March infringements package: main decisions

Brussels, 26 March 2015

In its monthly package of infringement decisions, the European Commission is pursuing several legal actions against Member States for failing to comply properly with their obligations under EU law. These decisions covering many sectors aim to ensure proper application of EU law for the benefit of citizens and businesses.

The Commission has today taken 98 decisions, including 11 reasoned opinions and 8 referrals to the European Union's Court of Justice. The Commission is also closing a certain number of cases where the issues with the Member States concerned have been solved without the Commission needing to pursue the procedure further.

Below is a summary of the main decisions. For more information on infringements procedure, see MEMO/12/12. For more details on all decisions please consult the infringement decisions register.

1. Referrals to the Court of Justice

Employment: Commission refers BELGIUM to Court for refusing certificates of workers affiliated in another Member State

The European Commission has decided to refer Belgium to the Court of Justice for refusing to recognise mobile workers' documents certifying that they pay social security in another Member State. It considers that the current rules in Belgium, which allow the authorities not to recognise such documents and unilaterally subject such workers to Belgian social security, are in breach with EU law.

The case concerns the so-called "Portable Documents A1", which are issued to workers temporarily posted to another Member State and to people working in several countries at the same time. The document certifies that these workers pay their social security contributions in the issuing Member State. According to EU law, consistently confirmed by the Court of Justice, other Member States are obliged to accept such documents as long as they have not been withdrawn or declared invalid by the issuing Member State.

In order to guard against abuse or fraud, there are specific and clearly established EU rules to verify that these documents are valid. These rules fix deadlines for other Member States to respond to requests of verification and provide a conciliation procedure in cases of disagreement.

(For more information: IP/15/4667- Christian Wigand– Tel.: +32 229 62253)

Energy: Energy efficiency: Commission refers HUNGARY to Court and proposes fines for failing to fully transpose EU energy efficiency rules

The European Commission is referring Hungary to the Court for failing to transpose the Energy Efficiency Directive. Under this directive EU Member States must meet certain energy savings targets from 1 January 2014 until 31 December 2020. They have to do this by using energy efficiency obligations schemes or other targeted policy measures to drive energy efficiency improvements in households, buildings, industry and transport sectors. Member States had to transpose the obligations of that Directive by 5 June 2014.

By referring Hungary to the Court, the Commission proposes a daily penalty of 15,444 € per day. The level of this penalty is set taking into account the duration and the seriousness of the infringement. In case of an affirmative judgment of the Court, the daily penalty would have to be paid from the date as set in the judgment until the transposition is completed. The final amount of the daily penalty will be decided by the Court.

Furthermore, several procedures for non-transposition of the Energy Efficiency Directive have been launched concerning other Member States. Overall, for 27 EU Member States (all except Malta) an infringement procedure for not having notified the Commission as regards the national measures to transpose the directive into national law were launched (deadline: 5 June 2014). The Commission
Environment: Commission refers GERMANY to Court over coal power plant in Moorburg
The European Commission is taking Germany to Court over its failure to apply the requirements of the Habitats Directive in relation to the authorisation of a coal power plant in Hamburg/Moorburg. The project in question risks having a negative impact on a number of protected fish species including salmon, European river lamprey and sea lamprey, which pass near the power plant when migrating from the North Sea to some 30 Natura 2000 sites on the Elbe, upstream of Hamburg. The species are harmed by the water abstraction process used to cool the power plant. When authorising the plant, Germany failed to carry out an appropriate assessment as required by the Directive, and to assess alternative cooling processes which could avoid the killing of the protected species concerned.
(For more information: IP/15/4669 - Enrico Brivio – Tel.: +32 229 56172)

Environment: Commission refers the UNITED KINGDOM to Court over poor waste water collection and treatment
The European Commission is referring the United Kingdom to Court over its failure to ensure that urban waste water is adequately treated in 17 agglomerations. In the EU, Member States need adequate collection and treatment systems for urban waste water, as untreated water poses risks to human health, inland waters and the marine environment.

EU legislation on urban waste water treatment dates back to 1991, with long lead times for the implementation deadlines. Member States had until the end of 1998 to ensure stringent treatment for wastewater from agglomerations discharging into sensitive areas. They had until end 2000 for ensuring appropriate treatment from large agglomerations discharging into undesignated waters and until the end of 2005 for discharges from medium-sized agglomerations and discharges to freshwater and estuaries from small agglomerations.
(For more information: IP/15/4672 - Enrico Brivio – Tel.: +32 229 56172)

Environment: European Commission takes the UNITED KINGDOM to Court over power plant emissions
The European Commission is referring the United Kingdom to the European Court of Justice (ECJ) due to the absence of a reduction in emissions by the Aberthaw coal-fired power station in Wales. Emissions for nitrogen oxides (NOx), at the power station were found to exceed the permissible limits.

