European Commission - Fact Sheet

January infringements package: key decisions

Brussels, 24 January 2019

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 are presented below and grouped by policy area. The Commission is also closing 87 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. Agriculture and Rural Development

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Reasoned opinions

Geographical indications: Commission urges BULGARIA to cancel national framework on geographical indications

Today, the Commission decided to step up an infringement procedure by sending a reasoned opinion to Bulgaria regarding its Trademark and Geographical Indication Act of 1 September 1999. Since 2008, Bulgaria has maintained a national register of geographical indications for agricultural products and foodstuffs. The Commission believes that a national protection of geographical indications is not compatible with EU law on quality schemes for agricultural products and foodstuffs (Regulation (EU) No 1151/2012). EU regulation, according to a consistent EU case law - C-478/07 (Budvar, 2009) and C-56/16/P (EUIPO v Instituto dos Vinhos do Douro e do Porto, 2017) - provides for a uniform and exhaustive system of protection for geographical indications falling within its scope. Bulgaria should have put an end to this national registration system from the date of the accession to the EU in 2007 and could only have protected existing national geographical indications for 12 months after the date of accession if an application at EU level had been done during this limited period. The Commission opened the infringement procedure by sending a letter of formal notice to the Bulgarian authorities in January 2018. Bulgaria has two months to reply to the arguments raised by the Commission; otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

Geographical indications: Commission calls on DENMARK to enforce protection of the protected designation of origin “Feta”

The Commission decided today to send a reasoned opinion to Denmark over a failure of the Danish authorities to adequately fulfil its obligations under the EU law on quality schemes for agricultural products and foodstuffs (Regulation (EU) No 1151/2012). The Commission considers that Denmark failed to prevent or stop the breach of the EU Regulation by companies based in Denmark which produce (and/or import from other countries) and export white cheese to non-EU countries after labelling it as “Feta”. This does not comply with the EU product specification rules provided for Protected Designation of Origin (PDO) and it is considered as a misleading labelling. ‘Feta’ is a registered PDO since 2002. The EU Regulation protects registered names against several types of misuse. These include the direct or indirect commercial use of the registered name for products which are comparable to those registered under that name, or alternatively use aimed at exploiting the reputation of the name. Product names registered as PDO are those that have the strongest links to the geographical place in which they are made. The Commission opened the infringement procedure against Denmark in January 2018. Denmark has two months to reply to the concerns raised by the Commission; otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.
2. Competition

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A letter of formal notice

State aid: Commission calls on GREECE to recover illegal aid granted to mining company LARCO

The European Commission decided today to send a letter of formal notice to Greece regarding the non-implementation by Greece of the Court’s ruling of 9 November 2017 (Case C-481/16, European Commission v Hellenic Republic). By this ruling, the Court condemned Greece for not implementing the Commission recovery decision of 27 March 2014, which ordered Greece to recover from LARCO General Mining and Metallurgical Company S.A. illegal and incompatible aid of € 135.8 million. This aid was granted to LARCO in the form of State guarantees and capital injections. Greece has now two months to respond and demonstrate that recovery of the aid has taken place. Otherwise, the Commission may decide to refer Greece to the Court of Justice of the EU, calling on the Court to impose a lump sum fine and financial penalties on Greece.

Closures

Antitrust: Commission closes infringement procedures for 3 Member States concerning the transposition into national law of the Directive on antitrust damages actions.

The European Commission has decided to close the infringement proceedings against Bulgaria, Greece, and Portugal as they have now transposed the Directive on antitrust damages actions (Directive 2014/104/EU) into national law. This Directive helps citizens and companies claim damages if they are victims of infringements of EU antitrust rules, such as cartels or abuses of dominant market positions. It also gives victims easier access to evidence they need to prove the damage suffered and more time to make their claims. The Directive on antitrust damages actions is, therefore, an essential part of EU competition law enforcement. Member States were under an obligation to transpose it into national law by 27 December 2016. Seven Member States transposed it by the deadline. Following the opening of infringement proceedings for lack of communication of transposing measures, 18 Member States transposed the Directive in 2017. Bulgaria, Greece and Portugal did so in the first half of 2018. The Commission is currently checking the conformity of the 28 national transpositions.

3. Digital Single Market

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Closures

Cybersecurity: Commission closes infringement proceedings against CROATIA, FRANCE, IRELAND, the NETHERLANDS, PORTUGAL, and SPAIN

The European Commission decided today to close its infringement proceedings which were opened against Croatia, France, Ireland, the Netherlands, Portugal, and Spain over their failure to transpose the first EU-wide legislation on cybersecurity rules (the Directive on Security of Network and Information Systems Directive (EU)2016/1148/EU) into their national legislation by 9 May 2018. The Commission made this decision because those Member States have been able to show that the transposition of the new rules in national laws complies with the Directive. The objective of the Directive is to achieve an evenly high level of security of network and information systems across the EU through the development of national cybersecurity capabilities. It also aims at increasing EU-level cooperation as well as introducing security and incident reporting obligations for operators of essential services and digital service providers. In July 2018, the Commission opened an EU infringement procedure by calling on the Member States concerned to complete the transposition process. The Commission will continue to look at 11 open infringements for lack of full transposition of the Directive and expects to have a more in-depth overview of the transposition across the EU in the coming months. For more information on how Member States are building up their cybersecurity capacities see the state-of-play of the transposition of the Directive and Questions and Answers. See also a fact sheet on all the EU actions aiming to increase cybersecurity.

4. Economic and Financial Affairs
A referral to the Court of Justice of the European Union

Commission refers SLOVENIA to the Court for failure to respect the protected status of ECB documents and failure to cooperate sincerely

The European Commission has decided to refer Slovenia to the Court of Justice of the EU for the violation of the inviolability of the archives of the European Central Bank (ECB) and the duty of sincere cooperation in the context of the seizure of European Central Bank documents that took place at the Central Bank of Slovenia. On 6 July 2016, in the context of a national investigation against central bank officials unrelated to the tasks of the ECB, the Slovenian authorities seized information at the Bank of Slovenia that included ECB documents and IT hardware. The ECB had given no prior authorisation for the seizure of those items, and subsequent attempts by the ECB to resolve the matter amicably have been unsuccessful. Attempts by the Commission to clarify the facts and circumstances were unsuccessful. These attempts included a pilot letter in December 2016, a letter of formal notice in May 2017 and a reasoned opinion in July 2018. The Commission remains in close contact with the ECB on this matter. For more information, please refer to the full press release.

5. Employment, Social Affairs and Inclusion

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Reasoned opinions

Free movement of workers: Commission requests CYPRUS, FRANCE, IRELAND, and ROMANIA to notify full transposition of the rules on supplementary pension rights for mobile workers

The European Commission decided today to send reasoned opinions to Cyprus, France, Ireland, and Romania for failing to notify the full transposition of EU rules on supplementary pension rights (the Pensions Portability Directive, Directive 2014/50/EU) into national law. The Directive lays down minimum requirements on the acquisition and preservation of supplementary pension rights. This Directive is important to promote labour mobility by safeguarding mobile workers' supplementary pension rights. In April 2014, Member States agreed to transpose this Directive and communicate national transposition measures to the Commission by May 2018. The Commission has already sent a letter of formal notice to these countries in July 2018. All 4 countries replied that the transposition process was underway. As the Commission has still not received notification of full transposition, it has now decided to send a reasoned opinion. If the Member States fail to act within two months, the case may be referred to the Court of Justice of the EU.

A letter of formal notice

Indexation of family benefits: Commission opens infringement procedure against AUSTRIA

Today, the Commission decided to send a letter of formal notice to Austria. It concerns new legislation under which EU citizens working in Austria face an indexation of their family benefits and family tax reductions when their children reside abroad. As from 1 January 2019 Austria makes family benefits and family tax reductions paid for children residing in another Member State dependent on the costs of living of that Member State. This means that many EU citizens, who work in Austria and contribute to its social security and tax system in the same way as local workers, would receive fewer benefits only because their children are living in another Member State. The EU rules on the coordination of social security systems (Regulation (EC) No 883/2004) do not allow a Member State to reduce cash benefits granted to persons insured under its legislation solely because they or their family members reside in another Member State. These rules also prohibit discrimination on grounds of nationality. Any reduction of family benefits solely because the children reside abroad, breaches the EU rules on social security as well as the principle of equal treatment of workers who are nationals of another Member State as regards social and fiscal advantages (Regulation (EU) No 492/2011). By sending a letter of formal notice to Austria, the European Commission officially launched the infringement procedure. Austria now has two months to address the Commission's concerns. Otherwise, the Commission may decide to send a reasoned opinion. For more information, please refer to the full press release.

6. Energy
Referrals to the Court of Justice of the European Union and letters of formal notice

Energy efficiency in buildings: Commission refers CZECHIA and SLOVENIA to Court for failure to ensure proper display of energy performance certificates for buildings

Today, the European Commission decided to refer CZECHIA and SLOVENIA to the Court of Justice for the EU for failing to comply with the Energy Performance of Buildings Directive (Directive 2010/31/EU). Under this Directive, Member States must establish and apply minimum energy performance requirements for all buildings, ensure the certification of buildings’ energy performance and require the regular inspection of heating and air conditioning systems. In addition, the Directive requires Member States to ensure that all new buildings are so-called nearly zero-energy buildings by 2021. The Directive also requires Member States to ensure that energy performance certificates are displayed in certain buildings frequently visited by the public. This rule should create public awareness of the importance of efficient energy consumption and provide incentives for renovations. The Commission drew the attention of the national authorities to the incorrect transposition of this requirement in 2015 and sent official letters to both Member States in the course of 2017 and 2018. However, to date the Member States legislation on this issue have not been brought in conformity with the Directive. In addition, the Commission decided to open EU infringement proceedings against CROATIA and ROMANIA as both Member States have failed to submit progress reports in reaching cost-optimal levels of minimum energy performance requirements for buildings and its elements. For more information, please refer to the full press release.

