



## October infringements package: key decisions

Brussels, 4 October 2017

### October infringements package: key decisions

#### Overview by policy area

In its monthly package of infringement decisions, the European Commission ('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 29 letters of formal notice, 29 reasoned opinions, 4 referrals to the Court of Justice of the European Union, and 9 closures) are presented below and grouped by policy area. The Commission is also closing 133 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. Digital Single Market

(For more information: *Nathalie Vandystadt* - tel.: +32 229 67083, *Inga Höglund* - tel.: +32 229 50698)

*Letters of formal notice*

### Electronic transactions: Commission urges SLOVAKIA to ensure proper application of the eIDAS Regulation

The Commission decided today to send a letter of formal notice to **Slovakia** over the application of the EU Regulation on electronic identification and trust services for electronic transactions in the internal market (eIDAS; [Regulation \(EU\) No 910/2014](#)). The Commission has concerns regarding the independence of the Slovakian supervisory body. If a supervisory body is not totally independent, as required by the Regulation, it could cause inequality of opportunities between various economic operators, and would breach the internal market of the EU principle. The [eIDAS Regulation](#) enables the use of electronic identification means and [trust services](#) (i.e. electronic signatures, electronic seals, time stamping, registered electronic delivery and website authentication) by citizens, businesses and public administrations to access on-line services or manage electronic transactions. Slovakia has now two months to reply to this letter.

### Telecom markets: Commission calls on 7 Member States to carry out analysis of the relevant telecom markets on time

National regulatory authorities must carry out analysis of telecom markets susceptible to EU Regulation every three years under the current legal framework ([Directive 2002/21/EC](#)) and notify the corresponding measure to the European Commission. **Belgium, Hungary, Ireland, Poland, Romania, Slovenia** and **Spain** have not informed the Commission about their analysis. Therefore, the Commission, by sending a letter of formal notice, decided today to request those seven countries to carry out their analysis without delay of relevant telecom markets and inform the Commission within the timeframe set by the EU law. For all seven cases, the delays are significantly over five years. The 7 Member States concerned have two months to reply.

## 2. Employment, Social Affairs and Inclusion

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*Referrals to the Court of Justice of the European Union*

## **Free movement of workers: Commission refers the CZECH REPUBLIC and LUXEMBOURG to the Court for failing to communicate measures transposing at national level EU law**

The European Commission is referring the **Czech Republic** and **Luxembourg** to the Court of Justice of the EU over the failure to notify complete transposition of the Directive on measures facilitating mobile workers to exercise their rights in the context of freedom of movement ([Directive 2014/54/EU](#)) into their national legislation, more than one year after its transposition deadline. Free movement is one of the biggest advantages of the Single Market. According to the [latest Eurobarometer](#), more than eight out of ten Europeans support the "free movement of EU citizens who can live, work, study and do business anywhere in the EU". But free movement has to happen in a fair way. Therefore, this Commission is taking measures to avoid social dumping, by giving national authorities the tools to fight abuses and fraud. At the same time, workers' rights need to be protected also when they work abroad. Member States' laws, regulations and administrative provisions necessary to comply with the Directive had to enter into force by 21 May 2016 and the Commission had to be informed immediately. Although the Commission sent a letter of formal notice and a reasoned opinion asking Luxembourg and the Czech Republic to notify full compliance with the Directive, Luxembourg has notified measures only partially transposing Directive 2014/54/EU into national law and Czech Republic has not yet communicated transposition of the Directive at all. Therefore, on the basis of the procedure set out in Article 260(3) TFEU, the Commission will request the Court of Justice to impose a daily penalty payment of €33,510.4 on the Czech Republic and €6,528 on Luxembourg until the Directive is fully transposed into national legislation. Member States that fail to communicate transposition measures are pursued by the Commission as a matter of priority. For more information, please refer to the full [press release](#).

