

# Daily News 19 / 07 / 2018

## **President Juncker visits Spain, 19-20 July**

Today and tomorrow, President **Juncker** is in Madrid, Spain. This afternoon, he will have an audience with His Majesty King Felipe VI, in the presence of the Minister of Foreign Affairs and Cooperation of Spain, Josep Borrell. This evening, President **Juncker** will give the 4<sup>th</sup> Carlos de Amberes Commemorative Lecture, entitled "New Perspectives for the Future of the EU" at the Carlos de Amberes Foundation, where he will be introduced by Prime Minister Pedro Sánchez. Tomorrow, Friday 20 July, President **Juncker** will be awarded the Prize Marquess of Villalobar by the Chamber of Commerce of Belgium and Luxembourg. He will be introduced by Pío García-Escudero, President of the Senate, who will pronounce the Laudation. Follow President **Juncker**'s visit live on [EbS+](#). (For more information: Margaritis Schinas – Tel.: +32 229 60524)

**Procédures d'infraction du mois de juillet: la Commission prend des mesures en vue d'une mise en œuvre complète, correcte et en temps utile du droit de l'Union dans l'intérêt des citoyens et des entreprises**

Pour aider les citoyens et les entreprises à tirer pleinement profit du marché intérieur, la Commission européenne noue un dialogue permanent avec les États membres qui ne respectent pas le droit européen et, au besoin, ouvre des procédures d'infraction à leur égard. Les décisions prises aujourd'hui, dans le cadre des décisions régulières d'infraction, comprennent 146 lettres de mise en demeure, 14 avis motivés et 16 renvois à la Cour de justice de l'UE. Elle clôt également 80 dossiers en cours lorsque l'État membre concerné, en coopération avec la Commission, a résolu le problème et assuré le respect du droit de l'Union et que, dès lors, une saisine de la Cour de justice de l'Union européenne n'est pas nécessaire. Un résumé des principales décisions et les références des communiqués de presse correspondants figurent [ici](#). Les aspects essentiels des procédures d'infraction de l'UE sont énoncés [ici](#). (Pour plus d'informations: Alexander Winterstein – Tel.: +32 229 93265)

**Brexit: European Commission publishes Communication on preparing for the UK's withdrawal from the EU**

The European Commission has today [adopted a Communication](#) outlining the ongoing work on the preparation for all outcomes of the United Kingdom's withdrawal from the European Union. On 30 March 2019, the United Kingdom will leave the EU and become a third country. This will have repercussions for citizens, businesses and administrations in both the United Kingdom and the EU. These repercussions range from new controls at the EU's outer border with the UK, to the validity of UK-issued licences, certificates and authorisations and to different rules for data transfers. Today's text calls on Member States and private parties to step up preparations and follows a

request by [the European Council \(Article 50\)](#) last month to intensify preparedness at all levels and for all outcomes. Preparing for the UK's withdrawal is not only the responsibility of the EU institutions. It is a joint effort at EU, national and regional levels, and also includes in particular economic operators and other private parties – everyone must now step up preparations for all scenarios and take responsibility for their specific situation. A full press release is available [online](#). *(For more information: Alexander Winterstein – Tel.: +32 229-93265; Daniel Ferrie – Tel.: +32 229 86500)*

### **Juncker Plan renews support for windfarms in Greece**

The European Investment Bank (EIB) has signed a €24 million financing agreement with the Greek Terna Energy Group to help fund the development, construction and operation of two windfarms on Mount Vermio in northern Greece. The EIB's loan is backed under the EU budget guarantee of the Juncker Plan's European Fund for Strategic Investments (EFSI). This is the second such agreement with Terna following one [last July](#) to finance windfarms in the Viotia region, and it comes the day after the Commission and the EIB announced that the Juncker Plan has exceeded its original €315 billion investment target, [reaching €335 billion in investment](#) across the EU. Greece is currently ranked top in terms of EFSI-triggered investment relative to GDP, with €10.6 billion in investment mobilised as of July 2018. Pierre **Moscovici**, Commissioner for Economic and Financial Affairs, Taxation and Customs, said: *"After Greece exits its stability support programme on 20 August, the country will stand on its own two feet – but the European Commission will continue to stand by its side, including financially. Today's announcement is a concrete example of how the Juncker Plan is helping to modernise Greece's energy infrastructure, supporting growth and job creation along the way."* *(Full press releases can be found [here](#). For more information: Christian Spahr – Tel.: +32 229 50055; Siobhán Millbright – Tel.: +32 229 57361)*

### **Antitrust: Commission fines Google €4.34 billion for illegal practices regarding Android mobile devices to strengthen dominance of Google's search engine**

The European Commission has fined Google €4.34 billion for breaching EU antitrust rules. Since 2011, Google has imposed illegal restrictions on Android device manufacturers and mobile network operators to cement its dominant position in general internet search. In particular, Google: (i) has required manufacturers to pre-install the Google Search app and browser app (Chrome), as a condition for licensing Google's app store (the Play Store); (ii) made payments to certain large manufacturers and mobile network operators on condition that they exclusively pre-installed the Google Search app on their devices; and (iii) has prevented manufacturers wishing to pre-install Google apps from selling even a single smart mobile device running on alternative versions of Android that were not approved by Google (so called "Android forks"). Google must now bring the conduct effectively to an end within 90 days or face penalty payments of up to 5% of the average daily worldwide turnover of Alphabet, Google's parent company. Commissioner Margrethe **Vestager**, in charge of competition policy, said: *"Today, mobile*

*internet makes up more than half of global internet traffic. It has changed the lives of millions of Europeans. Our case is about three types of restrictions that Google has imposed on Android device manufacturers and network operators to ensure that traffic on Android devices goes to the Google search engine. In this way, Google has used Android as a vehicle to cement the dominance of its search engine. These practices have denied rivals the chance to innovate and compete on the merits. They have denied European consumers the benefits of effective competition in the important mobile sphere. This is illegal under EU antitrust rules.” For more information, see full [press release](#), which is available in all languages. (For more information: Ricardo Cardoso – Tel.: +32 229 80100; Giulia Astuti – +32 229 55344)*

### **Mergers: Commission clears acquisition of joint control over Noustique by Puig International and BSH**

The European Commission has approved, under the EU Merger Regulation, the acquisition of joint control over Noustique Perfumes, S.L. of Spain, by Puig International, S.A. of Switzerland and BSH Hausgeräte GmbH (“BSH”) of Germany. Noustique is active in the development and promotion of a new product in the perfume sector. Puig International is active in the manufacture and distribution of fragrances and cosmetics. BSH manufactures and distributes home appliances via its global and local brands. The Commission concluded that the proposed acquisition would raise no competition concerns given the lack of horizontal overlaps and vertical relationships between the companies’ activities. The transaction was examined under the simplified merger review procedure. More information is available on the Commission’s [competition](#) website, in the public [case register](#) under the case number [M.8891](#). (For more information: Ricardo Cardoso – Tel.: +32 229 80100; Giulia Astuti – +32 229 55344)

### **Concentrations : La Commission autorise l’acquisition d’Aluminium Dunkerque par Liberty Industries France**

La Commission Européenne a approuvé, en vertu du règlement européen sur les concentrations, l’acquisition d’Aluminium Dunkerque (France) par Liberty Industries France (France), contrôlée par Liberty House Group (Royaume-Uni). Aluminium Dunkerque fabrique de l’aluminium primaire en France. Liberty House Group est actif dans la production, le négoce et le recyclage d’acier et d’aluminium ainsi que dans la fabrication de produits d’ingénierie à valeur ajoutée, dans le monde entier. La Commission a conclu que la concentration envisagée ne soulèverait pas de problème de concurrence, compte tenu de son impact très limité sur la structure du marché. La transaction a été examinée dans le cadre de la procédure simplifiée de contrôle des concentrations. De plus amples informations sont disponibles sur le [site internet concurrence](#) de la Commission, dans le [registre public](#) des affaires sous le numéro d’affaire [M.8939](#). (For more information: Ricardo Cardoso – Tel.: +32 229 80100; Giulia Astuti – +32 229 55344)