Under EU legislation on emissions from large combustion plants, Member States had until 1 January 2008 to reduce emissions of a number of pollutants from power plants. The Aberthaw power plant does not meet the requirement of the Directive, as it currently operates under a permit which sets a NOx emission limit of 1200 mg/Nm3, as opposed to the legally applicable 500 mg/Nm3 limit set in the Directive. The Commission first raised its concerns in a letter of formal notice in June 2013, followed by a reasoned opinion in October 2014.
(For more information: IP/15/4670 - Enrico Brivio – Tel.: +32 229 56172)

Environment: Commission refers SLOVENIA to Court for failure to clean up highly flammable waste tyres
The European Commission is taking Slovenia to Court for its failure to comply with the requirements of EU waste legislation. The case concerns an illegal landfill in Lovrenc na Dravskem polju, where more than 40 000 tons of waste have been stored since 2006. Large fires broke out at this location in 2007 and 2008.

Landfills operating in breach of EU waste legislation can pose a threat to human health and the environment. In addition to the fire risk, the site is particularly ill-suited for landfill, due to the close vicinity of a high-voltage electricity power line, and the fact that the area contains one of the biggest sources of fresh water in the country. Slovenia had agreed to address the problem and clean up the waste tyres, but the very slow rate of progress has led the Commission to call Slovenia before the Court of Justice.
(For more information: IP/15/4671 - Enrico Brivio – Tel.: +32 229 56172)

Taxation: Commission refers GREECE to Court regarding the inheritance tax treatment of bequests to non-profit organisations
The European Commission has decided to refer Greece to the Court of Justice of the European Union regarding its inheritance taxation of bequests to non-profit organisations in another EU Member State or EEA State.

The Greek legislation treats legacies bestowed on certain non-profit entities established in Greece more favourably than those bestowed on similar entities established in other EU/EEA States. A preferential tax rate of 0.5% is automatically available to certain Greek non-profit entities, whereas similar non-profit entities established in other EU/EEA States can only benefit from the preferential tax rate if legacies to Greek non-profit entities also have access to a preferential tax treatment in such other EU/EEA State. If this reciprocity condition is not met, the applicable tax rate varies between 20-40%, depending on the taxable value of the property.

(For more information: IP/15/4674- Vanessa Mock - Tel. +32 2 29 56194)

Taxation: Commission refers GREECE to Court regarding the discriminatory tax exemption for primary residences

The European Commission has decided to refer Greece to the Court of Justice of the European Union regarding its inheritance tax exemption for primary residences which is applicable only to EU nationals permanently residing in Greece.

The Greek legislation favours exclusively those taxpayers (heirs) who already live in Greece and who typically are Greek nationals. By contrast, the legislation penalises those beneficiaries who inherit a property in Greece but live outside of the country, and who are normally non-Greek nationals or Greek nationals who have exercised their fundamental freedoms by working, studying or living abroad.

(For more information: IP/15/4675- Vanessa Mock - Tel. +32 2 29 56194)

2 Reasoned opinions

Energy: SPAIN asked to correctly apply the Renewable Energy Directive

The European Commission has formally asked Spain to ensure the correct implementation of the Renewable Energy Directive (2009/28/EC), in particular as regards biofuels. The Directive includes key provisions for achieving the objectives of reaching 20% share of renewable energy in final energy consumption and cutting greenhouse gas emissions by 20% by 2020, as compared to 1990 levels. It also includes key provisions setting individual targets for the overall share of renewable energy in each Member State's energy consumption and for achieving a target of 10% share of renewable energy in transport. Biofuels can be used to achieve this target, but they must meet a set of sustainability requirements: they cannot be produced from areas which have a high biodiversity value, such as protected areas, or from areas that store a high amount of carbon, such as forests or peat lands; they also have to save considerably more greenhouse gas emissions than fossil fuels. Contrary to what is foreseen by the Directive, Spanish law suspends the application of sustainability criteria in Spain for the achievement of the target in transport. In addition, Spanish law treats sustainable biofuels and raw materials of different geographical origins differently in an unjustified manner. The Commission has addressed similar problems in infringement procedures against Poland and Portugal. More information about the Renewable Energy Directive on DG Energy Website. (For more information: Anna-Kaisa Itkonen – Tel.: +32 229 56186)

Energy: HUNGARY asked to submit its National Energy Efficiency Action Plan

The European Commission has formally asked Hungary to submit its National Energy Efficiency Action Plan which is one requirement of the Energy Efficiency Directive (2012/27/EU). According to the Directive, Member States must also draw up National Energy Efficiency Action Plans (NEEAPs) every three years. Such plans must set out estimated energy consumption, planned energy efficiency measures and the improvements individual EU Member States expect to achieve. To date, Hungary has not submitted its NEEAP to the Commission. This Member State is not the only one which has not submitted such plan, as Slovenia and Romania have also not submitted the NEEAP currently.

