements, the Commission is now sending a reasoned opinion. If Finland fails to act within two months, the case may be referred to the Court of Justice of the EU.

3. Financial Stability, Financial Services and Capital Markets Union

(For more information: Vanessa Mock – tel.: +32 229 56194, Letizia Lupini - tel.: +32 229 51958)

Reasoned opinions

Commission requests CROATIA to amend law on the privatisation of the energy company

The Commission has formally requested **Croatia** to amend the 2002 law on the privatisation of INA-Industrija Nafta d.d. (INA law) on the grounds that it violates the free movement of capital and the freedom of establishment. INA-Industrija Nafta d.d. is the main Croatian energy company, partially owned by the Croatian government. The INA law grants the state special powers in this company, including veto powers over INA's decisions relating to the sale of shares/assets with a value exceeding certain thresholds. As a consequence, stakeholders are not able to influence important company decisions in proportion to the value of their shareholdings, which may discourage potential investors from making investments in INA company. The Commission considers that these special powers constitute a restriction to the free movement of capital and freedom of establishment that cannot be justified under the [TFEU](#). Although the objective of protecting the security of energy supply could justify restrictions to the freedoms listed in [TFEU](#), the unconditional veto powers granted to the state by the INA law seem to go beyond what is necessary and proportionate to achieve this objective. The Croatian authorities undertook the commitment to align the INA law with EU law before its accession to the EU but it has not modified it yet. Today's request takes the form of a reasoned opinion. If Croatia fails to bring the INA law into line with EU law within two months, the Commission may decide to refer it to the Court of Justice of the EU.

The Commission requests POLAND to fully enact EU rules on mortgage credit

The European Commission has requested **Poland** to bring its legislation on mortgage credit fully into line with EU law. The [Mortgage Credit Directive \(Directive 2014/17/EU\)](#) aims to create a Union-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. Member States had to enact these rules into national law by 21 March 2016. Having missed the original deadline, Poland was sent a letter of formal notice in May 2016. In June 2016, Poland notified partial implementation of the Directive. However, as the prevailing part of the Directive has not been enacted, today's request takes the form of a reasoned opinion. If the Polish authorities fail to act within two months, the Commission may decide to take the matter to the Court of Justice of the EU.

4. Health and Food Safety

(For more information: Enrico Brivio – tel.: +32 229 56172, Aikaterini Apostola – tel.: +32 229 87624)

Reasoned opinions

Tobacco: Commission urges CROATIA, CYPRUS, LUXEMBOURG, SLOVENIA, SPAIN, and SWEDEN to notify transposition of the Directive on tobacco products sold in the EU

Today, the European Commission sent a reasoned opinion to Croatia, Cyprus, Luxembourg, Slovenia, Spain, and Sweden to notify full transposition of the [Tobacco Products Directive \(Directive 2014/40/EU\)](#). This Directive aims to improve the functioning of the internal market for tobacco and related products, while ensuring a high level of health protection for European citizens. The Directive sets out that its provisions should have been transposed into national law by 20 May 2016. To date, Sweden has notified the Commission of a partial transposition of the Directive, while there has been no notification of transposition from Croatia, Cyprus, Luxembourg, Slovenia or Spain. The Member States have two months to inform the Commission of the measures taken to remedy the situation; otherwise, the Commission may decide to refer these cases to the Court of Justice of the EU.

5. Internal Market, Industry, Entrepreneurship and SMEs

(For more information: Lucia Caudet – tel.: +32 229 56182, Mirna Talko – tel.: +32 229 87278)

Reason opinions

Internal Market: Commission requests 6 Member States to transpose new rules on measuring instruments

The Commission sent reasoned opinions today to **Cyprus, Finland, Hungary, Ireland**, Portugal and **the United Kingdom** requesting them to transpose four Directives on measuring instruments into national law (namely, Directives [2014/31/EU](#), [2014/32/EU](#), [2011/17/EU](#) and Commission Delegated

Directive (EU) [2015/13/EU](#)). The Directives set the rules that allow measuring instruments – from weighing scales or utility meters for water, gas, electricity and heat to taximeters – to be calibrated uniformly across the EU. All four Directives should have been fully transposed into national legislation of Member States by 19 April 2016 for Directives 2014/31/EU, 2014/32/EU and 2015/13; and by 30 November 2015 for Directive 2011/17/EU. The 6 Member States concerned have not yet communicated the complete transposition of these Directives into their national laws to the Commission. These Member States now have two months to notify the Commission of the full transposition of the Directives; otherwise, the European Commission may decide to refer them to the Court of Justice of the EU.

Internal Market: The Commission requests LATVIA and ROMANIA to transpose EU rules on recognition of professional qualifications

The European Commission sent reasoned opinions to **Latvia** and **Romania** today to transpose [Directive 2013/55/EU](#) on the recognition of professional qualifications into national law. The Directive provides a modern EU system for the recognition of professional qualifications, which makes it simpler and faster to recognise professional qualifications from a different country and ensure respect of the host country's requirements. The Directive should have been transposed into national legislation by 18 January 2016. However, Latvia and Romania have not yet communicated its complete transposition to the Commission. These Member States now have two months to notify the Commission of the full transposition of the Directive; otherwise, the European Commission may decide to refer them to the Court of Justice of the EU.