### **Mergers: Commission clears acquisition of sole control over ZKW by LG**

## Electronics

The European Commission has approved under the EU Merger Regulation the acquisition of ZKW Holding GmbH and Mommert Gewerbeimmobilien Verwaltungs GmbH, both of Austria (together "ZKW"), by LG Electronics, Inc. of South Korea. ZKW is a manufacturer of automotive lighting that develops and produces lighting systems for the full range of automotive vehicles. ZKW mainly produces front lighting systems for original equipment manufacturers in the European Union. LG Electronics is a producer and supplier of electronics, mobile communications devices and home appliances on a global level. The Commission concluded that the proposed acquisition would raise no competition concerns given the negligible overlap between the companies' activities in the European Economic Area. The transaction was examined under the simplified merger review procedure. More information is available on the Commission's [competition](#) website, in the public [case register](#) under the case number [M.8938](#). *(For more information: Ricardo Cardoso – Tel.: +32 229 80100; Giulia Astuti – +32 229 55344)*

### **Antitrust: Commission sends Supplementary Statement of Objections on predatory pricing to Qualcomm [Updated on 19/07/2018 at 12:50]**

The European Commission has sent a Supplementary Statement of Objections to Qualcomm Inc. This is a procedural step in the Commission's ongoing investigation under EU antitrust rules looking into whether Qualcomm engaged in 'predatory pricing'. The Commission sent a Statement of Objections to Qualcomm in [December 2015](#) detailing its concerns. In particular, the Commission's preliminary view is that between 2009 and 2011 Qualcomm sold certain UMTS baseband chipsets at prices below cost, with the intention of eliminating Icera, its main competitor in the leading edge segment of the market at that time. UMTS chipsets are key components of mobile devices. They enable both voice and data transmission in third generation (3G) cellular communication. The Supplementary Statement of Objections sent today focuses on certain elements of the "price-cost" test applied by the Commission to assess the extent to which UMTS baseband chipsets were sold by Qualcomm at prices below cost. The sending of a Supplementary Statement of Objections does not prejudge the outcome of the investigation. More information is available on the Commission's competition website, in the public case register under the case number [AT.39711](#). *(For more information: Ricardo Cardoso – Tel.: +32 229 80100; Giulia Astuti – +32 229 55344)*

### **Capital Markets Union: Commission provides guidance on protection of cross-border EU investments**

The Commission has today issued guidance to help EU investors to invoke their rights before national administrations and courts and to help Member States to protect the public interest in compliance with EU law. Today's [Communication](#) aims to strengthen the business environment for EU investors. This is a crucial element in supporting more investment in the EU single market. EU law does not solve all problems investors may face in their activities. However, the Communication clarifies that EU law protects EU investors' rights, and investors can enforce these rights before national administrations and courts. EU investors can no longer rely on intra-EU

bilateral investment treaties ('intra-EU BITs'). As the Commission has consistently stated, these treaties are illegal as they overlap with the EU single market rules and discriminate between EU investors. In a recent judgment (on the [Achmea](#) case), the Court of Justice of the European Union confirmed that investor-State arbitration in intra-EU BITs is illegal. Following this judgment, the Commission has intensified its dialogue with all Member States, calling on them to take action to terminate the intra-EU BITs. A full [press release](#) and [MEMO](#) can be found online. *(For more information: Johannes Bahrke: +32 229 58615; Letizia Lupini: +32 229 51958)*

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## **Infringement – Internal energy market: Commission refers Germany and Hungary to the Court of Justice of the EU for failure to fully comply with the Third Energy Package**

The European Commission is referring **Germany** to the Court of Justice of the EU to ensure a correct implementation of the Electricity Directive ([Directive 2009/72/EC](#)) and of the Gas Directive ([Directive 2009/73/EC](#)). Both directives are part of the [Third Energy Package](#) and contain key provisions for the proper functioning of energy markets.

Germany has not ensured full respect of rules concerning the powers and independence of the national regulatory authority. In particular, the regulator does not enjoy full discretion in the setting of network tariffs and other terms and conditions for access to networks and balancing services, since many elements for setting these tariffs and terms and conditions are to a large extent laid down in detailed regulations adopted by the Federal government. Furthermore, Germany has incorrectly transposed into national law several requirements concerning the independent transmission operator (ITO) unbundling model. For example, the rules on the independence of the staff and the management of the ITO do not fully respect these Directives and the definition of vertically integrated undertaking incorrectly excludes activities outside the EU.

A letter of formal notice was sent to Germany in February 2015, followed by a reasoned opinion in April 2016. Since compliance with EU law is not yet in place, the Commission has to refer these matters to the Court of Justice.

### **The Commission takes Hungary to Court regarding its legislation on energy network tariffs**

The European Commission is referring **Hungary** to the Court of Justice of the EU

to ensure a correct implementation of the Third Energy Package's requirements on network tariffs. The Third Energy Package requires that tariffs applied by network operators for the use of electricity and gas networks are regulated in order to prevent anti-competitive behaviours, and entrusts national regulatory authorities with the task of setting these tariffs or their methodologies.

After it assessed the legislative measures adopted by Hungary in the energy field, the Commission found that Hungarian law excludes certain types of costs from the calculation of network electricity and gas tariffs, in violation of the principle of cost-recovery of tariffs provided for in the Electricity and Gas Regulations. In addition, the Commission found that Hungary adopted amendments to its energy legislation which jeopardise the right of market operators to a full judicial review of the national regulator's decisions on network tariffs.

The Commission addressed to Hungary a letter of formal notice on these issues in February 2015, and two reasoned opinions, respectively in December 2016 and April 2017. Since compliance with EU law is not yet in place, the Commission has decided to refer these matters to the Court of Justice.

## **Background**

The [Third Energy Package](#) is composed of two Directives (the Electricity Directive [2009/72/EC](#) and the Gas Directive [2009/73/EC](#)) and three Regulations (the Electricity Regulation [\(EC\) No 714/2009](#), the Gas Regulation [\(EC\) No 715/2009](#) and the ACER Regulation [\(EC\) No 713/2009](#)) and contains key provisions for the proper functioning of energy markets to the benefit of consumers.

These include new rules on the unbundling of transmission system operators from energy suppliers and producers in order to ensure non-discriminatory access of all suppliers and producers to electricity and gas transmission networks. When Member States choose the so-called independent transmission operator (ITO) unbundling model, under which it is permitted that an undertaking active in production or supply of electricity or gas also owns a transmission system (vertically integrated undertaking), they have to make sure that the transmission system is effectively run separately from the other activities of the vertically integrated undertaking.

A core element of the electricity and gas market framework is the stronger independence and the powers of national regulators under the Electricity and Gas Directive. In particular, the directives provide that national regulators should be independent of the government or business interests and should have the power to independently determine tariffs or the methodologies for calculating tariffs for the use of electricity and gas networks and other terms and conditions for access to those networks. The Electricity and Gas Regulations also lay down rules on the calculation of network tariffs, which shall take into account all actual costs incurred to network operators.

At the same time, given the increased independence and competences of national regulators, the Directives establish, as a guarantee for



transparency and legality, certain rules on regulators' accountability. The requirement for the Member States to ensure a possibility for appeal (before a court or another independent body) by parties affected by the regulator's decisions is a central aspect of this accountability.

### For More Information

- On the key decisions in the July 2018 infringements package, see full [MEMO/18/4486](#).
  - On the general infringements procedure, see [MEMO/12/12](#).
  - On the [EU infringements procedure](#).
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## July infringements package: key decisions

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 80 cases in which the issues with the Member States concerned have been solved without the Commission needing to pursue the procedure further.

