



February infringements package: key decisions

Brussels, 12 February 2020

Overview by policy area

In its regular package of infringement decisions, the European Commission pursues 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 are presented below and grouped by policy area. The Commission is also closing 76 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. Environment

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Referral to the Court of Justice of the European Union

Commission takes ITALY to Court for its incomplete regime of access to genetic resources

The European Commission is referring **Italy** to the Court of Justice of the EU because its system of access to genetic resources from non-EU countries is considered to be dysfunctional. These dysfunctions damage the ability of companies established in Italy to tap the benefits of such access for research, production and trade. Following a letter of formal notice issued by the Commission in January 2018 and a reasoned opinion in January 2019, in July 2019 Italy notified the designation of the national competent authorities. However, to date, **Italy** has not notified any legislation establishing the sanctions applicable for the violation of the rules. The Commission has therefore decided to bring Italy to the Court of Justice of the European Union. For more information, please refer to the full [press release](#).

Letters of formal notice

Forests: Commission urges ROMANIA to stop illegal logging

The Commission is urging **Romania** to properly implement the [EU Timber Regulation](#) (EUTR), which prevents timber companies from producing and placing on the EU market products made from illegally harvested logs. In the case of Romania, the national authorities have been unable to effectively check the operators and apply appropriate sanctions. Inconsistencies in the national legislation do not allow Romanian authorities to check large amounts of illegally harvested timber. In addition, the Commission has found that the Romanian authorities manage forests, including by authorising logging, without evaluating beforehand the impacts on protected habitats as required under the Habitats Directive and Strategic Environmental Assessment Directives. Furthermore, there are shortcomings in the access of the public to environmental information in the forest management plans. The Commission also found that protected forest habitats have been lost within protected Natura 2000 sites in breach of the Habitats and Birds Directives. Therefore, the Commission decided today to send a letter of formal notice to Romania, giving it one month to take the necessary measures to address the shortcomings identified by the Commission. Otherwise, the Commission may decide to send a reasoned opinion to the Romanian authorities.

Water quality: Commission calls on GERMANY to improve its rules protecting surface waters against pollution

The Commission urges **Germany** to correct its national legislation transposing the Environmental Quality Standards Directive as amended by [Directive 2013/39/EU](#). The aim of [Directive 2008/105/EC](#) is to ensure that chemical pollution of surface water does not present a threat to the aquatic environment or to human health. As part of an exercise checking the conformity of national laws with the Directive across Member States, the Commission found that Germany has not correctly transposed the Directive

into national legislation. Therefore, the Commission is sending a letter of formal notice. Germany has two months to reply and to correct its legislation. Otherwise, the Commission may decide to send a reasoned opinion to the German authorities.

Environmental impact assessments: Commission calls on ITALY to correct its domestic rules

The Commission is urging **Italy** to bring its national legislation into line with the Environmental Impact Assessment Directive ([EIA Directive 2011/92/EU](#)). The Directive ensures that the impact on the environment of public and private projects is assessed before they are authorised. New EU legislation was adopted in April 2014 ([Directive 2014/52/EU](#)), reducing the administrative burden and improving the level of environmental protection, while making business decisions on public and private investments more sound, predictable and sustainable. In Italy, shortcomings in the national law relate, among other things, to the way the public is consulted, the rules governing transboundary consultations in the case of projects proposed in Italy which might affect other Member States, the provision of practical information on access to justice, and the systems put in place to avoid conflicts of interest. Therefore, the Commission decided today to send a letter of formal notice to Italy, giving it two months to reply and to correct its legislation. Otherwise, the Commission may decide to send a reasoned opinion to the Italian authorities.

Air quality: Commission calls on THE NETHERLANDS to correct its domestic rules on sampling

The Commission is urging **the Netherlands** to bring its national legislation into line with the Commission [Directive \(EU\) 2015/1480](#) which has improved the reference methods, data validation and location of sampling points for the assessment of ambient air quality. The new rules allow a better verification of air quality and the assessment of compliance by a Member State with air quality standards. Shortcomings identified range from not correctly listing all requirements on how to measure certain pollutants, missing requirements on the location of sampling points, to the use of incorrect methods for sampling and analyzing results. Therefore, the Commission decided today to send a letter of formal notice to the Netherlands, giving it two months to reply and to correct its legislation. Otherwise, the Commission may decide to send a reasoned opinion to the Dutch authorities.