A reasoned opinion

Basic safety standards: Commission calls on ITALY to transpose EU legislation

Today, the Commission decided to send a reasoned opinion to ITALY requesting the transposition of the new Basic Safety Standards Directive (Council Directive 2013/59/Euratom). Member States were required to transpose the Directive by 6 February 2018. The new Directive modernises and consolidates the European 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. The concerned Member State now has two months to reply to the reasoned opinion and communicate its transposition measures; otherwise, the Commission may decide to refer the case to Court of Justice of the EU.

Reasoned opinions and letters of formal notice

Sustainable biofuels: Commission calls on 6 Member States to enact EU rules on Indirect Land Use Change linked to petrol and diesel fuels

Today, the Commission decided to send reasoned opinions to GERMANY and LATVIA, and letters of formal notice to FINLAND, FRANCE, IRELAND, and CZECHIA for failing to fully transpose EU rules on the quality of petrol and diesel fuels on the promotion of the use of energy from renewable sources (Directive (EU) 2015/1513). This Directive aims to reduce the risk of indirect land-use change linked with biofuel production. Indirect land-use change occurs when agricultural land used for growing crops for food or feed purposes starts to be used for growing crops for biofuel production instead - increasing the pressure to use other (unused) land to grow crops for food and purposes to meet that demand for food and feed, which has implications for greenhouse gas emissions. For example, atmospheric CO₂ levels increase when agricultural land is extended into land with high carbon stocks, such as forests, wetlands and peat land. The Directive also prepares the transition towards advanced biofuels which are produced from materials such as waste and residues. Under the Directive, Member States had to transpose EU legislation and to communicate such measures to the Commission until 10 December 2017. The Member States concerned have now two months to reply to the concerns raised by the Commission; otherwise, the Commission may decide to proceed to the next stage of the infringement process, including referral to the Court of Justice of the EU for today’s reasoned opinions.

Letters of formal notice

Energy efficiency: Commission requests 15 Member States to comply with the EU legislation

Today, the European Commission decided to send a letter of formal notice to BELGIUM, BULGARIA, CROATIA, CYPRUS, CZECHIA, DENMARK, ESTONIA, FRANCE, GREECE, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, POLAND and PORTUGAL formally requesting the correct transposition the Energy Efficiency Directive (Directive 2012/27/EU) into national law. The 2012 Directive establishes a
common framework of measures for the promotion of energy efficiency within the EU in order to ensure the achievement of the EU's 20% energy efficiency target for 2020 and to pave the way for further energy efficiency improvements beyond that date. Under the Directive, all EU countries are required to use energy more efficiently at all stages of the energy chain, from production to final consumption. The Member States now have two months to respond to the arguments put forward by the Commission. If they do not act within those two months, the Commission may send a reasoned opinion to their authorities.

**Nuclear waste: Commission urges LATVIA to enact correctly EU law**

The Commission decided today to send a letter of formal notice to Latvia for failing to transpose correctly EU legislation on safe management of spent fuel and radioactive waste (Council Directive 2011/70/Euratom). The Directive establishes an EU framework for ensuring the responsible and safe management of spent fuel and radioactive waste - including that originating from non-power uses of nuclear and radiation technologies - to avoid imposing undue burdens on future generations. These arrangements aim at protecting workers and the general public from the dangers arising from ionising radiation. Moreover, the Directive requires the necessary public information and participation in relation to spent fuel and radioactive waste management issues to be provided, while having due regard to security and proprietary information issues. Member States were required to transpose the Directive by 23 August 2013. Following the Commission's assessment of the national programme, the Commission considers that a set of the requirements of the Directive have not been sufficiently addressed by the Latvian authorities. Latvia now has two months to reply to the arguments raised by the Commission. Otherwise, the Commission may send a reasoned opinion.

**7. Environment**

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

**Commission takes SPAIN to Court for failure to act on protection against flooding**

The European Commission is referring Spain to the Court of Justice of the EU over a failure to comply with EU rules on flood prevention (the Floods Directive, Directive 2007/60/EC). The Directive aims to reduce and manage the risks that floods pose to human health, the environment, economic activity and cultural heritage. Under EU law, Member States had to complete and publish flood risk management plans, and notify them to the Commission by 22 March 2016. After Spain missed the initial deadline, in March 2018, the Commission opened the infringement procedure by sending a letter of formal notice to the Spanish authorities. The Commission urged them to complete, publish and communicate flood risk management plans for all seven river basin districts in the Canary Islands (El Hierro, Fuerteventura, Gran Canaria, La Gomera, La Palma, Lanzarote, and Tenerife). As the failure continued, the Commission sent a reasoned opinion to Spain in July 2018. As the situation persists in the seven river basin districts in the Canary Islands, the Commission has decided to bring Spain to the Court of Justice of the EU. For more information, please refer to the full press release.

**Commission takes Spain to Court for failure to protect the Doñana Wetlands**

The European Commission is referring Spain to the Court of Justice of the EU over a failure to take adequate measures to protect the groundwater bodies that feed the Doñana Wetlands, as required by EU water legislation (Water Framework Directive, Directive 2000/60/EC). Spain is also failing to take adequate steps to prevent the deterioration of protected habitats in these wetlands, in breach of EU nature legislation. The Doñana wetlands are among the largest in Europe and host a great diversity of ecosystems. They host a considerable array of fauna and flora, including critically endangered species, such as the Imperial eagle, Iberian lynx, and the Spur-thighed tortoise. Owing to its strategic location, Doñana is also part of the migratory route of millions of European birds each year. This unique biodiversity is protected under the Habitats Directive (Council Directive 92/43/EEC) and the Birds Directive (Directive 2009/147/EC), as the Doñana National Park and its surrounding area contain several areas that Spain has designated Natura 2000 sites. Today's decision follows a reasoned opinion sent to the Spanish authorities in April 2016. The Commission is concerned that the condition of the wetlands is likely to deteriorate further, as Spain is falling short of its obligations under both the Water Framework Directive and the Habitats Directive. The measures in place to ensure the sustainable management of water resources and the conservation of the Doñana habitats are insufficient and, moreover, poorly implemented. The Commission has, therefore, decided to refer Spain to the Court of Justice of the EU. For more information, please refer to the full press release.

**Reasoned opinions**
**Commission calls on AUSTRIA, ITALY, and LATVIA to implement EU rules on access to genetic resources**

The European Commission is calling on Austria, Italy, and Latvia to step up their efforts to implement the EU law designed to ensure that genetic resources accessed in other countries and utilised in the EU were accessed in compliance with the access and benefit-sharing requirements set up by these countries, in line with the Nagoya Protocol. Genetic resources refer to genetic material of plant, animal, or microbial origin, such as medicinal plants, agricultural crops and animal breeds, of actual or potential value. If a country has set up Access and Benefit-Sharing (ABS) requirements, users who wish to obtain this genetic material for purposes of research, conservation, commercial or industrial application have to comply with these requirements as laid out in the EU ABS Regulation (Regulation (EU) No 511/2014). Following the entry into force of this EU Regulation in June 2014, Member States were required to take measures in order to ensure efficient implementation of the Regulation. EU countries are obliged, in particular to designate competent authorities responsible for the operation of the Regulation and inform the Commission. As Austria, Italy, and Latvia have failed to notify any legislation designating such authorities or establishing penalties, the Commission has decided to send a reasoned opinion to the Member States concerned. They now have two months to remedy the situation; otherwise, the Commission may decide to refer them to the Court of Justice of the EU.

**Drinking water: Commission calls on ITALY to ensure safe drinking water for its nationals**

The European Commission decided today to send a reasoned opinion to Italy for failing to fulfil its obligations under EU law on the quality of water intended for human consumption (the Drinking Water Directive, Council Directive 98/83/EC), and allowing exceedance of the parametric values for arsenic and fluoride in some areas. The Directive aims to protect human health from adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. EU rules require that drinking water is free from any micro-organisms and parasites, and from any substances which constitute a potential danger to human health. Over a long period, the drinking water provided in 16 water supply zones in the Lazio region, county of Viterbo, exceeded the parameters for arsenic and/or fluoride. This can create a risk to human health, in particular for children below the age of 3 years. The Commission sent a letter of formal notice in 2014, but the Italian authorities have not yet taken appropriate action and have not fulfilled their duty to inform, advise and notify consumers of the health implications. Italy has two months to remedy the situation. Otherwise, the Commission may decide to refer Italy to the Court of Justice of the EU.

**Noise: Commission urges POLAND to protect its nationals against noise pollution**

The Commission calls on Poland to comply with the key provisions of the Noise Directive (Directive 2002/49/EC), to decrease noise pollution in the EU. Environmental noise – as caused by road, rail and airport traffic, industry, construction, and some other outdoor activities – is the second main cause for premature death after air pollution in the EU. The Directive requires Member States to adopt noise action plans either aimed at keeping noise levels as they are (where they are compliant with national limit values) or, if these values are exceeded, to bring them into compliance. The Commission sent Poland a letter of formal notice in May 2017. Although there has been some progress, the Polish authorities have still to adopt their revised strategic noise maps and noise action plans for several agglomerations as well as noise action plans for major roads, railways, and for the Warsaw Chopin Airport. As a result, the Commission decided today to send a reasoned opinion, giving Poland two months to remedy the situation. Otherwise, the Commission may decide to refer Poland to the Court of Justice of the EU.