### **3. Energy**

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*A reasoned opinion*

#### **Radiation protection: Commission requests BELGIUM to fully transpose the Euratom Drinking Water Directive**

Today, the European Commission decided to send a reasoned opinion to **Belgium** requesting full transposition of the Euratom Drinking Water Directive ([Council Directive 2013/51/Euratom](#)). Member States were required to transpose the Directive by 28 November 2015. This Directive establishes requirements relating to the protection of the health of the general public against radioactive substances in water intended for human consumption. It ensures that Member States have a framework in place for controlling radioactivity in drinking water and the [radiation](#) dose received from the consumption of different forms of drinking water as well as arrangements for public information. Since Belgium had not notified to the Commission any transposition measures in the prescribed time limit, the Commission issued a letter of formal notice in April 2016. Following the Belgian authorities reply to this letter and the notification of a transposition measure, the Commission considers that the transposition of the Directive in Belgium is still incomplete. Belgium has two months to comply with this obligation; otherwise, the Commission may decide to refer Belgium to the Court of Justice of the EU.

*A letter of formal notice*

#### **Energy efficiency: Commission calls on SPAIN to correctly implement EU rules on Energy Efficiency Directive**

The Commission is sending a letter of formal notice requesting **Spain** to ensure the correct implementation EU legislation on energy efficiency (Energy Efficiency Directive, [Directive 2012/27/EU](#)). The Directive requires Member States to install individual meters or heat cost allocators to measure energy consumption and allocate the costs in multi-apartment and multi-purpose buildings where heating, cooling and/or hot water is supplied from a central/collective installation. Spain now has two months to reply.

### **4. Environment**

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## *Reasoned opinions*

### **Plastic bags: Commission requests CROATIA and ROMANIA to enact EU rules on lightweight plastic carrier bags**

The Commission is urging **Croatia** and **Romania** to complete the enactment of EU waste legislation into their national laws (Plastic Bags Directive, [Directive \(EU\) 2015/720](#)). In view of tackling resource waste and littering, Member States had to adopt measures to reduce the consumption of lightweight plastic carrier bags as required by the Plastic Bags Directive by 27 November 2016. The Directive obliges Member States to achieve this by putting a price on lightweight plastic carrier bags, and/or introducing national reduction targets. National governments can choose from among a list of measures to achieve the commonly agreed objectives. These include economic instruments, such as charges or levies. Another option is national reduction targets: Member States must ensure that no more than 90 of these bags are consumed per person a year by the end of 2019. By the end of 2025, that number should be down to no more than 40 bags per person. Both options may be achieved either through compulsory measures or agreements with economic sectors. It is also possible to ban plastic bags provided those bans do not go beyond the limits established by the Directive in order to preserve free movement of goods within the European Single Market. The Commission verifies by way of priority whether the Member States have fulfilled the obligation to transpose this Directive. Today, the Commission sends a reasoned opinion to Croatia and Romania for continued failure to notify the Commission of their measures. These Member States now have two months to reply to this reasoned opinion. In the absence of a satisfactory response, the Commission may refer the Member States to the Court of Justice of the EU.

### **Air quality: Commission calls on ROMANIA to communicate measures to reduce emissions from petrol vapour**

The European Commission decided to send a reasoned opinion to **Romania** for failing to communicate measures to reduce emissions from petrol vapour according to EU rules on air quality ([Commission Directive 2014/99/EU](#)). This Directive is an essential instrument to protect human health and the environment by limiting the emission of volatile organic compounds from petrol into the air. Member States had to transpose an amendment to the Directive by 13 March 2016. Romania has still not notified the legal instruments enacting provisions on the testing of petrol vapour recovery systems into national law. The Commission is, therefore, sending a reasoned opinion, and giving the Romanian authorities two months to reply. In the absence of a satisfactory response, the Commission may refer Romania to the Court of Justice of the EU.

### **Water: Commission urges on SPAIN to comply with EU water legislation**

The Commission requests **Spain** to comply with the second round of the River Basin Management Plans (RBMP) under the Water Framework Directive ([Directive 2000/60/EC](#)). These Plans give a comprehensive overview of the main issues for each river basin district and should include the specific measures needed to achieve set environmental quality objectives. So far, Spain has not adopted, published and communicated to the Commission the review and update of the first River Basin Management Plans, due by 22 October 2015 for all the seven River Basin Districts in the Canary Islands. Moreover, public information and consultations on these draft Plans have not been concluded. A letter of formal notice was sent in April 2017. Since Spain has not complied with the obligations set out in the Water Framework Directive, the Commission is now sending a reasoned opinion to Spain, before, eventually, bringing the case to the Court of Justice of the EU. Spain has two months to reply.