Air Pollution: Commission calls on ROMANIA, GREECE and MALTA to adopt national air pollution control programmes

The Commission urges **Romania, Greece and Malta** to adopt their first national air pollution control programmes and to communicate them to the Commission, as required under [Directive \(EU\) 2016/2284](#) on the reduction of national emissions of certain atmospheric pollutants. Under this Directive, Member States are obliged to draw up, adopt and implement their respective programmes to limit their annual emissions. The Directive aims at achieving levels of air quality that do not give rise to significant negative impacts on and risks to human health and the environment. Member States should have provided their first national air pollution control programmes to the Commission by 1 April 2019. Despite previous reminders, Greece, Malta and Romania have until now failed to meet their obligations. The Commission has therefore decided to issue a letter of formal notice giving the countries two months to reply, adopt and communicate their plans within this deadline. Otherwise, the Commission may decide to send a reasoned opinion to the Romanian, Greek and Maltese authorities.

Reasoned opinions

Nature: Commission calls on GERMANY to properly implement the Habitats Directive

The European Commission urges **Germany** to respect its obligations under [Council Directive 92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora. Member States must designate Special Areas of Conservation (SACs), each of them with specific conservation objectives and the corresponding conservation measures to maintain or restore a favourable conservation status of the species and habitats present. The time limit for completing these steps for all sites in Germany expired more than 10 years ago in some cases. Therefore, the Commission issued a letter of formal notice in 2015 and, after lengthy discussions with the Member State, a complementary letter of formal notice in 2019. The Commission is of the view that there has been a general and persistent practice in the case of all 4606 Natura 2000 sites, in all *Länder* and at federal level, of failing to set sufficiently detailed and quantified conservation objectives. This has a significant impact on the quality and effectiveness of the conservation measures to be established. The Commission also considers that Germany has failed to ensure that the public authorities in six *Länder* actively and systematically disseminate management plans to the public. The reasoned opinion gives Germany two months to reply. If Germany does not act within the next two months, the Commission may refer the case to the Court of Justice of the European Union.

Air quality: Commission calls on GREECE to protect its population against air pollution

The Commission is calling on **Greece** to comply with the requirements of [Directive 2008/50/EC](#) on

ambient air quality and cleaner air for Europe. The national system should reliably measure, inform the public and report about the gravity of air pollution, as well as the ineffectiveness of certain measures taken to curb this pollution. In this case, Greece has not disclosed data about the situation across its territory in certain years. It has also been unable to provide data on where the highest nitrogen dioxide (NO₂) concentrations occur to which the population is likely to be directly or indirectly exposed. This is due to incorrect and insufficient position of sampling points in certain agglomerations. Greece has also taken inadequate measures for the reduction as soon as possible of the NO₂ pollution in the agglomeration of Athens, which has been above the maximum threshold since 2010. A letter of formal notice was sent in January 2019. As the country has still not complied with its obligations, the Commission is now sending a reasoned opinion. Greece has two months to reply and take the necessary measures to establish the proper functioning of the system to monitor air pollution. If Greece does not act within the next two months, the Commission may refer the case to the Court of Justice of the European Union.

Air quality: Commission calls on PORTUGAL to protect its population against air pollution

The Commission is calling on **Portugal** to comply with the requirements of [Directive 2008/50/EC](#) on ambient air quality and cleaner air for Europe. The national system should reliably measure, inform the public and report about the gravity of air pollution. The limit values for nitrogen dioxide (NO₂) are exceeded in several zones, while reports show the ineffectiveness of the measures taken to lower air pollution as soon as possible and keep it under control. As the country has still not complied with its obligations, the Commission is now sending a reasoned opinion. Portugal has two months to reply and take the necessary measures to establish the proper functioning of the system to monitor air pollution. If Portugal does not act within the next two months, the Commission may refer the case to the Court of Justice of the European Union.