**Nature protection: Commission calls on SLOVAKIA to improve forest management**

The Commission decided today to send a reasoned opinion to Slovakia for its failure to provide adequate protection for nature, which is causing a significant fall in bird numbers. EU rules on Habitats (Council Directive 92/43/EEC) and Birds (Directive 2009/147/EC) establish Natura 2000, an EU-wide network of protected areas that form a safeguard against potentially damaging developments. Under these laws, forest management plans and activities, such as logging in protected areas, must undergo an assessment of their effects on Natura 2000 sites before authorisation. Slovak forest management plans and their changes, as well as sanitary logging to prevent pest infestation, should be assessed for their effects. To date, these provisions are lacking in Slovak legislation. The Commission, therefore, takes the view that Slovakia has not correctly transposed the obligation of the Habitats Directive that projects in Natura 2000 protected areas need to undergo appropriate assessment of their effects on the sites. As one of the results, the population of Capercaillie (Tetrao urogallus), the largest grouse in the world, has halved in the Special Protection Areas (SPAs) since Slovakia joined the EU in 2004. The Commission, therefore, also takes the view that Slovakia has not taken appropriate steps to avoid the deterioration of the Capercaillie’s habitats and the significant disturbance of this species, and thus has failed to correctly apply the
Habitats Directive. Furthermore, Slovakia has not adopted sufficient special conservation measures for the Capercaillie yet as required by the Birds Directive as well as the management plans for the relevant Special Protection Areas. Slovakia has two months to remedy the situation; otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

A reasoned opinion and closures

Urban waste water: Commission urges LATVIA and LITHUANIA to improve treatment of their waste waters and closes two cases

The European Commission decided today to send a reasoned opinion to Latvia and Lithuania for their failure to ensure that all agglomerations with more than 2 000 inhabitants have adequate collection and treatment systems for urban waste water as requested by the EU rules under the Urban Waste Water Treatment Directive (Council Directive 91/271/EEC). The Directive aims to protect the environment in the EU from the adverse effects of urban waste water, such as enrichment of the water with nutrients. Nutrients cause an accelerated growth of algae that disturb the balance of water organisms and the water quality. The EU-wide legislation also sets out rules for collection, treatment and waste water discharge. The Commission considers that 14 agglomerations in Latvia and 54 agglomerations in Lithuania are in breach of several provisions of the Directive. Both countries also need to specify requirements for collecting systems, discharges from treatment plants, industrial wastewater and reference methods for monitoring and evaluation of results. Latvia and Lithuania now have two months to remedy the situation; otherwise, the Commission may decide to refer the two Member States to the Court of Justice of the EU. In addition, the Commission is closing EU infringement proceedings against Belgium and Luxembourg as they are now correctly applying the Directive. In the case of Belgium, all 48 agglomerations covered by the judgement of the Court of Justice of the EU (Commission vs Belgium, case No C-395/13 of 2014) are now compliant with the EU Urban waste water rules. Luxembourg complied with Court’s ruling in the cases of Commission vs Luxembourg (C-576/11) of 2013 and (C-452/05) of 2006.

Letters of formal notice

Nature protection: Commission calls on BULGARIA, ITALY and GERMANY to complete Natura 2000 network

The European Commission urges Bulgaria, Germany, and Italy to respect their obligations under EU rules for the conservation of natural habitats and protected species, included in the Natura 2000 network (the Habitats Directive, Council Directive 92/43/EEC). Member States have to designate the EU-listed sites of Community importance as Special Areas of Conservation (SACs). They also have to establish the necessary conservation measures to maintain or restore the protected species and habitats to a favourable condition. These steps need to be carried out within six years from the inclusion of these sites in the EU list as Sites of Community importance (SCI). These are key requirements to protect biodiversity across the EU. Bulgaria has designated only 9 out of 230 Sites of Community importance as Special Areas of Conservation within the required time limit, and has generally and persistently failed to set site-specific detailed conservation objectives and measures for any of them. Germany failed to designate 787 out of 4606 within the required time limits. In addition, it has generally and persistently failed to set sufficiently detailed conservation objectives for all Natura 2000 sites. The Commission also considers that Germany has failed to ensure that the public authorities in six regions actively and systematically disseminate management plans to the public. In Italy, 463 Sites of Community importance for which the deadline has expired have not been designated as Special Areas of Conservation yet. Furthermore, Italy has generally and persistently failed to set site-specific detailed conservation objectives and to establish the necessary conservation measures which correspond to the ecological requirements of the natural habitat types, in all the 19 regions and 2 autonomous provinces. The Commission is, therefore, sending an additional letter of formal notice to Italy and Germany, and a letter of formal notice to Bulgaria. The Member States now have two months to reply to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

Biodiversity: Commission urges 9 Member States to protect the environment against invasive alien species

The European Commission is calling on Cyprus, Czechia, France, Greece, Ireland, Poland, Portugal, Slovakia and Spain to step up their implementation of the EU Regulation on Invasive Alien Species (Regulation No 1143/2014). Invasive alien species are plants and animals that become established in areas outside their natural range, spreading rapidly and out-competing native species, with severe economic and environmental consequences. After the law entered into force on 1 January 2015, Member States had to introduce dissuasive penalties, and Member States with outermost regions had to adopt specific lists of invasive alien species for those territories and inform the Commission accordingly. The Member States in question have failed to notify the Commission about
their penalties, or about lists of invasive alien species for outermost regions, or both. The Commission has, therefore, decided to send each Member State a letter of formal notice giving them two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

**Air quality: Commission requests GREECE to act on air pollution**

The Commission urges **Greece** to comply with the requirements of EU rules on clean air, taking action to ensure good air quality and safeguard public health (**Directive 2008/50/EC**). EU legislation sets limit values for air pollutants, including nitrogen dioxide (NO$_2$). In case of exceedance of such limit values, Member States are required to ensure that air quality plans that set out appropriate measures to bring exceedances to an end as soon as possible are established. Nitrogen dioxide levels in the agglomeration of Athens have been above the limit values set in the Directive since 2010. However, Greece has failed to ensure compliance with the annual limit value for NO$_2$ in Athens for the period 2010-2014 and to establish an Air Quality Plan identifying the necessary measures that would keep the exceedance period as short as possible. In addition, Greece has also failed to put in place adequate sampling points in the zone of Thessaloniki to ensure proper monitoring of NO$_2$ concentrations. Finally, Greece also failed to make available a complete air quality report as required by Commission Implementing Decision 2011/850/EU. As Greece has not complied yet with all these obligations, the Commission is sending a letter of formal notice. Greece has two months to reply to the concerns raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

**Air quality: Commission urges FRANCE and SWEDEN to protect its nationals against air pollution**

The Commission is calling on **France** and **Sweden** to bring their air quality legislation in line with European rules on ambient air quality and cleaner air for Europe (**Directive 2008/50/EC**). The Directive establishes air quality objectives, including ambitious, cost-effective targets for improving human health and environmental quality up to 2020. It also specifies ways of assessing these and of taking corrective action if the standards are not met. These Member States have shortcomings with the enactment of several provisions of this Directive into domestic legislation, including the obligation to take appropriate measures to keep periods of exceedance of permitted values as short as possible. The Commission is, therefore, sending letters of formal notice, giving France and Sweden two months to reply to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

**E-waste: Commission urges ESTONIA and ROMANIA to improve management of their electric and electronic waste**

The Commission has decided to send letters of formal notice to **Estonia** and **Romania** over shortcomings in their enactment of EU rules on waste of electrical and electronic equipment (**Directive 2012/19/EU**). Waste of electrical and electronic equipment, such as computers, TV-sets, fridges and cell phones, is one of the fastest growing waste streams in the EU and it is expected to grow to more than 12 million tonnes by 2020. If not properly managed, this can cause major environmental and health problems because of their hazardous content. A letter is being sent to **Estonia** because of shortcomings that include incomplete definitions of key terms, a lack of clarity in the obligations to be imposed on producers, and a failure to require proof if waste of electrical and electronic equipment is exported to countries outside the EU. The Commission is sending a letter of formal notice to **Romania** because of inaccurate provisions and incomplete reflection of EU legislation, inconsistencies regarding collection facilities, and no specific provision requiring that all separately collected waste of electrical and electronic equipment undergo proper treatment. Estonia and Romania have two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

**Access to environmental information: Commission urges FRANCE to open up access to environmental information for the public**

The European Commission calls on **France** to bring its domestic law into line with EU standards on public access to environmental information (**Directive 2003/4/EC**). Under the Directive, citizens are entitled to access to environmental information, and public bodies that hold that information have a duty to make it available. The Commission is concerned that French law in this area may be overly restrictive, and fails to give access to information contained in measures that the Directive classes as environmental information. French law is also imprecise about the conditions under which access may be refused. A letter of formal notice is, therefore, being sent. France has two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

**Marine environment: Commission calls on FRANCE, IRELAND and ITALY to protect their marine waters**
The European Commission urges **France, Ireland** and **Italy** to comply with the reporting obligations on the environmental status of marine waters under the Marine Strategy Framework Directive (Directive 2008/56). The Directive provides a holistic framework to protect the EU's seas and oceans, and ensures that their resources are managed sustainably. Under the Directive, Member States were required to review and update their assessment of the environmental status of the waters concerned, the environmental impact of human activities, their determination of good environmental status and their environmental targets by 15 October 2018. The countries concerned failed to submit reports to the Commission by the required deadline. As a result, the Commission decided today to send a letter of formal notice to France, Ireland and Italy. They now have two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

**Water: Commission urges IRELAND to improve management of its water resources**

The Commission decided today to send an additional letter of formal notice to **Ireland** as there are still a number of instances of non-conformity and shortcomings in Ireland's transposition of the Water Framework Directive (Directive 2000/60/EC). Ireland adopted new legislation in 2009, 2010 and 2014 improving on its initial transposition of the Directive, but shortcomings have remained. Those identified include Ireland’s failure to ensure that activities involving water abstraction, impoundment and changes in hydromorphology are controlled through a system of prior authorisation and registration. Ireland is preparing new legislation to bring in controls for water abstraction, but this has not been adopted and communicated to the Commission yet. Ireland has two months to comply with its obligations; otherwise, the Commission may decide to send a reasoned opinion.

**Urban waste water treatment: Commission urges the UNITED KINGDOM to comply in full with a judgment of the Court of Justice of the EU**

The European Commission calls on the **United Kingdom** to fully comply with a 2012 ruling by the Court of Justice of the EU (case No C-301/10). The Court found that the UK had breached its obligations under EU law on adequate collection and treatment systems for urban waste water (Urban Waste Water Treatment Directive, Council Directive 91/271/EEC) by failing to control excessive storm water overflows from the collecting system and treatment plants serving London and Whitburn in Sunderland. Despite significant progress in London with the upgrading of three treatment plants and construction of the Lee Tunnel, storm water overflows along the River Thames are not under control yet. Upgrades to the Whitburn collecting system have been completed, but spills have still not been sufficiently reduced. As six years have passed since the ruling, the Commission is sending a last reminder before referring the case back to Court and requesting for financial sanctions. The UK has two months to reply.

