

Infringements: Frequently Asked Questions

What are the different steps in the infringements procedure?

Article 258 of the Treaty on the Functioning of the European Union (TFUE) gives the Commission, acting as Guardian of the Treaties, the power to take legal action against a Member State that is not respecting its obligations under EU law.

The infringement procedure begins with a request for information (a "Letter of Formal Notice") to the Member State concerned, which must be answered within a specified period, usually two months.

If the Commission is not satisfied with the information and concludes that the Member State in question is failing to fulfil its obligations under EU law, the Commission may then send a formal request to comply with EU law (a "Reasoned Opinion"), calling on the Member State to inform the Commission of the measures taken to comply within a specified period, usually two months.

If a Member State fails to ensure compliance with EU law, the Commission may then decide to refer the Member State to the Court of Justice. However, in around 95% of infringement cases, Member States comply with their obligations under EU law before they are referred to the Court. If the Court rules against a Member State, the Member State must then take the necessary measures to comply with the judgment.

In the specific case of Member States that have failed to implement Directives within the deadline agreed by the EU's Council of Ministers and the European Parliament, the Commission may request the Court to impose a financial penalty on the Member State concerned the first time the Court rules on such a case. This possibility, introduced by the Lisbon Treaty, is laid down in Article 260 (3) of the TFEU.

What happens if a Member State does not comply with Court's ruling?

If, despite the first ruling, a Member State still fails to act, the Commission may open another infringement case under Article 260 of the TFEU, with only one written warning before referring the Member State back to the Court.

If the Commission does refer a Member State back to the Court, it can propose that the Court imposes financial penalties on the Member State concerned based on the duration and severity on the infringement and the size of the Member State. There are two elements:

- A lump sum depending on the time elapsed since the original Court ruling;
- And a daily penalty payment for each day after a second Court ruling until the infringement ends.

Who decides on penalties in the end?

Financial penalties are proposed by the Commission and the Court may modify these amounts in its ruling.

What is the Commission's role?

The Commission is the guardian of the treaties. It is his role and obligation to ensure the protection of the public interest. The procedure is governed by the Treaty (steps, time limits). This may involve taking Member States to the European Court of Justice.

The decision to open infringement proceedings against a Member State is taken by the College. This decision is based on accurate and unbiased legal analysis conducted by the Commission services on the documents and information submitted by the parties and on any complaints.

The decisions of the Commission on infringements are collected once a month in an overall process involving different policies. These decisions are made public.

For current statistics on infringements in general, see:

http://ec.europa.eu/atwork/applying-eu-law/index_en.htm