Public Procurement: Commission requests 15 Member States to transpose new EU rules on public procurement and concessions

The European Commission sent reasoned opinions to 15 Member States today, requesting them to fully transpose one or more of the three new directives on [public procurement](#) and concessions into national law (namely, Directives [2014/23/EC](#), [2014/24/EC](#) and [2014/25/EC](#)). The countries concerned are: **Austria** (3 directives), **Belgium** (3), **Bulgaria** (1), **Croatia** (3), **Cyprus** (2), **Estonia** (3), **Finland** (3), **Ireland** (1), **Latvia** (3), **Lithuania** (3), **Luxembourg** (3), **Portugal** (3), **Slovenia** (1), **Spain** (3) and **Sweden** (3). The new rules make public procurement in Europe more efficient and transparent, with smarter rules and more electronic procedures. They also make it easier and cheaper for SMEs to bid for public contracts, improve transparency and competition and help achieve broader policy objectives, such as environmental and social goals and innovation. All Member States were obliged to notify the transposition of the new public procurement rules by 18 April 2016. The 15 Member States concerned now have two months to notify the Commission of measures taken to bring national legislation in line with EU law.

Simple pressure vessels: Commission urges HUNGARY to transpose new rules

The Commission sent a reasoned opinion to **Hungary** today requesting it to transpose the Directive on simple pressure vessels ([Directive 2014/29/EU](#)), which concerns compressed air or energy storage units, such as those used in braking equipment for motor vehicles and trains. The new Directive, which replaced Directive 2009/105/EC, enhances the quality and safety of simple pressure vessels, particularly by allowing to trace defective products. It also clarifies responsibilities for manufacturers, importers and distributors and improves the supervision of such products by conformity assessment bodies before entering the EU market. The Directive should have been transposed into national legislation by 19 April 2016. Hungary has not yet communicated the transposition of this Directive into national law to the Commission. Hungary now has two months to notify the Commission of the transposition of the Directive; otherwise, the European Commission may decide to refer them to the Court of Justice of the EU.

Letters of formal notice

Car emissions: Commission opens infringement procedures against 7 Member States for breach of EU rules

The Commission is taking action against 7 Member States for failing to set up penalties systems to deter car manufacturers from violating car emissions legislation, or not applying such sanctions where a breach of law has occurred. The European Commission decided today to act against the **Czech Republic, Germany, Greece, Lithuania, Luxembourg, Spain** and **the United Kingdom** on the grounds that they have disregarded EU vehicle type approval rules. In accordance with Article 46 of [Directive 2007/46](#) and more specifically Article 13 of [Regulation \(EC\) 715/2007](#), which is directly applicable, Member States must have effective, proportionate and dissuasive penalties systems in place to deter car manufacturers from breaking the law. Where such a breach of law takes place, for example by using defeat devices to reduce the effectiveness of emission control systems, these

penalties must be applied. Today, the Commission is addressing letters of formal notice to the **Czech Republic, Lithuania and Greece** because they have failed to introduce such penalties systems into their national law. The Commission is also opening infringements against **Germany, Luxembourg, Spain and the United Kingdom** – the Member States that issued type approvals for Volkswagen Group AG in the EU – for not applying their national provisions on penalties despite the company's use of illegal defeat device software. Additionally, the Commission takes the view that **Germany and the United Kingdom** broke the law by refusing to disclose, when requested by the Commission, all the technical information gathered in their national investigations regarding potential nitrogen oxide (NOx) emissions irregularities in cars by Volkswagen Group AG and other car manufacturers on their territories. The Member States now have two months to respond to the arguments put forward by the Commission; otherwise, the Commission may decide to send a reasoned opinion. For more information, please refer to the full [press release](#).

6. Migration, Home Affairs and Citizenship

(For more information: Tove Ernst – tel.: +32 229 86764, Markus Lammert - tel.: +32 229 80423)

Reasoned opinions and closures

Security Union - EU cybercrime directive: Commission requests 3 Member States to ensure full implementation and closes 2 cases

The European Commission has addressed reasoned opinions to **Belgium, Bulgaria and Ireland** concerning the non-communication of national measures taken to transpose the Directive on attacks against information systems into national law (the EU cybercrime directive, [Directive 2013/40/EU](#)). The Directive, adopted on 12 August 2013, should have been transposed by the Member States by 4 September 2015. The Directive on Attacks against information systems criminalises the use of tools used in cyberattacks, such as malicious software, strengthens the framework for information exchange when attacks happen and provides a common European criminal law framework in this area. The Commission considers that the measures notified by Belgium, Bulgaria and Ireland are still not fully transposing all the provisions of the Directive into their national legislation. Belgium, Bulgaria and Ireland now have two months to notify the Commission of all measures taken to ensure full implementation of the Directive; otherwise, the Commission may refer these cases to the Court of Justice of the EU. In addition, after having examined measures notified by the Greek and Slovenian authorities, the Commission has decided to close the infringement procedures against **Greece and Slovenia**.