8. **Financial Stability, Financial Services and Capital Markets Union**

(For more information: Johannes Bahrke – tel.: +32 229 58615, Letizia Lupini - tel.: +32 229 51958)

**Reasoned opinions**

**Financial services: Commission requests POLAND to open its market fully to EU credit intermediaries**

The European Commission calls on the **Poland** to comply with its obligations to apply all provisions of EU rules on the **Mortgage Credit** Directive (Directive 2014/17/EU). In particular, the Commission requests that Poland put in place provisions allowing credit intermediaries registered in other Member States to fully operate in the Polish market. The aim of the Directive is to increase consumer protection in mortgage lending, to foster competition by harmonising and raising the standard of pre-contractual information, and by opening national markets to credit intermediaries. Obstacles to foreign intermediaries limit competition for mortgages and, therefore, reduce consumer welfare with regard to best value for money mortgages. After a first reasoned opinion, which the Commission sent to the respective authorities in December 2016, the European Commission decided today to send an additional reasoned opinion. If the national authorities do not reply satisfactorily within two months, the Commission may refer the matter to the Court of Justice of the EU.

**Solvency II: Commission calls on SLOVENIA to apply EU insurance rules**

The Commission decided today to request **Slovenia** to fully implement EU law on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II, Directive 2009/138/EC) and (Omnibus II, Directive 2014/51/EU). The Solvency II Directive provides for a comprehensive regulatory framework regarding the taking up and the pursuit of insurance and reinsurance business. However, the Omnibus II Directive amends some parts of the Solvency II Directive. Member States...
were obliged to transpose both Directives into national law and to communicate to the Commission the text of those measures by 31 March 2015. To date, Slovenia has still not fully implemented it and some provisions are still missing. Those refer mostly to the definitions of captive insurance/reinsurance undertaking, the regular reporting exemptions, access to information and certain transitional provisions concerning the group level. As a result, the Commission decided today to send an additional reasoned opinion, as an initial reasoned opinion was sent to the Slovenian authorities in November 2015. If the measures to fully enact these Directives are not notified within two months, the Commission may decide to refer Slovenia to the Court of Justice of the EU.

**Payment accounts: Commission urges SWEDEN to apply EU rules on payment accounts**

Today, the Commission decided to send a formal request to Sweden to notify the full enactment of EU rules on the payment accounts (the Payment Accounts Directive, Directive 2014/92/EU). The Directive improves the transparency of payment account fees and makes it easier to compare and switch payment accounts. Furthermore, EU rules give consumers legally resident in the EU the right to a basic payment account for a reasonable fee and regardless of a person's place of residence. To date, Sweden has not fully transposed the Directive into national law, despite being required to do so by 18 September 2016. Sweden has two months to inform the Commission of the measures taken to fully enact EU law. If such national measures are not notified within two months, the Commission may decide to refer Sweden to the Court of Justice of the EU.

**Letters of formal notice**

**Investor compensation: Commission calls on CYPRUS to enact correctly national rules to comply with EU law**

The Commission decided to send a letter of formal notice to Cyprus over failure to implement correctly EU rules on investor-compensation schemes (Directive 97/9/EC). The Directive, adopted in 1997, protects investors by providing compensation if an investment firm fails to return the investor's assets. Claims under the Directive typically arise if there is fraud or other administrative malpractice or when an investment firm is unable to fulfil its obligations as a result of operational errors. The Commission has concerns that the Cypriot authorities have failed to determine the firms' inability to meet investors' claims and pay compensation to investors following the establishment of claims without unreasonable delays. If Cyprus does not act within the next two months, the Commission may send a reasoned opinion on this matter.

**Motor insurance: Commission requests GREECE to comply with EU rules**

The Commission decided today to send a letter of formal notice to Greece regarding a provision of the Greek Motor Insurance Law. Following assessment, the Commission believes that current national provisions make it possible to deny compensation to persons who are policyholders, legal representatives of a legal person owning the vehicle or spouses of the policyholders and their relatives. The relevant provision of Greek legislation that excludes an owner of the vehicle in the case of accident from compensation also in a case when the owner is not a driver is contrary to EU law on insurance against civil liability in respect of the use of motor vehicles (the EU Motor Insurance Directive, Directive 2009/103/EC). This is interpreted by the Court of Justice in its rulings in the cases of C-537/03, C-442/10 and C-503/16. Therefore, the Commission requests the Greek authorities to clarify its national measures for application of the Directive on motor third party liability insurance in Greece. If Greece does not act within the next two months, the Commission may send a reasoned opinion on this matter.

9. Health and Food Safety

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**Reasoned opinions**

**Public health: Commission urges IRELAND to notify transposition of EU law on tissues and cells intended for human application**

procedures to be followed by importing tissue establishments in their relations with their third country suppliers. These Directives set out that their provisions should have been transposed into national law by 29 October 2016 and communicated to the Commission its adopted measures. To date, there has been no notification of transposition from Ireland. Ireland has two months to communicate to the Commission the measures taken to transpose these Directives. Failure to notify these measures could lead the Commission to refer the cases to the Court of Justice of the EU.

Letters of formal notice

**Cross-border healthcare: Commission calls on AUSTRIA to comply with rules on level of reimbursement**

Today, the Commission decided to send a letter of formal notice to Austria. The Commission requests the Austrian authorities to ensure that the costs of healthcare received in another EU country under the EU Cross-border Healthcare Directive (Directive 2011/24/EU) are reimbursed up to the level applicable when healthcare is received in Austria. This Directive lays down patients' rights to choose to receive healthcare in another Member State and to claim reimbursement for it when returning back home. As to the level of reimbursement, it states clearly that this must be up to the level of the costs that would have been assumed by the patient's own Member State if the healthcare had been provided there, without exceeding the actual costs. Austria now has two months to respond to the arguments put forward by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

**Food safety: Commission calls on CZECHIA to correctly apply EU rules on the performance of official controls**

Today, the European Commission decided to send a letter of formal notice to Czechia for failing to comply with EU rules on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (Regulation (EC) No 882/2004). The Czech authorities need to carry out a systematic risk assessment and subsequent potential official controls targeting certain foodstuffs coming from another Member State each time such foodstuffs enter Czechia. On that basis, the Czech authorities have established in national legislation the obligation for operators to systematically notify, at least 24 hours in advance, the arrival of such foodstuffs to the place of destination. This is incompatible with the harmonised framework established by EU rules. The Commission considers that the obligation to report the arrival of goods from another Member State must not be systematic. On the contrary, the reporting of the arrival of such goods must depend on a specific request of the competent authority and made only to the extent strictly necessary for the organisation of official controls. Czechia has now two months to reply to the letter of formal notice; otherwise, the Commission may decide to send a reasoned opinion.

**Cross-border healthcare: Commission calls on the NETHERLANDS to comply with rules on level of reimbursement**

The Commission has decided to send a letter of formal notice the Netherlands. The Commission calls on the Dutch authorities to ensure that the costs of healthcare received in another EU country under the Cross-border Healthcare Directive (Directive 2011/24/EU) are reimbursed up to the level applicable when healthcare is received in the Netherlands. The Directive lays down patients' rights to choose to receive healthcare in another Member State and to claim reimbursement for it when returning back home. As to the level of reimbursement, it states clearly that this must be up to the level of the costs that would have been assumed by the patient's own Member State if the healthcare had been provided there, without exceeding the actual costs. The Netherlands now has two months to respond to the arguments put forward by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

**Biocidal products: Commission calls on ROMANIA to fully implement EU rules by setting out fees for the processing of applications**

The Commission has decided to send a letter of formal notice to Romania requesting it to adopt fees for the processing of applications as required by EU rules on biocidal products (Regulation (EU) No 528/2012). The Regulation lays down that Member States charge applicants fees for services they provide under the Regulation and that Member States must set and publish the amount of fees payable to their competent authorities. Romania has not yet set and published the amount of fees payable to their national authorities for the processing of several types of applications under the Biocidal Products Regulation. As a result, it is unable to process such applications. This has resulted in a delay in the processing of several pending applications for national authorisation of biocidal products. Romania now has two months to respond to the arguments put forward by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.
10. Internal Market, Industry, Entrepreneurship and SMEs

(For more information: Lucia Caudet – tel.: +32 229 56182, Victoria von Hammerstein-Gesmold - tel.: +32 229 55040)

A referral to the Court of Justice of the European Union

Retail sale of agricultural and food products: Commission refers HUNGARY to the Court

The Commission decided today to refer Hungary to the Court of Justice of the EU because its national rules on the retail sale of agricultural and food products are incompatible with EU rules. The Commission is concerned that the Hungarian legislation on retail does not comply with EU rules and deprives consumers and businesses of the full benefit of the Single Market. It considers that the Hungarian law infringes the principles of free movement of goods (Article 34 of the Treaty on the Functioning of the EU, TFEU) as well as the EU Regulation establishing a common organisation of the markets in agricultural products (Regulation 1308/2013). Firstly, under the Hungarian law, retailers have to apply the same profit margin to agricultural and food products irrespective of their country of origin. This rule violates EU law on the free movement of goods (Article 34 of TFEU) as it discourages sales of imported products in comparison to domestic ones. Secondly, Hungary also fails to fulfil its obligations under the EU Regulation by undermining the free formation of selling prices of agricultural products and not ensuring fair competition. The Hungarian law obliging the same profit margin to all products prevents some importers and retailers of imported goods from offering more attractive retail prices to consumers. The Commission opened the infringement proceedings against Hungary in February 2017 by sending a letter of formal notice. The letter was followed by a reasoned opinion issued in March 2018, where the Commission called on Hungary to remove its retail restriction. Since the Hungarian authorities have maintained their position, the Commission has now decided to refer the case to the Court of Justice of the EU. For more information, please refer to the full press release.

A reasoned opinion

Public procurement of IT contracts: Commission calls on SLOVAKIA to respect fair competition and transparency

The Commission decided today to send a reasoned opinion to Slovakia regarding the direct award of a contract for the provision of software services that enable the conduct of public procurement online, through an "electronic marketplace". Slovakia awarded directly – i.e. without a competitive and transparent procedure with prior publication of a contract notice – the contract to the same operator that already provides other software services. Following a response from Slovakia to a letter of formal notice sent by the Commission in June 2018, the Commission maintains the view that Slovakia failed to demonstrate that the exclusive intellectual property rights held by the current service provider were essential to the performance of the new contract. Moreover, by tying itself to the same vendor and failing to allow other operators to present competitive bids, the Commission considers that Slovakia is in breach of EU public procurement rules (Directive 2004/18/EC) and fails to ensure the best value for taxpayers' money. Slovakia has now two months to respond to Commission's arguments; otherwise the Member State may be referred to the Court of Justice of the EU.