In parallel, the Commission refers Hungary to the Court of Justice of the European Union for failing to transpose the Energy Efficiency Directive, for more information see IP/15/4668. More on National Energy Efficiency Plans. (For more information: Anna-Kaisa Itkonen – Tel.: +32 229 56186)

Environment: Commission asks the CZECH REPUBLIC to act on air pollution

The European Commission is asking the Czech Republic to comply with EU legislation requiring Member States to limit citizens' exposure to fine dust particles (PM10) by defining specific limit values to be observed. These tiny particles originate in emissions from industry, traffic and domestic heating,
and they can cause asthma, cardiovascular problems, lung cancer and premature death. The latest figures from the Czech Republic show that the maximum daily limits for these particles is being exceeded in Praha, Střední Čechy, Severozápad, Severovýchod (except for 2008), Brno, Střední Morava, Moravskoslezsko and Ostrava/Karviná/Frýdek-Místek, with yearly limits also being exceeded in Moravskoslezsko and Ostrava/Karviná/Frýdek-Místek. The Commission considers that the Czech Republic has failed to take measures that should have been in place since 2005 to protect citizens' health, and is asking it to take forward-looking, speedy and effective action to keep the period of non-compliance as short as possible. Today’s reasoned opinion follows an additional letter of formal notice sent on 22 February 2013. If the Czech Republic fails to act, the Commission may take the matter to the EU Court of Justice. (For more information: Enrico Brivio – Tel.: +32 229 56172)

Environment: Commission asks ITALY to improve collection and treatment of wastewater

The European Commission is asking Italy to improve the collection and treatment of waste water from a large number of agglomerations around the country. Under EU law, towns and cities are required to collect and treat their urban waste water, as untreated waste water can put human health at risk and pollute lakes, rivers, soil and coastal and groundwater. EU law stipulates that secondary treatment had to be in place for all wastewater from agglomerations with a population equivalent of between 10 000 and 15 000 inhabitants, and for discharges to sensitive areas such as freshwater and estuaries from agglomerations of between 2000 and 10 000 inhabitants by 2005. The deadline was in 2000 for all discharges from agglomerations with a population equivalent of more than 15 000. More stringent treatment had to be in place by 1998 for all discharges from agglomerations with a population equivalent of more than 10 000, discharging into sensitive areas and their catchments. The Commission considers that 817 agglomerations in Italy with a population equivalent of more than 2000 are failing to collect and adequately treat their waste water. Among the larger agglomerations there are Rome, Florence, Naples and Bari. Some agglomerations are also failing in the obligation to apply more stringent treatment to discharges to sensitive areas. Some 20 Regions and Autonomous Provinces are concerned: Abruzzo, Basilicata, Bolzano, Calabria, Campania, Emilia Romagna, Friuli Venezia Giulia, Lazio, Liguria, Lombardia, Marche, Piemonte, Puglia, Sardegna, Sicilia, Toscana, Trento, Umbria, Valle d'Aosta, and Veneto. Italy is also failing in the requirement to remove phosphorus and nitrogen from discharges to 32 sensitive areas. Exchanges with Italy have confirmed what the Commission views as a systematic breach of EU obligations, and a reasoned opinion has therefore been sent. Unless concrete measures are taken to put an end to the failure as soon as possible, the case may be referred to the EU Court of Justice. (For more information: Enrico Brivio – Tel.: +32 229 56172)

Environment: Commission asks FRANCE to improve procedures for strategic environmental impact assessment

The European Commission is asking France to ensure that all plans and programmes likely to have significant effects on the environment are adopted after their impacts have been considered. French law is currently falling short of certain obligations in this area, in particular by failing to ensure a functional separation between the environmental authority and the decision-making authority, with both roles currently being fulfilled by a single body in some cases. A division of powers is vital to ensure that authorities can effectively exercise independent judgment. A further shortcoming concerns the complete character of the lists of plans and programmes likely to have significant environmental effects: the Commission considers that the current listing is resulting in unwarranted exemptions from strategic impact assessments. Today's letter is part of an infringement process dating back to 2009, and while many of the original issues have now been resolved, slow progress on outstanding issues has led the Commission to send a reasoned opinion. France has two months to reply. In the absence of a satisfactory response, the case may be referred to the EU Court of Justice. (For more information: Enrico Brivio – Tel.: +32 229 56172)

Environment: Commission asks SPAIN to reconsider environmental impacts of dredging the Guadalquivir