Waste: Commission urges ROMANIA and SWEDEN to comply with EU rules on ship recycling

The Commission is urging **Romania** and **Sweden** to comply with their duty to fully implement European legislation on ship recycling ([Regulation \(EU\) No 1257/2013](#)). The Regulation aims to make ship recycling greener and safer. Its main objective is to ensure that ships sailing under the flag of an EU Member State are recycled in a safe and sustainable manner. It is essential that Member States designate competent authorities, administrations and contact persons, and establish national law provisions with regard to the enforcement of these EU rules and the applicable penalties. All of these obligations had to be fulfilled by 31 December 2018. The Commission sent a letter of formal notice to both Member States in June 2019 as the countries had not fulfilled their obligations. As compliance has still not been achieved, the Commission has decided to send a reasoned opinion. Romania and Sweden now have two months to remedy the situation, by designating the authorities and establishing the sanctions. If Romania and Sweden do not act within the next two months, the Commission may refer the case to the Court of Justice of the European Union.

Urban Waste Water: Commission urges SPAIN to protect its population against the pollution of waters

The Commission is urging **Spain** to comply with the requirements of the [Council Directive 91/271/EEC](#) on the treatment of urban wastewater. EU Member States must provide secondary treatment of all discharges from agglomerations larger than 2,000-population equivalent, and more advanced treatment for agglomerations larger than 10,000-population equivalent in designated sensitive areas. Secondary treatment supplements the elimination of solid matter from urban wastewater (called primary treatment) with the breaking down of the organic substances by using bacteria. Sometimes, further treatment (tertiary) is required to protect sensitive water environments. Tertiary treatment can involve disinfecting the treated effluent to protect bathing or shellfish waters. It can also involve the removal of phosphorus or nitrates (nutrients present in sewage) to protect waters that are threatened by eutrophication. The Commission's enquiries revealed a widespread failure to comply with the Directive's obligation in mostly large agglomerations in Spain and a letter of formal notice was sent in December 2016. A technical assessment of Spain's replies shows that non-compliance with the obligations of the Directive is still at a large scale, considering that 133 agglomerations discharge either in normal or sensitive areas. Despite some progress, full compliance is not expected in the near future. The Commission is therefore sending a reasoned opinion and asking Spain to accelerate compliance. Spain has two months to reply. If Spain does not act within the next two months, the Commission may refer the case to the Court of Justice of the European Union.

2. Energy and climate

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Letters of formal notice

Energy efficiency: Commission urges CROATIA to comply with reporting obligations on energy efficiency targets

The European Commission decided today to open an infringement procedure by sending a letter of formal notice to **Croatia** for failing to comply with their obligation to report on progress towards meeting its national energy efficiency targets.

Croatia has not yet submitted its 2019 annual progress report, due by 30 April 2019, as required under the Energy Efficiency Directive ([2012/27/EU](#)). Without the report, the European Commission cannot assess Member States' progress, both individually and collectively, towards the EU 2020 energy efficiency targets. Having an incomplete picture also prevents the European Union from adjusting, if necessary, its policies and measures to achieve the common energy efficiency targets, which are essential in our fight against climate change. Croatia now has two months to reply to the Commission, otherwise the Commission may decide to send a reasoned opinion.

Basic safety standards: Commission calls on POLAND to transpose EU radiation protection legislation

The Commission has decided to open an infringement procedure by sending a letter of formal notice to **Poland**, requesting the complete transposition of the latest Basic Safety Standards Directive ([Council Directive 2013/59/Euratom](#)) into national legislation. EU Member States were required to transpose the Directive by 6 February 2018, but Poland has failed to transpose the rules in their entirety. The Basic Safety Standards Directive modernises and consolidates the EU radiation protection legislation. It lays down basic safety standards to protect workers, members of the public, and patients against the dangers arising from exposure to ionising radiation. It also includes emergency preparedness and response provisions that were strengthened following the Fukushima nuclear accident. Poland now has two months to reply to the arguments raised by the Commission, otherwise the Commission may decide to send a reasoned opinion.