Letters of formal notice

Public procurement: Commission urges 15 Member States to comply with public procurement and concessions rules

The Commission decided today to send letters of formal notice to 15 Member States (Bulgaria, Croatia, Cyprus, Czechia, Denmark, Finland, Germany, Hungary, Italy, Malta, the Netherlands, Poland, Romania, Sweden, and the United Kingdom) regarding the conformity of their national legislation with EU rules on public procurement and concessions. The new rules (Directive 2014/24/EU, Directive 2014/25/EU and Directive 2014/23/EU) had to be transposed by Member States into national law by 18 April 2016. Today's letters are the result of a compliance check conducted by the Commission to see whether the transposed national rules comply with the EU Directives. The same assessment is being undertaken or will be carried out for the remainder of Member States, where transposition was completed with important delays (see cases referred to the Court of Justice of the EU). Member States have now two months to reply to the arguments put forward by the Commission; otherwise, the Commission may decide to follow up with the sending of a reasoned opinion.

Commission takes action to ensure professionals and service providers can fully benefit from the EU Single Market for services

Today, the European Commission took infringement decisions concerning 27 Member States to
ensure the proper implementation of EU rules on services and professional qualifications. As highlighted in the Single Market Communication in November 2018, citizens and businesses can only enjoy the many benefits of the Single Market if the rules that have been jointly agreed actually work on the ground. Today, the Commission takes action to ensure respect of EU rules in the field of services. While services represent two thirds of the EU economy, a number of barriers still prevent the services sector from reaching its full potential to the benefit of consumers, jobseekers and businesses, and generate economic growth across Europe. In total, the Commission is sending 31 letters of formal notice and one complementary letter of formal notice, in addition to two reasoned opinions, addressing several restrictions in the services sectors: letters of formal notice to 27 Member States (all but Denmark) for the non-compliance of their legislation and legal practice with EU rules on the recognition of professional qualifications and the corresponding access to activities (breach of the Professional Qualifications Directive); a reasoned opinion to Cyprus and a letter of formal notice to Portugal regarding their specific rules concerning the access to activities of engineers and architects (breach of the Professional Qualifications Directive); a supplementary letter of formal notice to Croatia regarding restrictions for lawyers to provide multidisciplinary services, advertising restrictions and limitations on the right to practice (breach of the EU Services Directive and the Directive 98/5/EC on the establishment of lawyers and law firms); two letters of formal notice to France and Poland and a reasoned opinion to Ireland regarding restrictions on advertising on the free movement of services in breach of EU rules (breach of Article 56 of the Treaty on the Functioning of the EU, TFEU, and the Services Directive); and a letter of formal notice to Belgium regarding the authorisation procedure and general requirements that the Brussels region applies to tourist accommodation service providers (breach of Services Directive). All Member States have now two months to reply to the arguments raised by the Commission; otherwise, the Commission may decide to proceed with the following steps of the infringements procedure. For more information, please refer to the full press release.

**Free movement of goods: Commission calls on GERMANY to remove restrictions on import of coffee**

The Commission decided today to send a letter of formal notice to Germany regarding restrictions on imports of coffee. Under the German Coffee Tax Law, (in German: Kaffeesteuergesetz) retailers established in another Member State selling coffee to Germany must appoint a fiscal representative located in Germany. The representative needs to be approved by the German customs authority, record the mail order deliveries and pay the tax guarantee and due tax. The Commission considers that this requirement prevents retailers from other Member States to freely import coffee into Germany and additional costs incurred make it more difficult in particular for small or medium-sized companies, to enter the German market. The Commission considers that this kind of requirement is contrary to EU rules on free movement of goods (Article 34 of the Treaty on the Functioning of the EU, TFEU). Furthermore, the fact that a representative must be located in Germany impedes the freedom to provide services (Article 56 of TFEU) and results in a barrier to the import of coffee. Germany now has two months to respond to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion to Germany.

**Public procurement: Commission requests the NETHERLANDS to comply with EU public procurement rules**

The Commission decided today to send an additional letter of formal notice to the Netherlands regarding their national rules on housing corporations. Under Dutch law, housing corporations are not considered to be contracting authorities and, as a result, do not follow EU public procurement rules. However, they are closely dependent on Dutch public authorities, on the central as well as local level. Therefore, the Commission considers the Netherlands may have breached EU law (Directive 2014/23/EU and Directive 2014/24/EU). In particular, the obligation of transparency that requires housing corporations to publish their calls for tenders to allow equal opportunities for businesses as well as to ensure best value for money in their purchases. The Commission sent the first letter of formal notice in December 2017 and with this complimentary letter is now seeking to clarify the outstanding legal aspects. The Netherlands has now two months to reply to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

**Free movement of goods: Commission calls on SPAIN to remove additional requirements on pyrotechnic articles**

The Commission decided today to send a letter of formal notice to Spain regarding its rules on pyrotechnic articles, such as fireworks. Spanish law obliges economic operators to register these products prior to their import, transfer, storage and distribution in Spain and to obtain an authorisation for circulation from the Spanish authorities. These national requirements come on top of those already foreseen under the Pyrotechnic Articles Directive, which ensures a high level of protection of consumer health and public security. The Commission believes that imposing these
additional requirements on pyrotechnic articles lawfully manufactured and certified in another EU Member State runs counter to the Pyrotechnic Articles Directive (Directive 2013/29/EU) and the Single Market, since a product lawfully marketed should be able to move freely across the EU. The Spanish national restrictions duplicate the controls already carried by another Member State. Spain now has two months to reply to the arguments put forward by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

11. Justice, Consumers and Gender Equality

(For more information: Christian Wigand – tel.: +32 229 62253, Melanie Voin - tel.: +32 229 58659)

Reasoned opinions

Data protection: Commission urges 7 Member States to implement the Data Protection Law Enforcement Directive and to 2 Member States to finalise its implementation

The Commission decided today to send reasoned opinions to Bulgaria, Cyprus, Greece, Latvia, the Netherlands, Slovenia, and Spain for failing to implement the Data Protection Law Enforcement Directive (Directives (EU) 2016/680) and reasoned opinions to Czechia and Portugal to urge them to finalise its implementation. Member States had to transpose the Directive into their national law by 6 May 2018. The Directive protects citizens' fundamental right to data protection whenever criminal law enforcement authorities for law enforcement purposes use personal data. EU rules ensure that the personal data of victims, witnesses, and suspects of crime are duly protected. The introduction of similar data protection standards facilitates the exchange of personal data for cross-border cooperation in the fight against crime and terrorism. As the 7 Member States concerned failed to transpose EU rules into national legislation, the Commission sent a letter of formal notice to the respective authorities in July 2018. Czechia and Portugal also received a letter of formal notice in July 2018 for their partial transposition of the Directive. These countries now have two months to respond and take the relevant action; otherwise, the cases may be referred to the Court of Justice of the EU.

Reasoned opinions and a letter of formal notice

Anti-money laundering: Commission calls on 10 EU countries to completely transpose EU law fighting money laundering and terrorist financing

Today, the Commission decided to send a letter of formal notice to Germany; reasoned opinions to Belgium, Finland, France, Lithuania, Portugal; and additional reasoned opinions to Bulgaria, Cyprus, Poland, and Slovakia for failing to completely transpose the 4th Anti-Money Laundering Directive (Directive (EU) 2015/849) into national law. Despite these Member States having declared their transposition to be complete, the Commission concluded after assessing the notified measures that some provisions are missing. Transposing the rules timely and correctly is crucial for an effective fight against money laundering and terrorism financing, as several recent money laundering scandals in the EU have shown. Gaps in one Member State can have an impact on all others. All Member States had to transpose the rules of this Directive by 26 June 2017. Belgium, Bulgaria, Cyprus, Finland, France, Germany, Lithuania, Poland, Portugal, and Slovakia now have two months to respond and take the relevant action; otherwise, the European Commission may pursue the next infringement steps.

Letters of formal notice

Unfair contract terms: Commission calls on BULGARIA to comply with EU legislation on unfair terms in consumer contracts

The Commission urges Bulgaria to review its rules on how traders can enforce claims against consumers, to make them compatible with EU law on unfair terms in consumer contracts (the Unfair Contract Terms Directive, Directive 93/13/EEC) to ensure consumers are properly protected in such cases. The Directive protects consumers against unfair terms in contracts with traders, including providers of financial services. EU rules also guarantee that such unfair terms do not bind consumers and they have effective remedies under reasonable conditions against them. Under the case law of the Court of Justice, this implies that national courts are obliged to assess the unfairness of contract terms ex officio, i.e. even if the consumer does not raise this point. To date in Bulgaria, however, payment orders and orders for immediate enforcement are issued without any substantive checks by the courts. Consumers can only challenge them under very strict conditions. In particular, certain creditors, such as banks, can obtain orders for immediate enforcement quasi automatically, with very limited possibilities for the consumers to prevent or challenge the enforcement based on unfair contract terms. If Bulgaria does not send a satisfactory reply within the next two months, the Commission may issue a reasoned opinion on this matter.
Criminal justice: Commission urges BULGARIA and IRELAND to correctly implement the framework decision on deprivation of liberty

The Commission calls on Bulgaria and Ireland to take action to ensure the EU rules on deprivation of liberty (Council Framework Decision 2008/909/JHA) are correctly implemented in national law. Member States had to adopt their national laws by 5 December 2011. These rules ensure the mutual recognition of judgments in criminal matters imposing prison sentences. EU rules aim to facilitate the social rehabilitation of the sentenced individuals. In Bulgaria, the draft legislative process is at an early stage and the country has not notified the Council and the Commission of any transposition yet. In March 2016, Ireland committed to adopt the legislation by the end of 2016. To date, the Irish authorities have failed to transpose the framework decision and to notify the transposition measures to the Council and the Commission. If Bulgaria and Ireland do not take the necessary action within the next two months, the Commission may send a reasoned opinion on this matter.