Closures

Migration: Closure of infringement proceedings on the implementation in GREECE and in ITALY of recast Eurodac Regulation

The Commission has decided to close the infringement proceedings against **Greece and Italy** as they have correctly implemented the Eurodac Regulation ([Regulation \(EU\) No 603/2013](#)). The Eurodac database, which was established in 2003, is an EU asylum fingerprint database which provides fingerprint evidence to assist in the application of the Dublin Regulation, which determines the Member State responsible for examining an asylum application made in the EU. In December 2015, the Commission sent letters of formal notice to [Greece](#) and [Italy](#) raising concerns that these Member States were failing to fulfil their obligations under the Eurodac Regulation by not taking and transmitting to the Eurodac database the fingerprints of all third-country nationals who had entered the EU irregularly at their external borders. The Commission sent administrative letters to both countries in October 2015 and has since then continued to assist the Greek and Italian authorities to improve border and migration management and increase the fingerprinting rates at the external borders, in particular through the hotspot approach, and has regularly reported on improvements made by both countries in its regular reports on relocation and resettlement. Given the significant improvements in the fingerprinting activities since the beginning of 2016, the Commission is satisfied that both Greece and Italy are fingerprinting third country nationals in accordance with the Eurodac Regulation and has decided to close the infringement proceedings.

7. Mobility and Transport

(For more information: Anna-Kaisa Itkonen– tel.: +32 229 56186, Alexis Perier - tel.: +32 229 69143)

Reasoned opinions

Maritime Safety: Commission requests FINLAND to transpose amendments to EU legislation

on ship inspection and survey organisations

The Commission has requested **Finland** to complete the transposition of Commission Implementing [Directive 2014/111/EU](#) which amends the common European rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (Directive 2009/15/EC). The aim for the Commission and the European Maritime Safety Agency ([EMSA](#)) is to continue to implement a comprehensive oversight programme of the classification societies recognised at EU level for statutory inspections and surveys of EU flagged ships. Member States were given time to complete transposition until 31 December 2015. To date, Finland, has, however, failed to do so. The Finnish authorities now have two months to take the necessary measures to remedy the situation; otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

Road Transport: Commission requests DENMARK and GERMANY to implement common EU rules for driving licences

The Commission has requested **Denmark** and **Germany** to implement [Commission Directive 2014/85/EU](#) on the medical fitness of drivers and on driving tests. This Directive updates the common European rules on driving licences (**Directive 2006/126/EC**) to take into account medical progress on the "obstructive sleep apnoea" (OSA) syndrome and to guarantee that European drivers are trained to safely drive in tunnels. A uniform application of the rules on driving licenses is necessary to guarantee road safety in Europe. Denmark and Germany have failed to transpose Directive 2014/85/EU so far. Both Member States now have two months to notify the Commission of implementing measures; otherwise, the Commission may decide to refer them 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 FRANCE to the Court of Justice for discrimination in the taxation of dividends

The Commission has decided to refer **France** to the Court of Justice of the EU (CJEU) for failure to comply with a judgment of the Court of 15 September 2011. The issue at stake concerns the refund of tax paid in France by companies with subsidiaries in other countries of the EU. The Council of State adopted a restrictive interpretation of the CJEU judgment by applying it to two individual cases in December 2012. The Commission takes the view that those judgments are incompatible with EU law. For more information, please refer to the full [press release](#).

A reasoned opinion

Taxation: Commission requests CROATIA to amend the reduced excise duty rate for small producers of ethyl alcohol

The Commission has requested that **Croatia** change its rules for excise duty on alcohol distillates produced by small producers for their own consumption. Alcohol [excise duty](#) rules are harmonised at EU level ([Council Directive 92/83/EEC](#)). These rules state that Member States are allowed to grant a maximum 50% reduction of the normal excise duty rate to distillates made by small producers per year, if no more than 10 hectolitres of pure alcohol are produced. Currently, the Croatian authorities allow a reduced rate of excise duty to be applied to small producers who produce up to 20 litres of pure alcohol per household for their own consumption. A flat rate of excise duty is applied depending on the capacity of the boiler used for production (i.e. HRK 100 for a boiler capacity up to 100 litres and HRK 200 for any boiler larger than that). Because the reduced rate applied by Croatia is linked to the capacity of the boiler and paid on a flat rate basis, regardless of the actual amounts produced, it does not comply with EU rules. Croatia has two months to inform the Commission of the measures taken to remedy the situation; otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

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Press contacts:

[Alexander WINTERSTEIN](#) (+32 2 299 32 65)

[Uldis ŠALAJEVS](#) (+32 2 296 75 60)

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