## *Letters of formal notice and reasoned opinions*

### **Noise: Commission urges CYPRUS, GERMANY, ROMANIA and SLOVENIA to adopt noise maps and action plans on environmental noise**

The European Commission calls on **Cyprus, Germany, Romania** and **Slovenia** to comply with the key provisions of the Noise Directive ([Directive 2002/49/EC](#)). Environmental noise – as caused by road, rail and airport traffic – is the second main cause for premature death after air pollution. The Directive requires Member States to adopt noise maps showing noise exposure within the bigger agglomerations, along main railways and main roads and of major airports. These maps then serve as a basis for defining measures in noise action plans. As regards **Germany**, many action plans still have to be drawn up for agglomerations, major roads and airports, despite progress made since September 2016. For **Slovenia** since September 2016, the Commission considers that there is not enough progress made. Action plans are still missing for two agglomerations as well as for most major roads and major railways, and the outdated action plan for major roads and major railways outside Ljubljana agglomeration has not been revised. The Commission, therefore, decided to send a reasoned opinion to Germany and Slovenia. They now have two months to respond. Furthermore, **Cyprus** and **Romania**

have still not adopted all the noise maps and noise action plans for agglomerations and major roads. In the case of **Romania** - also for major railways outside agglomerations. The Commission has, therefore, decided to send Cyprus and Romania a letter of formal notice, requesting them to comply with the key obligations of the Noise Directive within two months.

### **Waste water: Commission calls on FRANCE, MALTA and SPAIN to ensure urban waste water is adequately treated**

The Commission has decided to send a letter of formal notice to **France** and **Spain**, and a reasoned opinion to **Malta** for failing to fully implement the Urban Waste Water Treatment Directive ([Council Directive 91/271/EEC](#)). It requires Member States to ensure that agglomerations (towns, cities, settlements) properly collect and treat their urban waste water. Following the last implementation report received, the Commission considers **France** is in breach of the Directive's requirements due to the non-compliance of 373 agglomerations with the Directive's secondary treatment requirements. 49 of these agglomerations should also have installed/performed a tertiary treatment (sensitive areas). As for **Spain**, the assessment shows that, in addition to the large number of agglomerations in failure of the Directive's obligations in other four on-going Urban Waste Water infringement procedures, a very significant number of agglomerations are furthermore in breach of the Directive's core obligations on collection, treatment and monitoring. As for **Malta**, the Commission calls on the Maltese authorities to ensure adequate urban waste water treatment in three Maltese agglomerations (Gozo-Main, Malta South and Malta North). As problems persist with the quality of waste water discharges, the European Commission sent a letter of formal notice in December 2016. According to Malta's reply, the authorities are working on finding a solution but compliance is not expected to be achieved in the near future. France, Malta and Spain now have two months to reply.

#### *Letters of formal notice*

### **Environmental liability: Commission calls on AUSTRIA to fully comply with the EU rules**

The Commission urges **Austria** to bring its legislation in conformity with the [Environmental Liability Directive \(Directive 2004/35/EC\)](#). The Directive establishes the liability of operators for damage caused to the environment and requires them to prevent and remedy such damage to biodiversity, water or land at their costs. The Commission identified a number of non-conform provisions in the Austrian implementing legislation. As these issues have not been solved, the Commission decided to send a formal letter of notice to Austria. The Austrian authorities now have two months to respond.

### **Single Market and Timber: Commission requests BELGIUM to conform to the EU timber rules**

The Commission found that **Belgium**, where important quantities of timber are placed on the EU market, has not managed to carry out a significant number of verifications since the EU Timber Regulation ([Regulation \(EU\) No 995/2010](#)) entered into force in 2013. The Regulation prohibits the placing of illegally harvested timber and of products derived from such timber on the EU market, and thus contributes to preserving biodiversity and the forests around the world. It is also crucial for establishing a level playing field within the EU. To that end, it requires that those putting timber on the EU internal market have to identify any risks of illegal harvesting and take measures mitigating such risks. Therefore, the Commission decided to raise the matter with the Belgian authorities by sending a letter of formal notice. Belgium has two months to reply.