For more information on the EU infringement procedure, see the full [MEMO/12/12](#). For more detail on all decisions taken, consult the [infringement decisions' register](#).

### 1. Digital Single Market

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

*Letters of formal notice*

### **Radio spectrum: Commission calls on BELGIUM to comply with EU rules on spectrum**

Today, the European Commission decided to send a letter of formal notice to **Belgium** requesting full implementation of the European [radio spectrum rules](#) on the grounds of the [700 MHz Decision \(EU\) 2017/899](#). According to this Decision, Member States must allow the use of the 694-790 MHz (the '700 MHz') frequency band for mobile broadband by 30 June 2020. Belgium has not

concluded cross-border frequency coordination agreements with its neighbours, in particular Germany and the United Kingdom, and thus does not comply with the 700 MHz Decision obligations. The due date to adopt these agreements was at the end of 2017. As a consequence, the development of 5G might be delayed in Belgium and its surrounding countries. 5G connectivity is one of the top priorities for the Commission, following the agreement of the future telecom rules – [Electronic Communications Code](#). The new rules will ensure that 5G radio spectrum is available in the whole EU by 2020. If Belgium does not act within the next two months, the Commission may send a reasoned opinion on this matter.

### **Commission asks Member States to transpose into national laws the EU-wide legislation on cybersecurity**

The Commission decided today to send a letter of formal notice to 17 Member States to fully transpose into national laws the first piece of **EU-wide legislation on cybersecurity**. This decision affects the following Member States: Austria, Bulgaria, Belgium, Croatia, Denmark, France, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Romania, and Spain. The objective of the Directive on Security of Network and Information Systems ([NIS Directive](#); [Directive 2016/1148/EU](#)) is to achieve evenly high level of security of network and information systems across the EU through the development of national cybersecurity capabilities, increasing EU-level cooperation and incident reporting obligations for operators of essential services and digital service providers. Member States had to transpose **the NIS Directive** into national laws by **9 May 2018** as it entered into force in August 2016. So far [11 Member States](#) have notified the European Commission of the full transposition of the Directive and are in the process of a transposition check with a view to confirm the full transposition. The other Member States have two months to respond to the formal notice sent by the Commission; otherwise, the Commission may decide to send a reasoned opinion.

## **2. Economic and Financial Affairs**

*(For more information: Christian Spahr – tel.: +32 229 56194, Annikky Lamp – tel.: +32 229 56151, Enda McNamara – tel.: +32 229 64976)*

### *A reasoned opinion:*

### **Commission calls on SLOVENIA to respect the inviolability of the ECB's archives and cooperate sincerely in the context of the seizure of information from the Central Bank of Slovenia**

The Commission has decided to send a reasoned opinion to **Slovenia** for the violation of the inviolability of the European Central Bank (ECB)'s archives (Protocol No 7 to the Treaty on the Functioning of the EU, [TFEU](#)) and the duty of sincere cooperation (Article 4(3) of the Treaty on EU, [TEU](#)) in the context



of the seizure of the ECB 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, 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 these documents. The Commission is not satisfied with the responses provided by the Slovenian authorities to its attempt to clarify the facts and circumstances through a pilot letter in December 2016 and a letter of formal notice issued in [May 2017](#). The reasoned opinion does not question the powers of national authorities under national procedures. The Slovenian authorities now have two months to reply to the reasoned opinion. The Commission also remains in close contact with the ECB on this matter.

### 3. Energy

*(For more information: Anna-Kaisa Itkonen – tel.: +32 229 56186, Nicole Bockstaller – tel.: +32 229 52589)*

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

#### **Internal energy market: Commission refers GERMANY and HUNGARY to the Court of Justice of the EU for failure to fully comply with the Third Energy Package**

Germany in Court over Third Energy Package: The Commission is referring **Germany** to the Court of Justice of the EU to ensure a correct implementation of the Electricity Directive ([Directive 2009/72/EC](#)) and of the Gas Directive ([Directive 2009/73/EC](#)). Both directives are part of the [Third Energy Package](#) and contain key provisions for the proper functioning of energy markets. Germany has not ensured full respect of rules concerning the powers and independence of the national regulatory authority. In particular, the regulator does not enjoy full discretion in the setting of network tariffs and other terms and conditions for access to networks and balancing services, since many elements for setting these tariffs and terms and conditions are to a large extent laid down in detailed regulations adopted by the Federal government. Furthermore, Germany has incorrectly transposed into national law several requirements concerning the independent transmission operator (ITO) unbundling model. For example, the rules on the independence of the staff and the management of the ITO do not fully respect these Directives and the definition of vertically integrated undertaking incorrectly excludes activities outside the EU. A letter of formal notice was sent to Germany in February 2015, followed by a reasoned opinion in April 2016. Since compliance with EU law is not yet in place, the Commission has to refer these matters to the Court of Justice. The Commission takes Hungary to Court regarding its legislation on energy network tariffs. The European Commission is referring **Hungary** to the Court of Justice of the EU to ensure a correct implementation of the Third Energy Package's requirements on network tariffs. The Third Energy Package requires that tariffs applied by network operators for the use of electricity and gas networks are regulated in order to prevent anti-competitive behaviours, and entrusts national regulatory authorities with the task of setting these tariffs or their methodologies. After it assessed the

legislative measures adopted by Hungary in the energy field, the Commission found that Hungarian law excludes certain types of costs from the calculation of network electricity and gas tariffs, in violation of the principle of cost-recovery of tariffs provided for in the Electricity and Gas Regulations. In addition, the Commission found that Hungary adopted amendments to its energy legislation which jeopardise the right of market operators to a full judicial review of the national regulator's decisions on network tariffs. The Commission addressed to Hungary a letter of formal notice on these issues in February 2015, and two reasoned opinions, respectively in December 2016 and April 2017. Since compliance with EU law is not yet in place, the Commission has decided to refer these matters to the Court of Justice. For more information, please refer to the full [press release](#).

#### *Letters of formal notice*

#### **Energy Efficiency: Commission calls on 7 Member States to correctly transpose EU rules**

Today, the Commission decided to send letters of formal notice to **Cyprus, Ireland, Malta, the Netherlands, Slovenia, Sweden** and the **United Kingdom** for failing to correctly transpose or implement certain requirements of the Energy Efficiency Directive ([Directive 2012/27/EU](#)). The Directive establishes a common framework of measures for the promotion of energy efficiency within the Union in order to ensure the achievement of 20% target on energy efficiency of the EU's 2020 and to pave the way for further energy efficiency improvements beyond that date. These 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.

#### 4. Environment

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

#### *Reasoned opinions*

#### **Noise: Commission urges PORTUGAL and SPAIN to adopt noise maps and action plans on environmental noise**

The Commission is calling on **Portugal** and **Spain** to comply with the key provisions of EU law on noise ([Directive 2002/49/EC](#)). The Noise Directive requires Member States to adopt noise maps showing noise exposure within bigger urban areas, such as main railways, main roads and major airports. These maps serve as a basis for defining measures to reduce noise pollution. After receiving a first notice in September 2016, **Spain** has yet to deliver strategic noise maps and action plans for many of the agglomerations, major roads and major railways within its territory. Moreover, Spain has not reviewed and or revised the existing action plans for major airports. **Portugal** has also not delivered progress since a first warning sent by the

Commission in May 2017. The reports submitted by the Portuguese authorities confirm that strategic noise maps have not been adopted for 2 major agglomerations and 123 major roads, and action plans have not been drawn up for 3 agglomerations, 60 major railway sections and 466 major road sections. Both Spain and Portugal have two months to respond, and if they fail to do so, the Commission may decide to refer the case to the Court of Justice of the EU.