Reasoned opinion

Climate Action: Commission urges Romania to notify national measures on penalties for infringements of Regulation on fluorinated greenhouse gases

Today, the European Commission decided to send a reasoned opinion to Romania for failing to adopt measures on penalties for breaches of [Regulation \(EU\) No 517/2014 on fluorinated greenhouse gases](#). Fluorinated greenhouse gases, also known as 'F-gases', are a family of manmade gases used in a range of industrial applications. The Regulation aims to contribute to the fight against climate change by reducing emissions of F-gases in the EU by two-thirds by 2030. F-gases have a powerful global warming effect (up to 23,000 times greater than carbon dioxide, CO₂). EU law lays down strict rules on the use of fluorinated gases and the conditions related to the placing on the market of products containing those gases. Under the rules adopted by Member States, penalties should have been in place by 1 January 2017 and all measures taken to ensure they are implemented. The penalties must be effective, proportionate and dissuasive. The availability of appropriate sanctions under national law is a crucial element in ensuring compliance with the Regulation, and thereby limiting climate change. The availability of penalties is particularly important in view of preventing illegal trade in hydrofluorocarbons. Member States also agreed to notify national measures on penalties to the Commission by 1 January 2017. To date, the Commission has not received a notification of national measures on penalties from Romania. Therefore, the Commission has moved to the second step in the infringement procedure with a Reasoned Opinion, following the letter of formal notice sent to Romania in [July 2019](#). Romania has two months from the time they receive the reasoned opinion to communicate such measures to the Commission.

3. Financial Stability, Financial Services and Capital Markets Union

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Letters of formal notice

Anti-Money Laundering: Commission urges 8 Member States to transpose the 5th Anti-Money Laundering Directive

The Commission has sent letters of formal notice to **Cyprus, Hungary, the Netherlands, Portugal, Romania, Slovakia, Slovenia** and **Spain** for not having notified any implementation measures for the 5th Anti-Money Laundering Directive ([5th AML](#)). Anti-money laundering rules are instrumental in the fight against money laundering and terrorism financing. Recent money laundering scandals have revealed the need for stricter rules at EU level. Legislative gaps occurring in one Member State have an impact on the EU as a whole. That is why EU rules should be implemented and supervised efficiently in order to combat crime and protect our financial system. All Member States had to implement the rules

of the 5th Anti-Money Laundering Directive by 10 January 2020. The Commission regrets that the Member States in question have failed to transpose the Directive in a timely manner and encourages them all to do so urgently, bearing in mind the importance of these rules for the EU's collective interest. Without a satisfactory response from Member States within 2 months, the Commission may decide to send them [reasoned opinions](#).

4. Internal Market, Industry, Entrepreneurship and SMEs

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Reasoned opinion

Professional qualifications: Commission calls on PORTUGAL to comply with EU rules on professional qualifications

The Commission sent a reasoned opinion to **Portugal** regarding its new rules restricting the acquired rights of Portuguese engineers to perform architectural projects in Portugal and, in other Member States. Currently, engineers who do not fulfil the conditions under the new rules will have their rights to free movement restricted or eliminated as legally they will no longer be able to carry out architectural projects in Portugal, and in other Member States. Moreover, Portugal has not provided any justification for those restrictions, whereas the principle of acquired rights is a fundamental principal of law. The Commission considers that Portugal has breached the Directive on the recognition of professional qualifications ([Directive 2005/36/EC](#) as amended by [Directive 2013/55/EU](#)), as well as the EU rules on freedom of movement of workers ([Article 45 TFEU](#)), freedom of establishment ([Article 49 TFEU](#)) and freedom to provide services ([Article 56 TFEU](#)). Portugal has now two months to reply to the arguments put forward by the Commission; otherwise, the Commission may decide to refer **Portugal** to the European Court of Justice.

5. Mobility and Transport

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Reasoned opinion

Road transport: Commission requests the UNITED KINGDOM to comply with the Directive on Road Charging

The European Commission is requesting the **United Kingdom** to fulfil all the requirements of the [Eurovignette Directive \(1999/62/EC\)](#) on road charging for heavy goods vehicles. This Directive sets principles regarding when Member States apply annual taxes, tolls or vignettes to heavy goods vehicles. The Commission views the levy introduced for heavy goods vehicles by the United Kingdom in 2014 to be a tax which can be charged solely by the Member State of registration. The Commission also considers that this levy discriminates foreign hauliers against UK hauliers which are compensated through a reduction on the annual tax paid of vehicles registered in the United Kingdom. The United Kingdom now has two months to notify the Commission of implementing measures; otherwise, the Commission may decide to refer the matter to the Court of Justice of the EU. As set out in the Withdrawal Agreement, EU law continues to apply in full to the UK for the duration of the transition period. In particular, the UK remains subject to the EU's enforcement mechanisms, such as infringement procedures.