### **Nitrates: Commission urges GREECE to comply with the Court of Justice's ruling**

The Commission calls on **Greece** to fully comply with the ruling ([C-149/14](#)) delivered by the Court of Justice of the EU on 23 April 2015. In this ruling, the Court found that Greece had breached its obligations under the Nitrates Directive ([Council Directive 91/676/EEC](#)) by failing to establish sufficient vulnerable zones as well as action programmes for those zones. Despite some progress made since the ruling, Greece has still not established any action programmes for the newly designated vulnerable zones. As such, they cannot fulfil the objectives, for which they have been designated, i.e. to protect water bodies from pollution caused by nitrates. As two years have passed since the ruling, the Commission is now sending a letter of formal notice to Greece before referring the case back to Court and requesting for financial sanctions to be imposed. Greece now has two months to reply.

### **Air: Commission calls on LUXEMBOURG and SLOVAKIA to comply with the EU legislation on ambient air quality**

The Commission is sending a letter of formal notice to **Luxembourg** and **Slovakia** over air pollution by NO<sub>2</sub>. EU rules on [ambient air quality \(Directive 2008/50/EC\)](#) and cleaner air for Europe requires Member States to assess air quality throughout their territory and to take measures to limit the exposure of citizens to pollutants. Since its entry into force, **Luxembourg** has not been able to ensure compliance with the binding limit values for NO<sub>2</sub> in Luxembourg-City. **Slovakia** failed to ensure an appropriate number and type of sampling points and to provide sufficient valid data. Therefore, the

Commission is sending a letter of formal notice to Luxembourg and Slovakia. Both countries have two months to reply.

### **Nature protection: Commission urges SLOVENIA to properly enact EU nature rules**

The Commission is sending a letter of formal notice to **Slovenia** over failure to transpose correctly EU nature legislation. The Birds ([Directive 2009/147/EC](#)) and Habitats ([Council Directive 92/43/EEC](#)) Directives help maintain biodiversity and protect the 500 wild bird species naturally occurring in the EU and conserve of a wide range of rare, threatened or endemic animal and plant species. Slovenia has two months to respond to the letter of formal notice.

### **Waste: Commission calls on SPAIN to clean up its illegal landfills**

The European Commission urges **Spain** to take action that will lead to the closure, sealing and regeneration of all remaining inert waste landfills as required under the Waste Framework Directive ([Directive 2008/98/EC](#)). These landfills present a danger to human health and the environment. Spain has failed to fulfil the scrutiny, inspection and enforcement duties concerning waste dumping and has not adopted measures to ensure that the initial producers or holders of waste carry out the necessary treatment. This constitutes a systemic breach of the obligations under Articles 13 and 15 of the Directive. The first letter, which was sent to Spain in December 2015, was not followed by decisive measures. There is factual evidence that there are still at least 338 uncontrolled sites awaiting closure or treatment. The Commission is now sending an additional letter of formal notice, to which Spain has two months to reply.

## **5. Financial Stability, Financial Services and Capital Markets Union**

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*Referrals to the Court of Justice of the European Union*

### **Audit: Commission refers SLOVENIA to the Court of Justice for failing to fully enact EU rules on audit**

The European Commission has decided to refer Slovenia to the Court of Justice of the EU for failing to notify measures for fully implementing EU rules on audit in its national legal system. A timely and correct implementation of the Audit Directive ([Directive 2014/56/EU](#)) is an important step to reinforce and strengthen [EU legislation on statutory audit](#), as it addresses a number of shortcomings observed in the audit market during the last crisis. Member States' laws, regulations and administrative provisions necessary to comply with the Directive had to enter into force by 17 June 2016 and the Commission had to be informed immediately. Slovenia's failure to implement the Directive currently prevents stakeholders, such as investors and shareholders, from benefitting from the new rules which considerably improve audit quality. It also has a detrimental effect on the orderly functioning of national and EU markets. In addition, there are concerns on the reliability and trustworthiness of Slovenia's national framework as the enhanced requirements for independence and objectivity contained in the Directive have not been implemented. For more information, please refer to the full [press release](#).

### **Payment accounts: Commission refers SPAIN to the Court for failure to implement payment accounts rules**

The European Commission decided today to refer **Spain** to the Court of Justice of the EU for failure to notify measures for fully implementing the EU Payment Accounts Directive ([Directive 2014/92/EU](#)). EU rules on payment accounts are essential to ensure consumers benefit from transparent payment accounts in a competitive and inclusive market. 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. Member States' laws, regulations and administrative provisions necessary to comply with the Directive had to enter into force by 18 September 2016 and the Commission had to be informed immediately. To date, Spain has not transposed this Directive into national law; therefore, the Commission is referring Spain to the Court of Justice of the EU. For more information, please refer to the full [press release](#).