#### **Air: Commission calls on ROMANIA to enact EU rules on industrial emissions**

The Commission is urging **Romania** to fully enact EU legislation on the limitation of emissions of certain pollutants into the air from Medium Combustion Plants([Directive \(EU\) 2015/2193](#)) into its domestic law. The Directive regulates emissions of SO<sub>2</sub>, NO<sub>x</sub> and dust into the air with the aim of reducing those emissions and the risks to human health and the environment they may cause. It also lays down rules to monitor emissions of carbon monoxide. Member States were required to communicate the national measures enacting this Directive into their domestic laws by 19 December 2017. As Romania missed the deadline, the Commission sent a letter of formal notice in January 2018. As Romania has still not communicated the measures, the Commission is now sending a reasoned opinion. Romania has two months to respond. In the absence of an adequate response, the Commission may refer Romania to the Court of Justice of the EU.

#### **Water: Commission urges SPAIN to comply with EU rules on flood prevention**

The Commission is calling on **Spain** to comply with the requirements of the Floods Directive ([Directive 2007/60/EC](#)). The Directive aims to reduce and manage the risks that floods pose to health, economic activities and the environment. Under EU law, Member States had to complete and publish flood risk management plans, and notify them to the Commission by 22 March 2016. In March 2018, the Commission sent a letter of formal notice to the Spanish authorities due to their failure to complete, publish and communicate flood risk management plans for all seven of River Basin Districts in the Canary Islands. As Spain has still not notified these plans, the Commission is sending a reasoned opinion. Spain has two months to reply. If Spain fails to act within two months, the case may be referred to the Court of Justice of the EU.

#### *Letters of formal notice*

#### **Nature: Commission asks BULGARIA to improve implementation of EU nature legislation**

The Commission is sending an additional letter of formal notice to **Bulgaria** over systemic failings in its implementation of EU nature legislation. The EU Birds Directive ([Directive 2009/147/EC](#)) and the Habitats Directive ([Council Directive 92/43/EEC](#)) establish the EU-wide Natura 2000 network of protected areas. Economic activities may take place in Natura 2000 sites, provided there is no adverse effect on the integrity of the site. In Bulgaria, cumulative impacts of existing and authorised plans and projects to Natura 2000 areas have systematically not been taken into account, and many

developments representing a major threat to conservation objectives have still been authorised. The issue was first identified a decade ago, and although Bulgaria has since taken some measures to address the issue, this structural problem persists and the Commission regularly receives complaints about plans and projects that are authorised on the basis of inadequate assessments, or even in the absence of appropriate assessments. The Commission has, therefore, decided to send an additional letter of formal notice, giving Bulgaria two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

#### **Drinking water: Commission urges IRELAND to ensure safe drinking water to its citizens**

The European Commission has decided to send a letter of formal notice to **Ireland** for failing to fulfil its obligations under the Drinking Water Directive ([Council Directive 98/83/EC](#)) and allowing exceedance of the parametric value for Trihalomethane (THMs). The Directive aims at health protection against adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. Over a long period, the drinking water provided to over 500 000 people in Ireland, includes excessive amounts of Trihalomethane. This chemical, which is formed as a by-product predominantly when chlorine is used to disinfect and make water safe for drinking, poses a risk to health. The Irish authorities have not taken appropriate actions to bring down the value of THMs and to notify consumers of the health implications as required. Ireland has two months to respond to the letter; otherwise, the Commission may decide to send a reasoned opinion.

#### **Waste water: Commission urges ITALY to comply with the EU requirements for urban waste-water treatment**

The Commission is calling on **Italy** to comply with EU law on urban waste water and ensure that waste water from all human agglomerations with a population above 2 000 inhabitants collect and treat their urban waste-water. Under EU law ([Council Directive 91/271/EEC](#)), towns and cities are required to put in place the necessary infrastructure in order to collect and treat their [urban waste water](#). Untreated waste water can put health at risk and pollute lakes, rivers, soil and coastal and groundwater. Italy is already subject to three separate infringement procedures for various breaches of the requirements of the Directive, but an assessment of the latest data submitted by Italy shows that a significant number of smaller agglomerations (276) are also in breach of core obligations on collection, treatment and monitoring. In view of the scale of these shortcomings, the Commission is sending Italy a letter of formal notice. The Italian authorities have two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

#### **Nature: Commission urges POLAND to comply with nature protection rules**

The Commission is calling on **Poland** to ensure that adequate safeguards are in place for protected forests, as required under EU nature legislation. EU laws on Birds ([Directive 2009/147/EC](#)) and Habitats ([Council Directive 92/43/EEC](#)) establish Natura 2000, an EU-wide network of protected areas that guard

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 before authorisation. Recent changes to Polish law introduce exemptions for forest management activities which compromise the required protection regime. Furthermore, Polish law does not provide access to justice with regard to forest management plans. As these plans may have significant effects on Natura 2000 sites, the public is therefore deprived of effective judicial protection under the Habitats Directive in this regard. For these reasons the Commission has decided to send Poland a letter of formal notice, and giving it two months to respond; otherwise, the Commission may decide to send a reasoned opinion.

#### **Waste: Commission calls on POLAND to ensure the effective application of EU law on end-of-life vehicles**

The Commission is sending a letter of formal notice to **Poland** over its failure to ensure that vehicles are dismantled and recycled in an environmentally friendly way when they reach the end of their useful life. The End-of-Life Vehicles Directive ([Directive 2000/53/EC](#)) is one strand of a wide-ranging effort to turn Europe into a circular economy where waste is systematically recovered, re-used or recycled. Currently, the Polish law has no sanctions for failing to register imported vehicles or for failing to inform the competent authorities about acquisition or disposal of such vehicles. The resulting lack of accurate information is hampering efforts to ensure that vehicles are treated in accordance with the Directive. Inadequate treatment of End-of-Life vehicles can lead to serious environmental hazards, as unsafe handling of air conditioning fluid, battery acid, plastic parts and tyres can pose a serious risk to human health and the environment. Poland has two months to respond.

#### **Animal welfare: Commission calls on 6 Member States to correctly enact measures on the protection of laboratory animals**

The European Commission has decided to send letters of formal notice to six Member States (**Estonia, Germany, Portugal, Romania, Slovakia, and Spain**) regarding shortcomings in their enactment of EU rules on the protection of animals used for scientific purposes ([Directive 2010/63/EU](#)) into domestic law. The Directive – which had to be enacted by 10 November 2012 – ensures a high level of animal welfare while safeguarding the proper functioning of the internal market. It also aims to minimise the number of animals used in experiments and requires alternatives to be used where possible. There are numerous failings with the domestic laws in all six Member States.

