

Infringements related to the Single Market



As the guardian of the EC Treaty, the Commission has the option of commencing infringement proceedings, against a Member State, which in the eyes of the Commission infringes Community law.

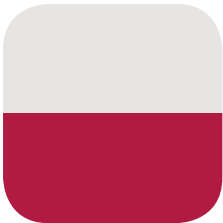
When an infringement proceeding is pursued, the Commission sends the Member State concerned an initial legal assessment through a letter of formal notice, and invites the Member State to present its views regarding the facts.

If no reply to that letter of formal notice is received, or if the Member State's observations in reply cannot be considered satisfactory, the Commission will issue a reasoned opinion expressing its view that an infringement exists and asks the Member State to remove it within a specified time limit.

If no reply to the reasoned opinion is received from the Member State or if the reply is unsatisfactory, the Commission may then refer the case to the Court of Justice. Member States are required to take the necessary measures to comply with a judgement of the Court of Justice establishing an infringement.

Special rights granted to the State in certain companies: Poland

The Commission has decided to refer Poland to the European Court of Justice with respect to its 'Act on Special Powers of the Treasury'. This Act grants powers to the Polish State to intervene in companies of special importance for public order or public security and grants the State special rights, such as the right to veto certain key management decisions and the right to appoint observers. Currently thirteen national companies are subject to this Act. These companies operate in several sectors including: copper ore mining, media/audiovisual, railway infrastructure, electricity, gas and petroleum, motor spirits and diesel oil. In the Commission's view, this Act and the powers it grants to the State infringe rules on the free movement of capital and the freedom of establishment and is in violation of the EC Treaty (Article 56 and 43 respectively).



Waste disposal service contracts in Rostock: Germany

The Commission has decided to refer Germany to the European Court of Justice over contract awards or modifications that have been carried out without the execution of tender procedures. The case concerns the conclusion of a waste disposal service contract in 1998 with a contract period of 25 years and a contract value of approximately 150 million euro between the city of Rostock and a mixed undertaking, and the amendment of that contract in 2004. Furthermore, it also concerns the conclusion of an agreement in 2007 with a mixed undertaking concerning the provision of waste collection, treatment, recycling and street cleaning services with an annual contract value of 10.8 million euro per year.



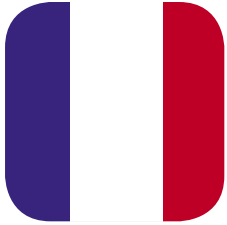
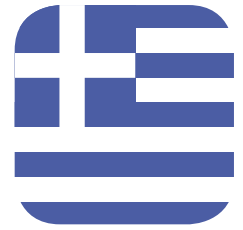
Modification of contracts after award: Spain

The Commission has decided to refer Spain to the European Court of Justice over a series of provisions of the new Spanish public procurement law (Ley 30/2007 de contratos del sector público – LCSP) governing modification of contracts. In this instance, the Commission considers that the regime of modifications of contracts after award, as governed in LCSP, is not in line with the principles of equal treatment, non discrimination and transparency. The LCSP gives contracting authorities a wide power to modify essential terms of public contracts after award, without the conditions of modification having been provided for in the contract documents in a clear, precise and unequivocal manner.



Urban planning contracts and medical devices: Greece

The Commission has decided to formally request Greece to review contracts for cadastral mapping and urban planning services awarded by the municipalities of Vasilika, Kassandra, Egnatia and Arethousa. The Commission has also decided, under Article 228 of the EC Treaty, to send Greece a letter of formal notice requesting full information on compliance with the 2009 judgement of the European Court of Justice concerning the supply of medical devices.



Closure of case on direct award of concessions to public bodies: France

The Commission has decided to close an infringement procedure that it had initiated against France relating to a provision of Law No 93-122 of 29 January 1993 (known as the 'Sapin Law') which allowed public entities to award concession contracts to public bodies without prior publicity or competitive tendering. These concession contracts (referred to as 'public service delegation agreements' in French law) relate to a wide range of areas of activity including, for example, water and electricity distribution, waste collection, management of public amenities such as sports fields and swimming pools, and the construction and operation of motorways.

Supplementary health insurance provided by private sickness funds: Belgium

The Commission has decided to refer Belgium to the European Court of Justice over its national rules on supplementary health insurance provided by private sickness funds. The Commission wants to ensure that these private sickness funds (mutualités/ziekenfondsen) comply with the EU insurance directives when they offer supplementary health insurance cover outside the scope of obligatory social security.



More information on infringement proceedings relating to the Single Market is available at:
http://ec.europa.eu/internal_market/infringements/index_en.htm

The latest information on infringement proceedings concerning all Member States is available at:
http://ec.europa.eu/community_law/index_en.htm



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