Criminal justice: Commission requests IRELAND to implement fully three Framework Decisions on probation measures and alternative sanctions, on supervision measures and on financial penalties

The Commission decided today to send 3 letters of formal notice to Ireland requesting that the country ensures full implementation in its national law of 3 Council Framework Decisions on probation measures and alternative sanctions (Decision 2008/947/JHA), on supervision measures (Decision 2009/829/JHA) and on financial penalties (Decision 2005/214/JHA). The purpose of the framework decision on the probation measures and alternative sanctions is to facilitate the social rehabilitation of sentenced persons, improving the protection of victims and of the general public. This also facilitates the application of suitable probation measures and alternative sanctions, in the case of offenders who do not live in the State of conviction. Member States had to adopt their national law until 6 December 2011. The framework decision on the supervision measures ensures that the person concerned will be available to stand trial. It also promotes, where appropriate, the use, in the course of criminal proceedings, of non-custodial measures for persons who are not resident in the Member State where the proceedings are taking place. In addition, this decision improves the protection of victims and of the general public. Member States had to adopt national law by 1 December 2012. As regards the framework decision on financial penalties, it allows for mutual recognition of financial penalties, enabling a judicial or administrative authority to transmit a financial penalty directly to an authority in another EU country and to have that penalty recognised and executed without any further formality. EU countries had to implement this Decision by 21 March 2007. If Ireland does not take necessary action within the next two months, the Commission may send a reasoned opinion on this matter.

12. Maritime Affairs and Fisheries

(For more information: Enrico Brivio – tel.: +32 229 56172, Daniela Stoycheva – tel.: +32 229 53664)

A letter of formal notice

Fisheries control: Commission follows up on infringement procedure against DENMARK concerning its compliance with some provisions of the EU control rules

The Commission decided today to send an additional letter of formal notice to Denmark over its failure to enforce several important provisions of the EU Control Regulation (Council Regulation (EC) No No 1224/2009). The Regulation establishes a system for the control, inspection and enforcement by national authorities of the EU rules of the Common Fisheries Policy. The Regulation has been in force since 1 January 2010. To date, the Commission considers that Denmark fails to ensure that all fishery products are weighed at landing and that mandatory catch registration documents record the quantities of each species present, including industrial by-catches. The most serious issues concern fisheries for industrial purposes. These deficiencies significantly undermine the accuracy of catch registration documents which are necessary for quota deduction purposes and to prevent overfishing. In addition, Denmark does not ensure that the Commission is notified of the quantities of stocks actually landed with a consequent risk to the sustainability objectives of the Common Fisheries Policy. Denmark has now two months to reply to the concerns raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

13. Migration, Home Affairs and Citizenship

(For more information: Natasha Bertaud – tel.: +32 229 67456, Markus Lammert - tel.: +32 229 80423)
Legal migration: Commission calls on CYPRUS and GREECE to implement EU rules on non-EU students and researchers

The Commission decided today to send reasoned opinions to Cyprus and Greece for failing to communicate national legislation which fully transposes the Directive on the conditions of entry, residence and intra-EU mobility of non EU-nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects, and au pairing (Directive 2016/801). Member States had until 23 May 2018 to bring their national legislation in line with this Directive and to inform the Commission accordingly. The Commission addressed letters of formal notice to Greece and Cyprus in July 2018 and is now following up with reasoned opinions, the second step in an infringement procedure. The two Member States now have two months to fully transpose the Directive in their national law, otherwise, the Commission may consider referring the case to the Court of Justice of the EU.

Schengen Borders Code: ESTONIA requested to remove additional conditions for crossing the external borders

Today, the Commission decided to send a reasoned opinion to Estonia for introducing additional obligations on travellers crossing the external EU border, which are in breach of the Schengen Borders Code (Regulation (EU) 2016/399). Currently, Estonia requires travellers who want to exit the EU to reserve a place in a border crossing queue and to pay a fee for the reservation and for the use of the waiting area. The Schengen Borders Code provides a comprehensive set of conditions for crossings and checks that need to take place when travellers are exiting the EU borders. The Code does not allow Member States to introduce any additional obligations, such as those at the border crossings in Estonia. The Commission sent a letter of formal notice to Estonia in May 2016. The reply received was not satisfactory and consequently, the Commission is now following up with a reasoned opinion, the second step in an infringement procedure. Estonia has two months to notify the Commission of all measures taken to ensure the correct implementation of the provisions on crossing of the EU external borders, as outlined in the Schengen Borders Code. Otherwise, the Commission may refer the case to the Court of Justice of the EU.

Asylum: Commission steps up infringement procedure against HUNGARY for criminalising activities in support of asylum, residence applications

The European Commission decided today to send a reasoned opinion to Hungary concerning legislation which criminalises activities that support asylum and residence applications and further restricts the right to request asylum. On 19 July 2018, the Commission decided to send a letter of formal notice to Hungary concerning the new legislation. After analysing the reply provided by the Hungarian authorities, the Commission considers that the majority of the concerns raised have still not been addressed, in particular as regards the following points. Firstly, on criminalisation of support to asylum applicants. The Hungarian legislation curtails asylum applicants’ right to communicate with and be assisted by relevant national, international and non-governmental organisations by criminalising support to asylum and residence applications. Secondly, on restriction of individual freedoms. By preventing anyone who is subject to a criminal procedure under these laws from approaching the transit zones at Hungary’s borders, the legislation unduly restricts the exercise of free movement rights of EU citizens. Sanctions range from temporary confinement to imprisonment of up to one year and expulsion from the country. Finally, on unlawful limitation of the right to asylum. The introduction of an additional non-admissibility ground for asylum applications, not provided for by EU law, is a violation of the EU Asylum Procedures Directive. In addition, while EU law provides for the possibility to introduce non-admissibility grounds under the "safe third country" and the "first country of asylum" concepts, the Hungarian law and the constitutional amendment on asylum curtail the right to asylum in a way which is incompatible with the Asylum Qualifications Directive (Directive 2011/95/EU) and the EU Charter of Fundamental Rights. The Commission has, therefore, decided to send a reasoned opinion to Hungary for breach of EU law. The Hungarian authorities now have two months to respond to the Commission’s concerns. Otherwise, the Commission may refer the case to the Court of Justice of the EU. For more information, please refer to the full press release.

Legal migration: Commission calls on HUNGARY to ensure the correct implementation of the Long-Term Residents Directive

The Commission decided today to send a reasoned opinion to Hungary for excluding non-EU nationals with long-term resident status from exercising the veterinary profession, thereby incorrectly implementing the Long-Term Residents Directive (Council Directive 2003/109/EC). The Directive requires that non-EU nationals who are legally resident in an EU Member State for at least five years enjoy equal treatment with nationals in certain areas, including access to employment and
self-employed activities. The Hungarian law does not allow non-EU nationals who are qualified as veterinary professionals, including those who obtained a degree in Hungary, to exercise their profession in Hungary. The Commission addressed a letter of formal notice to Hungary in July 2018. After assessing the reply from the Hungarian authorities, the Commission is today following up by sending a reasoned opinion. Hungary now has two months to respond to the arguments put forward by the Commission; otherwise, the Commission may consider referring the case to the Court of Justice of the EU.

**Asylum: Commission calls on HUNGARY, POLAND, and SLOVENIA to fully implement the current Qualification Directive**

Today, the Commission decided to send reasoned opinions to Hungary, Poland, and Slovenia for failing to notify measures taken to implement the current EU standards on the qualification of third-country nationals for international protection (Directive 2011/95/EU). The Directive, adopted in December 2011, lays down common EU standards for the identification of non-EU citizens or stateless persons in need of international protection. It also ensures a minimum level of benefits and rights in all EU countries, thus providing a disincentive for secondary movements between EU countries and asylum shopping. Member States had to implement the common standards until 21 December 2013. Hungary, Poland, and Slovenia did not fully implement all the provisions of the Directive and the Commission sent them letters of formal notice in January 2014. The Commission is today following up with reasoned opinions. Hungary, Poland, and Slovenia have now two months to notify the Commission of the relevant measures taken to ensure the full implementation of the Directive. Otherwise, the Commission may refer these cases to the Court of Justice of the EU.

**Security Union: Commission calls on SPAIN to fully implement the EU rules on passenger name record (PNR) data**

Today, the European Commission decided to send a reasoned opinion to Spain for failing to notify the Commission of any national measures taken so far to implement the EU rules on passenger name record (PNR) data (Directive 2016/681). PNR data refers to information provided by passengers to airlines when booking and checking-in for flights, such as the passenger’s name, travel dates, travel itineraries, seat number, baggage, contact details, and means of payment. The PNR Directive provides rules on the transfer of such data from airlines to Member States and how it is processed, which should take place in full respect of data protection safeguards. The use of PNR data is an important tool for fighting terrorism and serious crime, tracing suspicious travel patterns and identifying potential criminals and terrorists. It is a key element of the European Agenda on Security and an essential building block towards an effective and genuine Security Union. However, for the PNR framework to be effective and reach its full potential, it is crucial that all Member States have their systems up and running as soon as possible. Member States had to fully implement the new EU PNR rules by 25 May 2018. Today’s reasoned opinion follows the letter of formal notice sent to Spain in July 2018. Spain now has two months to notify the Commission of the measures taken to ensure the full implementation of the new rules, after which the Commission may refer the case to the Court of Justice of the EU.