**Estonian** law faces shortcomings in the enactment of over twenty articles and three annexes to the Directive; the **German** law falls short in areas such as inspections, staff competences, and the presence of veterinarians. **Portuguese** law, for example does not include provisions on inspections, and does not ensure that procedures involving severe pain can only be provisional; the **Romanian** law is lacking in the area of penalties, and the obligation to have veterinary staff on site; the **Slovak** law lacks obligations regarding anaesthesia, and effective and dissuasive penalties; and the **Spanish** authorities have recognised failings in their law but have not yet corrected

them in areas such as record-keeping and safeguard clause for the use of non-human primates. The Member States have two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

#### **Air: Commission urges ROMANIA to implement EU rules on industrial emissions**

The Commission is sending a letter of formal notice to **Romania** for its failure to control emissions of sulphur dioxide from two large combustion plants. Under the Directive on Industrial Emissions ([Directive 2010/75/EU](#)), which protects citizens from dangerous emissions from industrial plants, Member States must respect a national emission ceiling for dust and sulphur dioxide. Plants listed under a transitional national plan may derogate from the strict emissions limit until 2020, provided that the national limit is still respected. Two large combustion plants – Govora 2 and Deva 2 – have pushed Romania's emissions significantly over the national ceilings for sulphur dioxide and dust, with significant impacts on the environment and public health. As Romania is failing to take the necessary measures to prevent these exceedances, the Commission has decided to open infringement proceedings and send Romania a letter of formal notice. Romania has two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

#### **Nature protection: Commission urges SLOVAKIA to comply with nature protection rules**

The Commission is sending a letter of formal notice to **Slovakia** for its failure to provide adequate protection for nature, which is causing a significant fall in bird numbers. EU laws on Birds ([Directive 2009/147/EC](#)) and Habitats ([Council Directive 92/43/EEC](#)) 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 before authorisation. These provisions are lacking in Slovak legislation. As a result, the population of Capercaillie (*Tetrao Urogallus*), also known as the wood grouse, has halved since Slovakia joined the EU in 2004. Moreover, Slovakia has not adopted the special conservation measures required for the species under the Birds Directive, as management plans for the areas in question have not been approved. Slovakia has two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

#### **Liability for damages to the environment: Commission calls on SWEDEN to fully enact the Environmental Liability Directive**

The Commission is urging **Sweden** to correctly enact rules on environmental liability into its national law, to ensure sufficient protection for citizens. The Environmental Liability Directive ([Directive 2004/35/CE](#)) establishes a legal framework for environmental liability based on the "polluter pays" principle, with the aim of preventing and remedying environmental damage. Such damage includes damage to water bodies, to protected species and habitats, and to soil. Under the Directive, natural or legal persons, including environmental NGOs, adversely affected or likely to be adversely affected by environmental damage have the right to ask the



competent authority to take remedial action. Problems with the definition of water damage in Sweden's legislation mean that environmental damage occurring in marine waters is not currently subject to EU rules on environmental liability. The Commission has, therefore, decided to send Sweden a letter of formal notice. Sweden has two months to respond; otherwise, the Commission may decide to send a reasoned opinion.

#### *A closure*

#### **Nitrates: Commission closes infringement against POLAND**

The European Commission decided today to close infringement proceedings against **Poland** for failing to guarantee that water pollution by nitrates is addressed effectively. On 20 November 2014, the Court of Justice of the EU declared that Poland insufficiently designated vulnerable zones and did not include adequate measures in the action programmes as required by the Nitrates Directive ([Council Directive 91/676/EEC](#)). Compliance with the Nitrates Directive by Poland is particularly important in addressing the serious pollution problem of the Baltic Sea, suffering from excess levels of nitrates. Almost all of Poland's waters drain into the Baltic Sea. In July 2017, Poland passed a new Water Act which extended the application of the action programme from a small part of the country to the whole territory. Poland has also identified the appropriate measures in a new action programme rectifying the problems found.

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

*(For more information: Vanessa Mock – tel.: +32 229 56194, Letizia Lupini – tel.: +32 229 51958)*

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

#### **Commission suspends referral of CROATIA to the Court for failing to amend the law on the privatisation of the energy company INA-Industrija Nafte, d.d. (INA)**

The Commission has decided to put on hold the referral of **Croatia** to the Court of Justice of the EU, in light of the recent developments in the case. The Commission had decided to refer Croatia to the Court of Justice on 13 July 2017, for failing to make the 2002 law on the privatisation of Industrija Nafte d.d. ('INA law') compliant with EU rules on the free movement of capital and the freedom of establishment. Since then, the Croatian authorities have been discussing with the Commission the amendments necessary to bring the INA law in line with EU rules. They have recently submitted a draft amending the above-mentioned law, which would address the Commission's main concerns, subject to some further adjustments. The Croatian authorities also submitted a timeline for its adoption that would permit a

solution before a possible Court judgment. Therefore, the Commission considers that the execution of the referral should be put on hold, pending the adoption of the INA amending law. In the absence of further progress towards the solution of the case in the next months, the stay of the proceeding may be reconsidered. For more information, please refer to the full [press release](#).

### **Securities markets: Commission refers SLOVENIA and SPAIN to the Court of Justice for failing to fully enact EU rules on markets in financial instruments**

The European Commission decided today to refer **Slovenia** and **Spain** to the Court of Justice of the EU for failing to fully implement European rules on markets in financial instruments ([MiFID II](#)) as well as its supplementing Directive ([Commission Delegated Directive \(EU\) 2017/593](#)). These rules are crucial building blocks for the proper functioning of securities markets and are essential for the continued operation of the European single market. If Member States do not transpose the rules, investors are not able to benefit from the enhanced investor protection provided under MIFID II. This includes safeguards of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits. It also makes markets less safe as trading venues and investment firms do not have to operate under the more stringent and transparent operational requirements. National competent authorities of non-transposing Member States are further not able to deliver legally sound authorisations for activities that had not been previously regulated, or that were regulated differently under MiFID I. This includes the operation of trading venues, such as regulated markets, multilateral trading facilities (MTF) and organised trading facilities (OTF) and the registration of MiFID I investment firms as a systematic internaliser. Not fully transposing these EU rules disrupts the single market as they became applicable on 3 January 2018 and complement the provisions of the Market for Financial Instruments Regulation ([MIFIR](#)). Cross-border “passporting” of various investment services and activities might not operate as smoothly as between Member States that have fully transposed the MiFID II rulebook. For more information, please refer to the full [press release](#).

### **Financial services: Commission refers SPAIN to Court for not applying EU prudential rules for banks and investment firms**

The Commission has decided to refer **Spain** to the Court of Justice of the EU for failing to fully implement the Capital Requirements Directive ([Directive 2013/36/EU](#)). To date, Spain has not fully implemented these EU rules and some provisions are still missing from national law. Those refer mostly to the following aspects: certain powers and discretions of national competent authorities in relation to investment firms; and the imposition of administrative penalties or other measures applicable to institutions found liable of a serious breach in anti-money laundering. Missing provisions also include whistle-blowing mechanisms in case of capital requirements’ breaches, rules on the integrity and independence of the members of the management body and the obligation by the Spanish competent authorities to contact the consolidated supervisor in order to obtain information, thereby making

supervisory cooperation more difficult. Lastly, corporate governance rules are weaker in Spain given that the obligation to have diverse and skilled management bodies of institutions is not transposed. Together with the Capital Requirements Regulation ([Regulation \(EU\) No 575/2013](#)), the Directive sets out the prudential requirements for credit institutions and investment firms in the EU, laying down rules on the amount of capital that institutions must have in order to cover potential losses of the risks to which they are exposed. The Directive also formulates rules on the authorisation and supervision of institutions, on supervisory cooperation, on risk management, on corporate governance (including remuneration) and on capital buffers. For more information, please refer to the full [press release](#).

#### *Letters of formal notice*

#### **Financial Services: Commission calls on ROMANIA to align its motor insurance laws with EU rules**

The Commission decided today to send a letter of formal notice to **Romania** requesting it to submit its observations on its national rules on motor third-party liability insurance. Current national rules require a prior notification obligation of any intended modification of premiums and impose several limitations on the modalities of calculation by insurers of their premiums. The Commission took the view that these obligations are contrary to Articles 21 and 181 of the [Solvency II Directive](#), as interpreted by the Court case-law on the principle of the freedom of tariffs. The national legislation in question also contains provisions obliging insurers to issue for certain categories of vehicles a policy valid only on the Romanian territory and set out the premium tariff taking account of the related risks. In the Commission's view, these provisions are contrary to article 14 of the Motor Insurance Directive that require that motor third-party liability insurance policies cover the whole territory of the Union on the basis of a single insurance premium. If Romania does not act within the next two months, the Commission may send a reasoned opinion on this matter.