*A letter of formal notice*

### **Financial services: Commission requests FRANCE to implement EU rules in the area of insurance**

The Commission has decided to send a letter of formal notice to **France**, requesting that it fully enact

the Solvency II ([Directive 2009/138/EC](#)) and the Omnibus II ([Directive 2014/51/EU](#)) Directives. If France does not act within the next two months, the Commission may send it a reasoned opinion on this matter.

## 6. Internal Market, Industry, Entrepreneurship and SMEs

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*Reasoned opinions*

### **Hungary: Commission calls on HUNGARY for additional clarifications on the Higher Education Law**

Today, the Commission has sent a complementary reasoned opinion to **Hungary** on the Hungarian Higher Education Law. This follows the [reasoned opinion](#) of 14 July and the letter of formal notice sent on 26 April. In its reasoned opinion, the Commission argued that the Hungarian Law is not compatible with the freedom for higher education institutions to provide services and establish themselves anywhere in the EU. In addition, the Commission believes that the new legislation runs counter to the right of academic freedom, the right to education and the freedom to conduct a business, as set out in the Charter of Fundamental Rights of the EU. Finally the Commission believes that it is not compatible with the EU's legal obligations under international trade law (the General Agreement on Trade in Services, [GATS](#), in the framework of the World Trade Organisation, WTO). Hungary replied to the Commission on 14 August. The complementary reasoned opinion sent today [provides further clarifications](#) on the Commission's concerns about the non-compatibility of the Higher Education Act with the [EU's obligations under the GATS](#). As the Hungarian authorities have known the detailed analysis of the Commission on the GATS provisions since the reasoned opinion in July 2017, Hungary has [two weeks](#) to provide the additional clarifications. If Hungary fails to reply satisfactorily to the reasoned opinion, then the Commission may refer the case to the Court of Justice of the EU.

### **Late payments: Commission urges PORTUGAL to comply with EU rules**

The Commission has decided to take a second step in its infringement procedure against **Portugal** on its compliance with the Late Payment Directive ([Directive 2011/7/EU](#)) by sending a reasoned opinion. The Directive establishes that public authorities have to pay for the goods and services that they procure within 30 days or, in very exceptional circumstances, within 60 days. According to the Commission's information, Portuguese public authorities pay, on average, within 90-100 days. The situation is critical in the health sector, with average payment periods reaching over 300 days. In April 2017, the Commission sent a letter of formal notice to Portugal for bad application of Directive 2011/7/EU. Portuguese authorities replied in June 2017. Public administrations are expected to play a particularly important role in discouraging a culture of late payments by setting an example in promptly and transparently paying their suppliers. Late payments have a negative impact on businesses, particularly SMEs, by affecting their liquidity and cash flow, complicating their financial management and thereby inhibiting growth. The Late Payment Directive gives creditors strengthened rights by putting in place time limits for payments by businesses and public authorities for goods or services and when these payment deadlines are not met, it entitles businesses to fair compensation. Portugal has two months to reply to the concerns raised by the Commission. Without a satisfactory response, the Commission may decide to refer Portugal to the Court of Justice of the EU.

*A letter of formal notice*

### **Public procurement: Commission urges LATVIA to respect EU public procurement rules**

The Commission decided today to send a letter of formal notice to **Latvia** regarding the procurement of traffic organisation products, such as traffic lights or control devices. The Commission is of the opinion that by requesting specific trademarks and product brands in the tender documentation, Latvia breached the principles of non-discrimination and equal treatment laid down in EU public procurement rules ([Directives 2014/24/EU](#) and [2014/25/EU](#)). Latvia has two months to comply with this obligation; otherwise, the Commission may decide to send a reasoned opinion.