**Letters of formal notice**

**Legal migration: Commission calls on SLOVENIA to ensure the correct implementation of the Single Permit Directive**

Today, the Commission decided to open an infringement procedure by sending a letter of formal notice to Slovenia for not ensuring equal treatment for non-EU workers as set out in the Single Permit Directive (Directive 2011/98/EU). Designed to facilitate legal migration, the Directive introduces simplified procedures and a common set of rights for non-EU workers. These EU rules ensure that non-EU workers enjoy benefits similar to those of EU nationals regarding working conditions, pensions, social security and access to public services. The Slovenian law incorrectly implements provisions on the right to equal treatment regarding family benefits by requiring single permit holders to have permanent residence in order to access them. Such a requirement does not apply to Slovene nationals. Similarly, when it comes to the export of pension rights, Slovenia allows for the payment of pensions to its own nationals living abroad, while restricting this right for non-EU workers. Slovenia has now two months to respond to the arguments put forward by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

**Home affairs: Commission urges ITALY, PORTUGAL, and SPAIN to implement rules on combating child sexual abuse**

Today, the Commission decided to send letters of formal notice to Italy, Portugal, and Spain for failing to implement the EU rules on combating the sexual abuse and sexual exploitation of children and child pornography (Directive 2011/93/EU). The EU has strict rules criminalising such abuse across Europe, ensuring severe penalties for offenders, protecting child victims and helping to prevent
such offences from taking place in the first place. The Directive also includes special measures to fight child sexual abuse on the web. Member States had to implement the new rules until December 2013. However, since the Directive is extremely comprehensive, almost all Member States faced delays during the implementation period. The Commission is aware of those challenges but to ensure effective protection of children from sexual abuse, Member States must comply in full with the provisions of the Directive. This is why the Commission decided to open infringement procedures against these Member States, which now have two months to respond to the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

14. Mobility and Transport

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Reasoned opinions

Inland navigation: Commission urges BELGIUM to comply with EU rules on chartering and pricing

The Commission decided today to send a reasoned opinion to Belgium for incompatibility of the national requirement regarding chartering and pricing in inland waterway transport with EU law (Council Directive 96/75/EC). The Directive establishes that contracts both in international and in national transport shall be freely concluded between the parties concerned and prices freely negotiated. Belgium now has two months to comply with the reasoned opinion; otherwise, the Commission may decide to refer the Member State to the Court of Justice of the EU.

Road transport: Commission requests CYPRUS to upgrade its connection of its national electronic register to the new TACHOnet version

The Commission decided to send a reasoned opinion to Cyprus for failing to upgrade the connection of their respective national registers to the new TACHOnet version (Commission Implementing Regulation 2016/68). The interconnection and exchange of information between Member States on the electronic registers of driver cards is performed through the TACHOnet messaging system. TACHOnet is composed of a central hub managed by the European Commission and a national system, which includes national electronic registers, managed by Member States. EU countries are, therefore, responsible for the setup and maintenance of their national electronic registers and for guaranteeing the interoperability of the national system with the central hub. The implementation of a new and enhanced version of TACHOnet requires Member States to adapt their systems at national level. The deadline for establishing an upgraded connection of national electronic registers to TACHOnet expired on 2 March 2018. If the authorities from Cyprus fail to send a satisfactory response within two months, the Commission may decide to refer the abovementioned Member States to the Court of Justice of the EU.

Rail transport: Commission calls on FRANCE to transpose EU rules on access to rail infrastructure

As part of a general review of the transposition of EU rules on establishing a single European railway area (Directive 2012/34/EU) by EU Member States, the Commission has decided to send a reasoned opinion to France. The comprehensive rail reform underway in France is expected to tackle the issues of conformity with the Directive. However, to date, the Commission takes the view that the French rail regulatory framework, which is still being completed, is not fully compliant with specific provisions, including those regarding access to rail-related services and guarantees of independence for the station manager. France has two months to reply to the arguments raised by the Commission, otherwise the Commission may decide to refer the Member State to the Court of Justice of the EU.

Letters of formal notice

Rail transport: Commission calls on HUNGARY to submit its plans on technical requirements for accessibility and the operation and traffic management of rail system

The Commission decided today to send a letter of formal notice to Hungary for failing to submit its National Implementation Plans (NIPs) on the technical requirements relating to two regulations, namely the accessibility for persons with disabilities and persons with reduced mobility (Commission Regulation 1300/2014/EU) and the 'operation and traffic management' subsystem of the rail system, as required by EU rules (Commission Regulation 2015/995). Member States were required to notify their plans no later than respectively 1 January 2017 and 1 July 2017. Hungary has two months to reply to the arguments raised by the Commission, after which the Commission may adopt a reasoned opinion.
Road safety: Commission calls on IRELAND and POLAND to report on exchange of information on road traffic offences

The Commission decided today to send letters of formal notice to Ireland and Poland for failing to report on their information exchange about road traffic offences as required by EU rules on facilitating cross-border exchange of information on road-safety-related traffic offences (Directive 2015/413/EU). The Directive allows Member States to identify and prosecute non-resident drivers committing offences, such as speeding and drink-driving on their territory. Member States have to send a report to the Commission indicating the number of automated searches on offences committed on their territory by vehicles registered abroad, conducted via an online platform. The report also has to indicate the number of failed searches as well as include a description of the follow-up given to the offences. This information is crucial for assessing the functioning of the information exchange, the effectiveness of the offences investigation by Member States and the Directive's impact on road safety. The report should have been submitted by 6 May 2018. Both countries have two months to reply to the concerns raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

Rail transport: Commission calls on SPAIN to correctly implement EU rules concerning railway safety

The Commission decided today to send a letter of formal notice to Spain considering that the safety processes in Spain do not meet the requirements of EU railway safety legislation (the Railway Safety Directive, Directive 2004/49/EC). The Directive covers safety requirements on the railway system as a whole. In Spain, the Commission considers that shortcomings have been identified in the way accidents and incidents are analysed and investigated by the national investigating body as well as in the supervision techniques by the national safety authority. Spain has two months to reply to the concerns raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

Transport services: Commission urges POLAND to comply with common rules for access to the international market for coach and bus services

The Commission decided to request today that Poland fully comply with EU legislation for access to the international market for coach and bus services (Regulation (EC) No 1073/2009). In October 2009, the Regulation was adopted as a part of the package of measures aimed at modernising the rules governing admission to the occupation of road transport operator and access to the road transport market. The main objective of the Regulation is to contribute to the completion of the internal market for coach and bus services and to increase the market's efficiency and competitiveness to generate a shift in the use of private passenger cars to coach and bus services. A Polish authority withdrew the authorisation of a bus carrier established in Germany to operate an international regular bus service between Germany and Poland. The Polish authority was neither competent for withdrawal of the authorisation nor were the legal requirements for the withdrawal met. Therefore, the Commission is in the opinion that Poland breached this EU Regulation. Poland now has two months to reply; otherwise, the Commission may decide to adopt a reasoned opinion.

Transport of dangerous goods: Commission calls on the UNITED KINGDOM to enact EU rules on road transport of dangerous goods

The Commission requested the United Kingdom today to fully comply with EU law on road transport of dangerous goods (Commission Directive 2018/217). The United Kingdom has failed to provide further evidence concerning the implementing measures adopted at national level in view to transpose the Directive. The United Kingdom authorities now have two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

15. Taxation and Customs Union

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Referrals to the Court of Justice of the European Union

Taxation: Commission refers GERMANY to the Court for its failure to align with EU rules on VAT refunds

The Commission decided today to refer Germany to the Court of Justice of the EU for rejecting certain applications for VAT refunds for businesses in other Member States.

Specifically, Germany refuses in some cases to refund VAT without asking for additional information from the refund applicant where it considers that the information provided on the nature of the
goods and services provided is insufficient for coming to a decision on the application. This practice leads to situations where a VAT refund is denied to applicants that fulfil the substantive requirements, and violates the right to a VAT refund established under the EU rules (the VAT Directive, Council Directive 2006/112/EC and the Refund Directive, Council Directive 2008/9/EC). With today’s decision, the European Commission is enforcing EU legislation in its role of Guardian of the Treaties. The decision to refer the matter to the Court follows Germany's failure to bring its legislation into line with EU law following the Commission's reasoned opinion. For more information, please refer to the full press release.

Taxation: Commission refers the UNITED KINGDOM to the Court for its failure to comply with VAT rules for certain commodity markets

The Commission decided today to refer the United Kingdom to the Court of Justice of the EU for extending the scope of a VAT measure which allows VAT derogations for certain commodity markets. Currently, the United Kingdom applies a zero-rate of VAT to transactions carried out on certain commodity markets in the UK. Since this derogation was notified to the Commission in 1977, the UK has extended the scope of the measure considerably, meaning that it is no longer limited to trading in the commodities originally covered. Under EU rules agreed by all Member States (the VAT Directive, Council Directive 2006/112/EC), this type of "standstill" derogation cannot be extended in scope. It also generates major distortions of competition to the detriment of other financial markets within the EU. Today's referral follows the United Kingdom's failure to bring its legislation into line with EU VAT law following the Commission's reasoned opinion in July 2018. For more information, please refer to the full press release.

A referral to the Court of Justice of the European Union and a letter of formal notice

Taxation: Commission refers ITALY to the Court of Justice of the EU for its preferential treatment of property registration tax

The European Commission decided today to refer Italy to the Court of Justice of the EU for its failure to amend its legislation that provides a reduced tax rate for Italians living abroad buying their first housing on Italian soil. Such Italian emigrants are entitled to a preferential rate of registration tax without having to fulfil the residence requirement. Nationals of other Member States are not entitled to any such preferential treatment if they do not effectively reside or take up residence within 18 months in the municipality in which the property is located. Such discriminatory treatment, directly based on the ground of nationality, is not allowed under the Treaty on the Functioning of the EU (TFEU). Similarly, under certain conditions, Italian pensioners living abroad are exempt from a municipal property tax known as “IMU” or can benefit from rebates for local services taxes on their immovable property in Italy. The Commission has, therefore, also decided today to send a letter of formal notice to Italy for maintaining more favourable conditions for certain municipal taxes on the first house in Italy of Italian pensioners living in the EU or in EEA countries. For more information, please refer to the full press release.

Reasoned opinions

Taxation: the Commission requests that FRANCE bring tax rules related to personal care services and help at home in line with EU law

The Commission has decided to send a reasoned opinion to France because of the tax disadvantages related to personal care and 'help at home' services suffered by some resident and non-resident taxpayers. Currently, a tax credit for care services provided at home to taxpayers or, under certain conditions, to their ascendants is granted only if these services are provided at a residence located in France. This condition is contrary to the principles of EU law as it penalises taxpayers resident in France who are domiciled in another EU or EEA State. This also penalises non-resident taxpayers who are in a situation comparable to that of residents because they derive most of their income from their activity in France. If France does not act within the next two months, the Commission may decide to bring the case before the Court of Justice of the EU.