6. Taxation and Customs Union

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A referral to the Court of Justice of the European Union

Taxation: Commission refers PORTUGAL to the Court for failing to amend discriminatory legislation on car registration tax

The Commission has decided to refer Portugal to the Court of Justice of the European Union for failing to amend its registration tax rules for imported second-hand cars. Under EU rules, no Member State shall impose any internal taxation – whether direct or indirect – on the products of other Member States in excess of that imposed on similar domestic products. The Portuguese legislation in question

does not fully take into account the depreciation of second-hand cars imported from other Member States. This results in a higher taxation of such imported cars compared to similar domestic ones, which is not compatible with [Article 110](#) TFEU. The European Court of Justice already concluded on 16 June 2016 ([Judgment C-200/15](#)) that a previous version of this Portuguese tax was contrary to EU Law. The decision to refer the matter to the Court follows Portugal's failure to bring its legislation in line with EU law following the Commission's reasoned opinion. For more information, please refer to the full [press release](#).

Letters of formal notice

Taxation: Commission requests LATVIA to amend discriminatory car taxation rules

The Commission has decided to send a letter of formal notice to **Latvia** for taxing cars registered in other Member States used by Latvian residents more heavily compared to cars registered in Latvia. According to Latvian rules, residents in Latvia driving a car that is registered abroad must pay "circulation tax" (Vehicle Operation Tax) at a much higher rate than the one applicable for cars registered in the country. The Commission considers that the Latvian legislation at issue is not compliant with the freedoms of movement guaranteed by the Treaty (Articles [21](#), [45](#), [49](#), [56](#) and [63](#) TFEU). If Latvia does not act within the next two months, the Commission may send a reasoned opinion to the Latvian authorities.

Taxation: Commission requests GERMANY to exchange information regarding so-called "call-off stock arrangements"

The Commission has decided to send a letter of formal notice to **Germany** for not having its IT systems ready for VAT quick fix simplifications that entered into force on 1 January 2020. These quick fixes relate, in particular, to the transportation of goods from one Member State to another (so-called "call-off stock arrangements"). "Call-off stock arrangements" refer to the situation where, at the time of the transport of goods to another Member State, the supplier already knows the identity of the person acquiring the goods, to whom these goods will be supplied at a later stage and when they will arrive in the Member State of destination. The VAT rules have been simplified in order to avoid the situation where the supplier has to register for VAT in another Member State only because of stock that is held there. The simplification of the rules means that Member States can exchange with each other electronic information to avoid fraud. Germany is however not ready to submit such information and will only develop the necessary technical infrastructure by the end of 2021. This will affect the capacity of other Member states to fight fraud and will also hinder the smooth functioning of the Internal Market. Germany is therefore considered to be in breach of the principle of sincere cooperation and fails to fulfil its obligations under the Administrative Cooperation Regulation ([Regulation \(EU\) No 904/2010](#)). If Germany does not act within the next two months, the Commission may send a reasoned opinion to the German authorities.

Additional letter of formal notice

Taxation: Commission sends an additional letter of formal notice to MALTA for not levying the correct amount of Value Added Tax on yachts

The Commission has decided to send an additional letter of formal notice to **Malta** for using an incorrect method of calculating VAT on the lease of yachts. Following an initial letter of formal notice on 8 March 2018, Malta modified its legislation in order to align it with the necessary requirements under EU law. These new national rules are, however, still not completely in line with EU law. Maltese legislation currently uses a distance-based method when calculating the effective use and enjoyment of a yacht outside the EU. EU rules do not allow such a method to be used but require the use of a time-based method. The Commission is now sending a complementary letter of formal notice to Malta in order to ensure full compliance with EU law. Without a satisfactory response within 2 months, the Commission may decide to address a reasoned opinion to Malta.

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