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

(For more information: Lucia Caudet – tel.: +32 229 56182, Maud Noyon – tel.: +32 229 80379)

#### *Letters of formal notice*

#### **Free movement of professionals: Commission calls on 27 Member States to comply with EU rules on the recognition of professional qualifications**

The Commission decided today to send letters of formal notice to **27 Member States** (all Member States except Lithuania) regarding the conformity of their national legislation and practice with EU rules on the recognition of professional qualifications ([Directive 2005/36/EC](#) as amended by [Directive](#)

[2013/55/EU](#)). The EU has put a modern system in place for the recognition of professional qualifications and experience across the EU. It makes it easier for professionals who wish to establish themselves or provide their services in other Member States to have their qualifications recognised, whilst guaranteeing an improved level of protection for consumers and citizens. Ensuring a coherent application of these rules to the benefit of citizens and businesses is of particular concern for the Commission. The letters of formal notice cover issues crucial for the functioning of the Professional Qualifications Directive, in particular the introduction of the European professional card, the alert mechanism, the possibility to have partial access to a professional activity, the proportionality of language requirements and the setting up of assistance centres. In addition, the Commission is also raising issues relating to the transparency and proportionality of regulatory obstacles in professional services partly mentioned in its [Communication](#) from January 2017 on reform recommendations for regulation in professional services. All Member States concerned now have two months to respond to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion to them.

#### **Public procurement: Commission urges AUSTRIA to respect EU law in waste cleaning contract**

The Commission decided to send today a letter of formal notice to **Austria** regarding a tender procedure for a public service contract to clean a hazardous waste site located in the municipal district of Wiener Neustadt. EU public procurement legislation requires all public contracts above a certain threshold to be tendered at EU-wide level respecting the principles of transparency, equal treatment and non-discrimination. The Commission considers that the contracting authority (BALSA) breached EU public procurement rules (Articles 28, 23(2), 2 and 23(1) of [Directive 2004/18/EC](#)) in several ways. A negotiated procedure with prior publication was used by the contracting authority without sufficient justification; the technical specifications did not allow equal access to all bidders; and, finally, the winning bidder's project did not meet the technical specifications with regard to the recycling of aluminium dross dust. Austria now has two months to respond to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion to Austria.

#### **Pressure equipment: Commission urges ITALY to ensure correct application of EU law**

The Commission decided today to send a letter of formal notice to **Italy** for failing to ensure that all Liquefied Petroleum Gas (LPG) storage tanks placed on the market or put into service complies with the requirements of the Pressure Equipment Directive ([Directive 2014/68/EU](#) that replaced [Directive 97/23/EC](#) as of 19 July 2016). Under EU law, specific requirements apply to LPG storage tanks depending on whether they are used above or underground, given the different level of risk for citizens. Italy allowed some older LPG storage tanks initially intended for aboveground to be modified and used as LPG vessels for underground use. The Commission considers that such modified products should be considered as products different from the original vessels and their compliance with EU rules must be verified before being re-placed on

the market. By failing to do so, the Commission holds the view that Italy is in breach of the Pressure Equipment Directive. Italy now has two months to respond to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion to Italy.

#### **Free movement of goods: Commission calls on SLOVENIA to remove restrictions on lightning protection systems**

The Commission decided today to send a letter of formal notice to **Slovenia** regarding its restrictions on the installation and use of Early Streamer Emission (ESE) active lightning conductors in buildings in Slovenia. Under Slovenian law, the installation and use of active lightning protection based on another EU country's standards is only allowed in addition to installations complying with Slovenian technical rules, but not as standalone protection of buildings. In addition, Slovenia requires that the level of safety for each and every installation of the active lightning protection system is demonstrated even though the product is lawfully marketed in other Member States. These requirements result in a barrier to the import of lightning conductors. The Commission holds the views that these restrictions run counter to the principle of mutual recognition and are in breach of EU rules on the free movement of goods, which is prohibited under Article 34 [TFEU](#). Slovenia has now has two months to respond to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion to Slovenia.

#### **Free movement of goods: Commission urges SPAIN to remove restrictions on imports of structural steel and concrete**

The European Commission decided today to send a letter of formal notice to **Spain** regarding restrictions on imports of structural steel and concrete used in construction. On the Single Market, trade in products that are not subject to common EU rules is governed by the principle of mutual recognition. This principle states that a product legally sold in one country can be sold in any other EU country without any changes or adaptations. The current Spanish legal framework does not foresee any mechanism to recognise quality marks granted by other Member States thus making the access of imported materials to the Spanish market more difficult. For those products, quality marks indicate that the product conforms to a certain level of performance. In application of the principle of mutual recognition, marks granted in one Member State should also be recognised in another Member State and granted an equivalent guaranteed mark for the same level of performance. The Commission considers that the current practice in Spain is contrary to EU rules on free movement of goods ([Article 34 TFEU](#)). Spain now has two months to respond to the arguments raised by the Commission; otherwise, the Commission may decide to send a reasoned opinion to Spain.

#### **7. Justice, Consumers and Gender Equality**

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

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

### **Infringements: Commission refers Greece, Ireland and Romania to the Court of Justice for not implementing anti-money laundering rules**

Today, the Commission referred **Greece** and **Romania** to the Court of Justice of the EU for failing to implement the [4<sup>th</sup> Anti-Money Laundering Directive](#) into their national law. **Ireland** implemented only a very limited part of the rules and is therefore also referred to the Court of Justice. The Commission proposed that the Court charges a lump sum and daily penalties until the three countries take the necessary action. Věra **Jourová**, Commissioner for Justice, Consumers and Gender Equality said: *"Money laundering and terrorist financing affect the EU as a whole. We cannot afford to let any EU country be the weakest link. Money laundered in one country can and often will support crime in another country. This is why we require that all Member States take the necessary steps to fight money laundering, and thereby also dry up criminal and terrorist funds. We will continue to follow implementation of these EU rules by Member States very closely and as a matter of priority."* The Member States had until 26 June 2017 to transpose the 4<sup>th</sup> Anti-Money Laundering Directive into their national legislation. These rules reinforce the previously existing rules by: strengthening the risk assessment obligation for banks, lawyers, and accountants; setting clear transparency requirements about beneficial ownership for companies; facilitating cooperation and exchange of information between Financial Intelligence Units from different Member States to identify and follow suspicious transfers of money to prevent and detect money laundering or terrorist financing; establishing a coherent policy towards non-EU countries that have deficient anti-money laundering and counter-terrorist financing rules; reinforcing the sanctioning powers of competent authorities. Meanwhile, in the wake of the Panama Papers revelations and the terrorist attacks in Europe, the Commission proposed a 5<sup>th</sup> Anti-Money Laundering Directive to further step up the fight against money laundering and terrorist financing. These new rules aim at ensuring a high level of safeguards for financial flows from high-risk third countries, enhancing the access of Financial Intelligence Units to information, creating centralised bank account registers, and tackling terrorist financing risks linked to virtual currencies and pre-paid cards. These new rules entered into force on 9 July 2018 following its publication in the EU's Official Journal and Member States will have to transpose the [5<sup>th</sup> Anti-Money Laundering Directive](#) into national legislation by 10 January 2020. For more information, please refer to the full [press release](#).