Taxation: Commission calls on GERMANY to align its rules with EU law regarding the flat-rate VAT scheme applied to farmers

The Commission decided today to send a reasoned opinion to Germany in relation to its application of a specific VAT scheme for farmers. EU rules (the VAT Directive, Council Directive 2006/112/EC) allow Member States to apply a flat-rate VAT scheme for farmers. Under this scheme, farmers charge their customers a standard amount - or "flat-rate compensation" - on their agricultural products and services, instead of applying the normal VAT rules. In turn, those farmers cannot claim compensation for VAT they have already paid. The scheme is supposed to be used by farmers who are likely to experience administrative difficulties when following normal VAT rules. However, Germany applies the flat-rate scheme by default to all farmers, including owners of large farms, without making a
distinction between those who would encounter such difficulties and those who would not. In addition, according to figures from the German Supreme Audit Institution (Bundesrechnungshof), allowing the flat-rate to be applied in this way to farmers results in overcompensation for the input VAT that they have paid. This is not allowed under EU rules and generates major distortions of competition in the internal market. If Germany does not act within the next two months, the Commission may decide to bring the case before the Court of Justice of the EU.

**Taxation: Commission requests GERMANY to change restrictive exit tax provisions on capital gains tax**

The Commission decided today to send a reasoned opinion to Germany for imposing an immediate exit tax on the transfer of assets to an EU/EEA State. The transfer of German assets from German companies to a recipient based in an EFTA State participating in the EEA (Norway, Iceland and Liechtenstein) are treated less favourably than purely domestic transactions would. This is because German law requires unrealised capital gains to be included in the taxable base of that financial year for such transfers. Secondly, non-resident taxpayers cannot benefit from that deferral but instead are taxed immediately, amounting to a breach of the freedom of establishment. The German rules in question are therefore likely to dissuade taxpayers from exercising their freedom of establishment (Article 49 of TFEU) and the corresponding provision within the EEA Agreement. If Germany does not act within the next two months, the Commission may decide to bring the case before the Court of Justice of the EU.

**Taxation: Commission calls on PORTUGAL to align its tax rules regarding the sale of real estate by non-residents**

The European Commission decided today to send a reasoned opinion to Portugal asking it to change restrictive provisions on exit tax for capital gains, bringing it in line with the relevant judgments of the Court of Justice of the EU. Portugal had taxed capital gains of non-resident taxpayers at a fixed rate of 28%, whereas residents were subject to a progressive income tax. In two cases, (Case C-443/06, Hollmann vs Pública and C-184/18, Fazenda Pública vs Teixeira) the Court has found this different treatment incompatible with the free movement of capital guaranteed by Article 63 of TFEU and by the EEA Agreement. Portugal has introduced an option for non-residents to be treated as residents and have 50% of such capital gains from Portuguese sources taxed at progressive income tax rates. However, EU case law holds that a mere option to be treated as a resident taxpayer does not remedy the infringement if the default taxation still imposes a greater burden on non-resident taxpayers. If Portugal does not provide satisfactory response within two months, the Commission may decide to bring the case before the Court of Justice of the EU.

**Taxation: Commission urges ROMANIA to comply with EU law in refunding unduly charged car registration taxes**

The Commission decided today to send a reasoned opinion to Romania for failing to ensure the full and immediate refund of registration taxes on second-hand vehicles purchased from other Member States. These taxes have been considered by the Court of Justice of the EU as infringing EU rules (Article 110 of TFEU). The Romanian rules on the repayment of taxes do not fulfil the principles of sincere cooperation, equivalence and effectiveness. If Romania does not act within the next two months, the Commission may decide to bring the case before the Court of Justice of the EU.

**Taxation: Commission calls on the UNITED KINGDOM to bring its income tax rules in line with EU law**

The Commission decided today to send a reasoned opinion to the United Kingdom concerning its national law on income tax relief for losses on disposals of shares. Currently, only shares in companies which carry out their business activities wholly or mainly in the United Kingdom can qualify for the relief. This rule puts taxpayers who invest in qualifying shares of companies which carry out their business in other EU Member States than the United Kingdom at a disadvantage. It also imposes a restriction on the free movement of capital (Article 63 of TFEU). If the United Kingdom does not provide satisfactory response within two months, the Commission may decide to bring the case before the Court of Justice of the EU.

**Taxation: Commission requests that the UNITED KINGDOM align its rules on tax relief for loans to traders**

The Commission decided today to send a reasoned opinion to the United Kingdom concerning its national law on tax relief for loans to traders. UK legislation currently provides for a specific relief where a "qualifying loan" has become irrecoverable. In this case, the lender is entitled to make a claim that the amount of the loan should be deductible against his liability to capital gains tax or to corporation tax on chargeable gains. However, the rules differentiate between the tax treatment of ‘irrecoverable loans’ granted to UK residents and those granted to non-UK resident borrowers. This
imposes an unjustified restriction on the free movement of capital (Article 63 of TFEU). If the United Kingdom does not provide a satisfactory response within two months, the Commission may decide to bring the case before the Court of Justice of the EU.

Letters of formal notice

**Taxation: Commission calls again on HUNGARY to bring its road transport control system into line with EU rules**

The Commission decided today to send a complementary letter of formal notice to Hungary to confirm that the requirements of a road transportation control system there do not comply with EU VAT law (Council Directive 2006/112/EC) and to request that they be changed. 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. The Commission confirms that the EKAER requirements infringes on VAT rules as it primarily affects cross-border EU transactions and introduces administrative formalities connected with the crossing of borders. Moreover, the Commission considers that the Hungarian legislation breaches the principles of neutrality and proportionality, as well as the freedom to conduct a business guaranteed by the Charter of Fundamental Rights of the EU. If Hungary does not act within the next two months, the Commission may send a reasoned opinion to the Hungarian authorities.

**Taxation: Commission urges HUNGARY to align tax rates on cigarettes with the minimum EU threshold**

The Commission decided today to send a letter of formal notice to Hungary in view of its failure to reach the minimum EU threshold for excise duty on cigarettes as required by EU rules on manufactured tobacco (Council Directive 2011/64/EU). Current rules require Member States to charge an excise duty on cigarettes of at least 60% of the applicable weighted average retail price of cigarettes released for consumption in their territory. Together with other Member States, Hungary allowed a transitional period until 31 December 2017 in order to meet this requirement but the excise duty applied on cigarettes by Hungary remains below the minimum threshold. If Hungary does not act within the next two months, the Commission may send a reasoned opinion to the national authorities.

**Taxation: Commission requests that POLAND amend its legislation on VAT for excise goods facilitated by consignees**

The Commission decided today to send a letter of formal notice to Poland to amend its VAT rules which oblige consignees providing clearance services for excise goods (e.g. fuel) for their customers to pay VAT not only on the services provided by the consignee itself, but also on the amount of excise duty and fuel charge collected on the fuel. This is despite the fact that they do not carry out intra-EU acquisitions of fuel within the meaning of current EU rules on VAT (the VAT Directive, Council Directive 2006/112). This can also lead to double taxation since the clients of those companies are also obliged to pay VAT for intra-EU acquisition of this fuel. If Poland does not act within the next two months, the Commission may send a reasoned opinion to the Polish authorities.

**Taxation: Commission requests that PORTUGAL modify its legislation on car taxation**

The Commission decided today to open an infringement procedure against Portugal for not taking into account the environmental component of the registration tax imposed on used cars imported from other Member States for depreciation purposes. The Commission considers that the Portuguese legislation is not compatible with Article 110 of TFEU since used cars imported from other Member States are taxed more heavily compared to used cars purchased in the Portuguese market because their depreciation is not fully taken into account. If Portugal does not act within the next two months, the Commission may send a reasoned opinion to the Portuguese authorities.

**Customs: Commission requests that ROMANIA modify its legislation on customs debt**

The Commission decided today to send a letter of formal notice to request Romania to align its legislation on customs debt with the Union Customs Code (Regulation (EU) No 952/2013). Under these rules, customs authorities have three years to communicate a debt to the debtor. If the customs debt is incurred as a result of a criminal act, customs authorities have ten years to communicate. National Romanian customs law states that the customs debt cannot be communicated to the debtor after five years from the moment the customs debt was incurred, irrespective of whether it was incurred as a result of a criminal act. Neither does this provision respect the three years period to communicate the custom debt defined in the EU Customs law. If Romania does not act within the next two months, the Commission may send a reasoned opinion to the Romanian authorities.
Taxation: the Commission asks SPAIN to abolish unduly restrictive conditions for tax deferrals in case of divisions of companies

The Commission decided today to send a letter of formal notice asking Spain to abolish conditions in Spanish law that run counter to the Merger Directive (Council Directive 90/434/EEC). The purpose of that Directive is to ensure that business reorganisations such as mergers and divisions are not hampered by taxation at the point in time of restructuring. Taxation of capital gains resulting from such reorganisation shall therefore be deferred to a later sale or disposal of the assets and shares. Spanish law however attaches unduly restrictive conditions for certain types of divisions of companies: the tax deferral is not granted if the shareholders of the divided company do not receive the same proportion of shares in all companies resulting from the division, unless the acquired assets are branches of activity. If Spain does not act within the next two months, the Commission may send a reasoned opinion to the Spanish authorities.

Taxation: Commission requests that SPAIN amend rules on country-by-country reporting by multinational companies

The Commission decided to send a letter of formal notice to Spain requesting it to implement the EU rules on country-by-country reporting by multinational groups (the 4th Directive on Administrative Cooperation, Council Directive 2016/881) in their entirety. The current Spanish rules lack a number of elements regarding the reporting obligations of multinational companies. If Spain does not act within the next two months, the Commission may send a reasoned opinion to the Spanish authorities.

Closures

Taxation: Commission closes case for CZECHIA, GREECE, and POLAND

The Commission welcomes the transposition by Czechia, Greece, and Poland of the measures on mandatory automatic exchange of information in the field of taxation as regards Member State tax authorities' access to anti-money-laundering information (the 5th Directive on Administrative Cooperation, Council Directive (EU) 2016/2258). Today, the Commission decided to close these three infringement cases. The Commission opened infringement proceedings against these three Member States in January 2018 and a reasoned opinion was sent to the Greek authorities in June 2016.

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