## 7. Justice, Consumers and Gender Equality

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## *Reasoned opinions*

### **European Commission steps up infringement against HUNGARY on NGO Law**

Today, the European Commission issued a reasoned opinion - the second step in the infringement procedure - to **Hungary** for its law on foreign-funded NGOs. The Commission's reasoned opinion on the Hungarian NGO Law follows the [letter of formal notice](#) sent by the Commission on 14 July. The Commission had decided to start legal proceedings against Hungary for failing to fulfil its obligations under the Treaty provisions on the free movement of capital, due to provisions in the NGO Law which indirectly discriminate and disproportionately restrict donations from abroad to civil society organisations. In addition to these concerns, the Commission is also of the opinion that Hungary violates the right to freedom of association and the right to protection of private life and personal data enshrined in the Charter of Fundamental Rights of the European Union, read in conjunction with the EU Treaty provisions. Hungary replied to the Commission's letter of formal notice on 14 August. Having carefully analysed the explanations put forward by Hungary, the European Commission concludes that its serious concerns have not been addressed. Hungary now has one month to take the necessary measures to comply with the reasoned opinion. If Hungary fails to reply satisfactorily to the reasoned opinion, then the Commission may refer the case to the Court of Justice of the EU. For more information, please refer to the full [press release](#).

### **Commission calls on IRELAND to implement the EU Victims' Rights Directive**

The Commission urges **Ireland** to implement the EU Directive establishing minimum standards on the rights, support and protection of victims of crime (the Victims' Rights Directive, [Directive 2012/29/EU](#)). This Directive provides victims of crime with clear rights to access information, to participate in criminal proceedings and to receive support and protection in accordance with their individual needs. It establishes that all victims of crime and their family members are recognised and treated in a respectful, sensitive and professional manner. Furthermore, the Directive ensures that vulnerable victims are identified – such as victims of rape, terrorism, hate crime, or any victims who are more vulnerable because of the risks of further harm. If so, special protection measures are put in place to protect them during the proceedings and against any possible threat from the offender. Special attention is given to the protection of children. The EU rules apply to all victims of crime in EU regardless of their nationality. The Victims' Rights Directive had to be [translated into national law](#) by 16 November 2015. To this day, Ireland has still not notified the European Commission of any national rules which implement this EU law. As a result, the Commission is calling on the Irish authorities to take action and has decided to send a reasoned opinion. If the Irish authorities fail to act within two months, the case may be referred to the Court of Justice of the EU.

## *Letters of formal notice*

### **Commission urges AUSTRIA and DENMARK to correctly implement the Consumer Rights Directive**

The Commission is urging **Austria** and **Denmark** to take action swiftly to ensure the EU Consumer Rights Directive ([Directive 2011/83/EU](#)) is correctly implemented. With this Directive, consumers in the EU have benefitted from the same strong consumer rules wherever they make a purchase in the EU. Some major benefits include the right to return a good and the right to a full refund if consumers change their mind within 14 days, a ban on hidden charges and pre-ticked boxes on internet purchases. **Denmark** should now, among other things, ensure that it has effective, proportionate and dissuasive penalties in place for cases when traders breach the consumer rights rules. They should clarify that, when unsolicited goods are sent to consumers, if they do not react, it doesn't mean they consent to buy the product. **Austria** has introduced penalties which do not appear to be sufficiently dissuasive and do not cover all breaches of the Consumer Rights Directive. Austria should also allow consumers, in case of late delivery, to cancel their whole order, should they have bought multiple products under one order. The Commission is sending Austria and Denmark a letter of formal notice to put their national legislation in line with the EU Consumers Rights Directive. If the 2 Member States do not act within the next two months, the Commission may send them a reasoned opinion on this matter.

## **8. Maritime Affairs and Fisheries**

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

### *A letter of formal notice*

**Fisheries:** Commission requests PORTUGAL to take action against illegal, unreported and unregulated

fishing

The Commission is sending a letter of formal notice to **Portugal** over lack of action in preventing, deterring and eliminating illegal, unreported and unregulated fishing by some of its vessels in the waters under the responsibility of the Northwest Atlantic Fisheries Commission ([NAFO](#)). The Commission considers that Portugal does not meet its obligations in enforcing EU rules: on conservation and enforcement measures under the Northwest Atlantic Fisheries Commission ([Council Regulation \(EC\) N° 1386/2007](#)), the Regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing ([Council Regulation \(EC\) N° 1005/2008](#)). The Commission is of the view that Portugal also breaches the rules of the Control Regulation aiming to ensure compliance with the Common Fisheries Policy ([Council Regulation \(EC\) N° 1224/2009](#)). If Portugal does not act within the next two months, the Commission may send to the Portuguese authorities a reasoned opinion on this matter.