## *Reasoned opinions*

### **Anti-Money Laundering: Commission calls on LATVIA, MALTA and SPAIN to completely transpose the 4<sup>th</sup> Anti-Money Laundering Directive**

Today, the Commission has sent reasoned opinions to **Latvia** and **Spain**, and an additional reasoned opinion to **Malta** for failing to implement the [4<sup>th</sup> Anti-Money Laundering Directive](#) into national law. Spain has so far only partially transposed the rules, and the Commission has found the transposition in



Latvia and Malta incomplete. The anti-money laundering rules are crucial in the fight against money laundering and terrorism financing. The Panama Papers and other scandals have revealed the need for stricter anti-money laundering rules. Gaps in one Member State have an impact on all others. This is why the effective fight against money laundering is one of the central points of the EU's approach to combating crime in Europe. All Member States had to implement the rules of the 4<sup>th</sup> Anti-Money Laundering Directive by 26 June 2017. There are currently infringement procedures ongoing against 20 Member States: 3 at the stage of court referrals, 9 at the stage of reasoned opinions, and 8 at the stage of letters of formal notice (see 8 previous reasoned opinions sent in [December 2017](#), an additional 2 in [March 2018](#)). In the meantime, a majority of Member States have adopted the relevant laws. The Commission is now carefully checking whether these laws completely implement the provisions of the 4<sup>th</sup> Anti-Money Laundering Directive. In the meantime, the [5<sup>th</sup> Anti-Money laundering directive](#) has been agreed and entered into force on 9 July 2018. Member States will have to implement these new rules into their national legislation by 10 January 2020. If Malta, Latvia and Spain fail to bring their national legislation into line with EU law within the next two months, the Commission may decide to refer the cases to the Court of Justice of the EU.

## 8. Migration, Home Affairs and Citizenship

*(For more information: Tove Ernst – tel.: +32 229 86764, Markus Lammert – tel.: +32 229 80423)*

### *Referral to the Court of Justice of the European Union*

#### **Legal migration: Commission refers BELGIUM to the Court of Justice for failing to provide common rules for non-EU seasonal workers**

The Commission decided today to refer **Belgium** to the Court of Justice of the EU (CJEU) for failing to fully implement the Seasonal Workers Directive ([Directive 2014/36/EU](#)). The Directive determines the conditions of entry and stay of non-EU seasonal workers and defines the rights of those seasonal workers. Belgium, having failed to meet the initial transposition deadline of 30 September 2016, has still not fully implemented the Directive. The Seasonal Workers Directive sets out the conditions that Member States should apply when deciding to grant access to their labour markets to non-EU citizens wishing to work in an EU Member State as seasonal workers for short periods (up to nine months), often in agriculture and tourism. It ensures that these workers are treated in the same way as national workers with regard to a number of important factors such as working conditions, pay, health and safety, social security, and it provides safeguards that protect them from exploitation. Member States were required to fully transpose the Directive by 30 September 2016. By that date, Belgium had only partially transposed the new rules. The Commission sent a letter of formal notice to Belgium in November 2016 and, subsequently, a reasoned opinion in July 2017. To date, Belgium has still not notified the Commission of the full transposition of the Directive into its national law. The Commission has, therefore, decided to refer the case to the Court of Justice of the EU. In referring Belgium to the Court of Justice of the EU, the Commission proposes

a daily penalty of € 49,906.50. The amount of the penalty has been calculated taking into account the seriousness, the duration of the infringement and the deterrent effect reflected in the ability to pay of the Member State. In the event the transposition remains incomplete and the CJEU confirms the Commission's view, the daily penalty would have to be paid from the date of the judgment or a later date set by the Court until the transposition is complete. The final amount of the daily penalty will be decided by the Court, but cannot exceed the Commission's proposal. For more information, please refer to the full [press release](#).

*Referral to the Court of Justice of the European Union and a letter of formal notice*

### **Migration and Asylum: Commission takes further steps in infringement procedures against HUNGARY**

The European Commission has today decided to refer **Hungary** to the Court of Justice of the EU (CJEU) for non-compliance of its asylum and return legislation with EU law. The Commission has also today sent a letter of formal notice to Hungary concerning new Hungarian legislation which criminalises activities that support asylum and residence applications and further restricts the right to request asylum. On the Court referral for non-compliance with EU asylum and return legislation: the Commission first launched an infringement procedure against Hungary concerning its asylum laws in [December 2015](#). Following a series of exchanges on both administrative and political levels and a [complementary letter of formal notice](#), the Commission sent a reasoned opinion in [December 2017](#). After analysing the reply provided by the Hungarian authorities, the Commission considers that the majority of the concerns raised have still not been addressed and has therefore now decided to refer Hungary to the Court of Justice of the European Union – the last stage of the infringement procedure. The letter of formal notice concerning new Hungarian legislation criminalising activities in support of asylum applications: The new legislation – so-called “Stop Soros” by the Hungarian authorities – criminalises any assistance offered by national, international and non-governmental organisations or by any person to people wishing to apply for asylum or for a residence permit in Hungary. The laws also include measures which restrict individual freedoms, by preventing anyone who is subject to a criminal procedure under these laws from approaching the transit zones at Hungary's borders, where asylum seekers are held. Sanctions range from temporary confinement to imprisonment of up to one year and expulsion from the country. In addition, the new law and a constitutional amendment have introduced new grounds for declaring an asylum application non-admissible, restricting the right to asylum only to people arriving in Hungary directly from a place where their life or freedom are at risk. The Commission has therefore concluded that Hungary is failing to fulfil its obligations under the EU Treaties, EU laws and the Charter of Fundamental Rights of the EU. The Hungarian authorities have 2 months to respond to the Commission's concerns. The Commission stands ready to support and assist the Hungarian authorities in addressing this issue. For more information, please refer to the full [press release](#).

**Legal migration: Commission calls on HUNGARY to implement the Long-term residents Directive correctly**

The Commission decided today to send a letter of formal notice 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. Hungary now has two months to respond to the arguments put forward by the Commission.

**Legal migration: Commission calls on 17 Member States to implement the Directive on non-EU students and researchers**

The Commission decided today to send letters of formal notice to 17 Member States (**Austria, Belgium, Croatia, Cyprus, the Czech Republic, Finland, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Poland, Romania, Slovenia, Spain, and Sweden**) 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. Member States now have two months to fully transpose the Directive in their national law, otherwise, the Commission may consider addressing reasoned opinions.

**Security Union: Commission calls on 14 Member States to implement the new rules on Passenger Name Records (PNR) data**

Today, the Commission decided to send letters of formal notice to 14 Member States (**Austria, Bulgaria, Cyprus, the Czech Republic, Estonia, Finland, France, Greece, Luxembourg, The Netherlands, Portugal, Romania, Slovenia and Spain**) for failing to communicate the adoption of national legislation which fully transposes the PNR Directive ([Directive 2016/681](#)). Member States had until [25 May 2018](#) to transpose the Directive into national law. PNR data refer to information provided by passengers to airlines when booking and checking-in for flights. Such data may include information such as the passenger's name, travel dates, travel itineraries, seat number, baggage, contact details and means of payment. The Directive requires the Member States to set up a national system for the collection, analysis and exchange of PNR data for law enforcement purposes, in full respect of data protection safeguards. The processing of PNR data is an important tool for fighting terrorism and serious crime, helping to trace suspicious travel patterns and identify potential criminals and terrorists, including those previously unknown to law-enforcement authorities. It is a key element of the European

Agenda for Security and an essential building block towards the effective and genuine Security Union. Over the past few years the Commission has made every effort to help Member States develop their national PNR systems by providing expertise and funding as well as by facilitating the exchange of best practices. However, for the PNR framework to reach its full potential, it is crucial that all Member States have their systems up and running. The Member States concerned now have two months to reply to the letter of formal notice, after which time the Commission may consider addressing Reasoned Opinions. The Commission will continue to offer support and guidance to those Member States that have yet to finalise the implementation work.