The European Commission is asking Spain to take a cautious approach to upgrading maritime access to the Port of Seville, and assess the potential negative effects on Natura 2000 sites, including the Doñana National Park. A recent scientific study by the Spanish authorities has indicated that dredging the navigation canal would have serious negative impacts on the shape and the biodiversity of the estuary, with consequent effects on protected natural sites in the vicinity. Under the Habitat Directive, any plan or project likely to have a significant effect on a protected site needs an "appropriate assessment" of its implications. The Directive allows projects to go ahead despite a negative assessment, for reasons of overriding public interest, but in such cases compensatory measures are needed to ensure that the overall coherence of the Natura 2000 network is maintained. As Spain has
not examined in detail the impact of the project or the alternative solutions, which is a basic requirement according to the Directive, a reasoned opinion is now being sent. Spain has two months to reply. In the absence of a satisfactory response, the case may be referred to the EU Court of Justice. (For more information: Enrico Brivio – Tel.: +32 229 56172)

Financial Services: Commission asks ITALY and ESTONIA to enact EU rules on Alternative Investment Funds

The European Commission has formally requested Italy and Estonia to transpose the Alternative Investment Fund Managers Directive (2011/61/EU) into their national laws and to communicate the transposition measures to the Commission. This Directive lays down the regulatory and supervisory framework for managers of alternative investment schemes that are addressed to professional investors. The harmonised European standards set out in the Directive aim to enhance the transparency of the activities of alternative investment fund managers (AIFM) and the funds they manage. The Directive has been partially transposed by both Member States. In Italy’s case, important measures concerning conditions for the take-up and the authorization of alternative fund managers, as well as rules on depositaries, management and marketing of alternative funds and supervision have still not been communicated. Estonia has also failed to communicate certain rules applicable to the authorisation of alternative funds managers and the rules applicable to depositaries. Italy and Estonia had until 22 July 2013 to ensure the transposition of the Directive into their domestic laws. The Commission therefore sent a reasoned opinion to both countries. If they do not comply within two months, the Commission may decide to refer them to the Court of Justice and propose financial sanctions under Article 260 (3) TFEU. (For more information: Vanessa Mock – Tel.: +32 225 61 94)

Taxation: The Commission asks BELGIUM to bring its rules on dividend taxation into line

At present Belgian tax rules do not allow income from financial instruments that have been sold, given as security or lent with respect to the parties to agreements on in rem securities or loans in cross-border situations to be deducted from taxable income.

The Commission considers these provisions to be contrary to the Parent-Subsidiary Directive (Directive 2011/96/EU of the Council of 30 November 2011), which provides for the non-taxation of profits received by the parent company from a subsidiary established in another Member State. The Belgian authorities are asked to amend the legislation in question.

This request has been made in the form of a reasoned opinion, in accordance with EU infringement procedures. The Belgian authorities have two months within which to notify the Commission of the measures they have taken to apply the Directive correctly. Failing this the Commission could decide to take Belgium to the Court of Justice of the European Union. (For more information: Vanessa Mock – Tel.: +32 225 61 94)

Taxation: VAT on products of agricultural origin not intended for use in food products or in agricultural production

The European Commission is asking France to apply the normal VAT rate to products of agricultural origin which are not intended for use in food products or in agricultural production.

France authorises the application of a reduced VAT rate for certain products used in the production of non-food industrial products.

The request has been made in the form of a reasoned opinion. If the Commission does not receive a satisfactory reply within two months it could decide to take the case to the Court of Justice of the European Union. (For more information: Vanessa Mock – Tel.: +32 225 61 94)

Transport: Commission asks GERMANY to improve its port security

The European Commission has asked Germany to correctly apply the EU port security rules (Directive 2005/65/EC) in North Rhine – Westphalia. Today's reasoned opinion comes following an inspection by the Commission, which revealed that some of the requirements were not being adequately implemented, notably the port security assessments. These rules are one of the cornerstones of maritime security policy, aiming to guarantee a high-level of security in all European ports. Germany now has two months to notify the Commission of the measures taken in order to fully apply the rules. Otherwise, the Commission may decide to refer the case to the European Court of Justice. (For more information: Jakub Adamowicz – Tel.: +32 229 50195)

3. Other important decisions
Financial Services: Commission opens infringement procedures against BULGARIA, HUNGARY, LITHUANIA and SLOVAKIA on investor restrictions for agricultural land

The European Commission has today decided to formally request Bulgaria, Hungary, Lithuania and Slovakia to submit their observations on their laws regulating the acquisition of agricultural land. These laws contain several provisions which, under EU law, may be considered to restrict the free movement of capital and freedom of establishment. Any restriction of these basic Treaty freedoms must be duly justified and comply with the principles of non-discrimination and proportionality. While Member States are permitted to set their own rules to promote rural development, to keep land in agricultural use and avoid speculative pressure on land prices, this must be done within the limits of EU law. (For more information: [IP/15/4673](#) - Vanessa Mock – Tel.: +32 225 61 94)

Annexe: Overview of March infringement package per country

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

Attachments
[annex_table of March infringement package by country EN.pdf](#)