## 9. Migration, Home Affairs and Citizenship

(For more information: Tove Ernst - tel.: +32 229 86764, Katarzyna Kolanko - tel.: +32 229 63444, Markus Lammert - tel.: +32 229 80423)

*Reasoned opinions*

### **Security: Commission urges GREECE to fully implement the Prüm Decisions**

The Commission decided today to send a reasoned opinion to **Greece** for failing to fully implement the Prüm Decisions (Council Decisions [2008/615/JHA](#) and [2008/616/JHA](#)). The Prüm Decisions allow Member States to quickly exchange information on DNA, fingerprints and national vehicle registration data and are an important element of the European Agenda on Security. A letter of formal notice was sent to the Greek authorities in [September 2016](#). Since then Greece has fully implemented the necessary measures as regards the exchange of information on DNA and fingerprints. However, an evaluation procedure on the exchange of information on vehicle registration has not been completed yet. The Commission requested today that Greece quickly finalises the process to full comply with its legal obligations. Greece now has two months to reply, after which the Commission may decide to refer the case to the Court of Justice of the EU.

### **Security – Commission requests LUXEMBOURG to fully implement the exchange of information and intelligence between law enforcement authorities**

The European Commission addressed today a reasoned opinion to **Luxembourg** for non-communication of national measures taken to implement the "Swedish Initiative" ([Council Framework Decision 2006/960/JHA](#)). The Initiative allows for more effective information and intelligence sharing between Member States' law enforcement authorities when conducting criminal investigations or criminal intelligence operations. Adopted by the Council on 18 December 2006, the Initiative should have been implemented by Member States by 19 December 2008. Luxembourg received a letter of formal notice in November 2016, but has not yet informed to Commission of any implementation measures. Luxembourg now has two months to notify the Commission of measures taken to ensure full implementation of the Initiative; otherwise, the Commission may refer the case to the Court of Justice of the EU.

*Reasoned opinions and closures*

### **Legal migration – Intra-corporate transfers: Commission requests BELGIUM, FINLAND and SWEDEN to ensure full implementation and closes five cases**

Today, the Commission addressed reasoned opinions to **Belgium, Finland** and **Sweden** for non-communication (Finland) and partial communication (Belgium and Sweden) of national measures taken to implement the Directive on intra-corporate transfers of staff from outside the EU. The Intra-Corporate Transfers Directive ([Directive 2014/66/EU](#)), adopted on 15 May 2014, should have been implemented by Member States by 29 November 2016. It aims at facilitating the temporary assignment of highly-skilled employees (managers, specialists and trainees) of multinational companies to subsidiaries situated in the EU. Belgium, Finland and Sweden 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. The Commission also decided today to close the infringement procedures against **Cyprus, France, Latvia, Luxembourg** and **Slovakia** after examining the implementation notifications of the Intra-Corporate Transfer Directive by these five Member States.

## 10. Mobility and Transport

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*A letter of formal notice*

### **Aviation: Commission requests BELGIUM to respect principles of Air traffic management**

The Commission decided to send a letter of formal notice to **Belgium** based on the lack of corrective actions to build a joint civil-military airspace management cell to satisfy the principles of the flexible use of airspace ([FUA](#)). In line with these principles, airspace is no longer designated as purely "civil" or "military" airspace, but considered as one continuum and allocated according to user requirements. Corrective actions are agreed between the European Aviation Safety Agency ([EASA](#)) and the aviation authority of Belgium during standard inspections. If Belgium does not act within the next two months, the Commission may send to the Belgian authorities a reasoned opinion on this matter.

*Reasoned opinions*

### **Rail transport: Commission calls on BULGARIA to fully transpose EU legislation on rail safety**

The European Commission requested **Bulgaria** to bring all its national rules in line with EU law on railway safety ([Directive 2004/49/EC](#)). This Directive requires Member States to establish an independent safety authority and an independent accident and incident investigation body. It also requires allocating tasks and safety responsibilities to various railway stakeholders with the objective of ensuring that they do not overlap or interfere with each another. To date, however, Bulgaria has failed to ensure the independence of investigating body and to give it sufficient resources. Bulgaria has been given two months to remedy the situation; otherwise, the Commission may decide to refer Bulgaria to the Court of Justice of the EU.

### **Aviation security: Commission urges CROATIA to update national legislation**

The Commission requested **Croatia** to fully implement EU legislation establishing common rules in the field of aviation security ([Regulation \(EC\) No 300/2008](#)). As per this Regulation, Member States have to regularly update their national aviation security legislation. Such legislation defines organisational structures, responsibilities and mechanisms to monitor activities at national airports, vis-à-vis airlines and aviation security-related entities. However, Croatia is still to formally do so. This is a matter of administrative nature that is not linked to security shortcomings. The Croatian authorities now have two months to remedy the situation; otherwise, the Commission may decide to refer the matter to the Court of Justice of the EU.

### **Sustainable transport: Commission urges 9 Member States to transpose rules on the deployment of alternative fuels infrastructure**

The Commission has asked **Bulgaria, Denmark, Estonia, France, Lithuania, Malta, Poland, Romania and Sweden** to fully transpose EU rules on the deployment of alternative fuels infrastructure ([Directive 2014/94/EU](#)). The main purpose of the Directive is to establish a common framework for the large-scale roll-out of alternative fuels infrastructure in Europe. This is essential to reduce transport oil-dependence, mitigate its environmental impact and thereby strengthen Europe's leadership in the fight against climate change. The Directive sets out minimum requirements for the building-up of alternative fuels infrastructure, including recharging points for electric vehicles and refuelling points for natural gas and hydrogen. It had to be implemented by 18 November 2016 at the latest. However, these Member States have only partially notified the Commission of measures transposing the Directive into national law. The 9 Member States now have two months to notify the Commission of such measures; otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

## 11. Taxation and Customs Union

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*A reasoned opinion*

### **Taxation: Commission requests BELGIUM to align national taxation rules on interest income from bonds with EU law**

The Commission is today sending a reasoned opinion to **Belgium** for infringing EU rules on the taxation of interest income from bonds (Article 63 of [TFEU](#) and Article 40 of the Agreement on the

European Economic Area, EEA). Belgian rules applied to interest on fixed income bonds differ depending on whether the interest comes from Belgian bonds or bonds of foreign origin. Belgian national rules for bonds that are registered in the Belgian liquidation system and sold in Belgium take account of the holding period of such bonds, if they were owned for less than a full fiscal year. In contrast, rules applied to income from bonds of foreign origin registered in the Belgian liquidation system whose income is received outside Belgium are calculated as if they were owned for a full fiscal year. This difference in the treatment of interest income constitutes an obstacle to the cross-border movement of capital contrary to Article 63 TFEU and Article 40 of the EEA.

#### *Letters of formal notice*

#### **Taxation: Commission requests GERMANY to align its VAT refund system with EU rules**

The Commission decided today to send a letter of formal notice to **Germany** for violating EU rules on Value Added Tax (VAT) refunds (VAT Directive, [Council Directive 2006/112](#); and the Refund Directive - [Council Directive 2008/9/EC](#)). Under national rules, a taxable person established in Germany applying for a VAT refund from another Member State via a German web portal can lose the right to a refund; this is because Germany does not follow up on potential error messages from the Member State of refund. The Commission considers that Germany is also violating administrative cooperation rules ([Council Regulation \(EU\) No 904/2010](#)) in cases where it is requested by a Member State of refund to notify resident taxpayers of the relevant rules and decisions but fails to do so. If Germany does not act within the next two months, the Commission may send a reasoned opinion to the German authorities.

#### **Taxation: Commission requests HUNGARY to bring national requirements on VAT in line with EU rules**

The European Commission decided today to send a letter of formal notice to **Hungary** for infringing EU VAT rules ([Council Directive 2006/112](#)). Under the *Electronic Trade and Transport Control System* (EKAER) system, companies are obliged to provide the Hungarian tax authorities with detailed information for VAT purposes on certain business-owned transport that use public roads. This requirement infringes the VAT Directive as it primarily affects cross-border EU transactions and introduces administrative formalities connected with the crossing of borders. If Hungary does not act within the next two months, the Commission may send a reasoned opinion to the Hungarian authorities.

#### *Closures*

#### **Taxation: Commission closes infringement procedures on inheritance tax and bequests to non-profit organisations**

The European Commission welcomes amendments made by **Germany** (on the inheritance tax rules [on special maintenance allowances](#)) and Greece (regarding the inheritance tax treatment of [bequests to non-profit organisations](#) and [for primary residences](#)). As a result, the Commission decided today to close these respective infringement cases.

MEMO/17/3494

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