## 9. Mobility and Transport

*(For more information: Enrico Brivio – tel.: +32 229 56172, Alexis Perier – tel.: +32 229 69143)*

### *A referral to the Court of Justice of the European Union*

#### **Maritime transport: Commission refers IRELAND to the Court for failing to correctly implement safety legislation**

The Commission decided today to refer **Ireland** to the Court of Justice of the EU for failing to correctly implement EU law establishing the fundamental principles governing the investigation of accidents in maritime transport ([Directive 2009/18/EC](#)). The Directive requires that each Member State establishes an impartial permanent investigative body, which should be independent in its organisation, legal structure and decision-making of any party whose interests could conflict with the task entrusted to it. The Commission has a number of concerns regarding the independence of the members of the Marine Casualty Investigation Board ([MCIB](#)) established under Irish law. Irish law provides that one of the five members of the Board is the Secretary General of the Department of Transport, Tourism and Sport (DTTAS) or his or her nominee while another is the Chief Surveyor of the Marine Survey Office (MSO). The Marine Survey Office however has regulatory, administrative and enforcement functions with regard to ships, their equipment as well as seafarers' competence. As for the Department of Transport, Tourism and Sport, it is responsible, inter alia, for maritime safety policy. The Commission takes the view that the responsibilities and activities of the DTTAS and the MSO could conflict with the investigative task of the Marine Casualty Investigation Board. It follows that the Marine Casualty Investigation Board lacks the necessary independence from those Irish authorities. For more information, please refer to the full [press release](#).

#### *Reasoned opinions*

#### **Alternative fuels: Commission urges BULGARIA and POLAND to fully implement EU rules on the deployment of alternative fuels infrastructure**

The Commission urged **Bulgaria** and **Poland** today to fully transpose the

European rules on alternative fuels infrastructure ([Directive 2014/94/EU](#)). These rules, which concern inter alia harmonised standards for alternative fuels infrastructure and basic provisions to enable electric mobility, play an important role for the functioning of the EU internal market. They also aim to reduce the dependence of transport on oil and to mitigate its environmental impact. These two Member States should have transposed this Directive by 18 November 2016, but according to the Commission services failed to transpose certain operative provisions of the Directive before that date. They now have two months to respond; otherwise, the Commission may decide to refer them to the Court of Justice of the EU.

#### *Letters of formal notice*

#### **Intelligent Transport Systems: Commission urges 9 Member States to provide traffic information services**

The Commission has decided today to send a letter of formal notice to **Cyprus, Hungary, Italy, Lithuania, Luxembourg, Malta, Poland, Slovakia and Slovenia** for failing to fulfil their obligations to provide free road safety-related minimum universal traffic information to users ([Commission Delegated Regulation 886/2013](#)). Member States are required to communicate the progress made in implementing the information service and a number of other information to the Commission at the latest 12 months following the entry into force of that Regulation, and every calendar year thereafter. The nine Member States concerned are however still to do so. In addition, the Commission has also sent a letter of formal notice to **Cyprus, Hungary, Lithuania, Luxembourg, Malta, Slovakia and Slovenia** for failing to fulfil their obligations to provide EU-wide real-time traffic information services ([Commission Delegated Regulation 2015/962](#)). By 13 July 2017, Member States should have provided the Commission with a report on the measures undertaken to set up a national access point and on the modalities of its functioning, and where relevant, the list of motorways not included in the comprehensive trans-European road network and identified priority zones. All Member States have two months to respond to the arguments raised by the Commission; the Commission may otherwise decide to adopt a reasoned opinion.

#### **Road transport: Commission calls on DENMARK to stop discrimination of foreign hauliers and respect the freedom to provide transport services**

The Commission has decided today to request **Denmark** not to limit truck parking on state-owned rest areas to a maximum of 25 hours. By affecting mainly non-resident hauliers, this time limitation amounts to a discrimination on the ground of nationality, which is prohibited by the EU treaties. In addition, it does not allow drivers to respect the strict EU rules on rest periods for truck drivers, which are essential to ensure road safety and for respecting the rights of drivers. Furthermore, it affects the hauliers' freedom to provide transport services (provided by Regulation [1072/2009](#)) and constitutes an unjustifiable indirect discrimination. Denmark now has two months to submit its observations to the Commission, after which the Commission may decide to adopt a reasoned opinion.

#### **Seafarers: Commission urges MALTA to comply with EU rules on minimum level of**

## **training of seafarers**

The Commission has decided to send a letter of formal notice to **Malta** due to its non-compliance with European rules on the minimum level of training of seafarers ([Directive 2008/106/EC](#), as amended). The Commission urges Malta to take corrective actions to ensure that the quality management system implemented by one of its approved maritime training and education institutions covers all maritime training courses and programmes, examinations and assessments, in particular the training with the use of simulators. Malta has now two months to comply with EU law; otherwise, the Commission may decide to send a reasoned opinion.

## **Road transport: Commission requests 10 Member States to comply with EU rules on the interconnection of the national electronic registers on driver cards**

The European Commission has decided to send a letter of formal notice to **Belgium, Cyprus, Finland, France, Greece, Hungary, Luxembourg, Malta and Sweden**, for not having performed the tests for the connection to TACHOnet system and to **Denmark** for not having connected to TACHOnet in accordance with [Regulation \(EU\) 2016/68](#). TACHOnet is the European system for the electronic exchange of information between Member States on tachograph cards (the tachograph is a device that records the driving time, breaks, rest periods as well as periods of other work undertaken by a driver). It is an essential tool to ensure enforcement of the rules on driving and rest times in road transport. The main objective of TACHOnet is to verify that two or more cards are not issued by different Member States to the same driver. [Regulation \(EU\) 2016/68](#) sets out the obligation for Member States to connect to TACHOnet in accordance with specific technical requirements. Even if the abovementioned Member States – with the exception of Denmark – are connected to TACHOnet, they have not been able to successfully perform the preliminary tests which indicate that the connection fulfils all those technical requirements. The concerned 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.

## **Maritime transport: Commission calls on 5 Member States to comply with EU legislation on flag state requirements**

The Commission has requested **Hungary, Croatia, Cyprus, the Czech Republic and the UK** to comply with their obligations of administrative oversight as foreseen by the EU rules on flag state requirements ([Directive 2009/21/EC](#)). These requirements include checking that the ship structure, equipment and operational management comply with safety regulations and that the seafarers are certified as competent. As per the Directive, a quality management system should have been in place by June 2012, maintained thereafter and certified in accordance with the applicable international quality standards. To date these countries have however failed to provide the required quality management system certification. A lack of systematic control within and by the administration, which a certified quality management system should support, may in the longer-run have a negative impact on safety, security and the environmental performance of the flagged fleet. The Commission has therefore decided to send a letter formal notice to these Member States



giving them two months to comply with the Directive; otherwise, the Commission may decide to adopt a reasoned opinion.

**Aviation safety: Commission calls on HUNGARY to comply with EU rules on technical requirements and administrative procedures related to air operations**

The Commission decided today to send a letter of formal notice to **Hungary** for failing to comply with some of the European technical requirements and administrative procedures related to air operations in civil aviation ([Regulation \(EU\) No 965/2012](#)). This Regulation lays down detailed rules for air operations with aeroplanes, helicopters, balloons and sailplanes, including ramp inspections of aircraft of operators under the safety oversight of another state. Due to a lack of sufficient personnel Hungary has however failed to verify compliance with the safety requirements applicable to organisations or type of operations. Hungary has two months to reply to the arguments raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

**10. Taxation and Customs Union**

*(For more information: Vanessa Mock – tel.: +32 229 56194, Patrick McCullough – tel.: +32 229 87183)*

*Reasoned Opinions:*

**Taxation: Commission calls on GERMANY to align its administrative practice regarding cross-border VAT refund with EU law**

The Commission decided today to send a reasoned opinion to **Germany** asking it to bring its VAT refund rules into line with EU legislation (VAT Directive [Council Directive 2006/112/EC](#) and the Refund Directive Council Directive 2008/9/EC). In some cases, Germany currently refuses to refund VAT applied for by taxable persons established in another Member State as it considers that the information provided is insufficient without having requested additional information from the applicant. This leads to refunds being denied even when applicants fulfil the substantive requirements as laid down in EU law. 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 that THE NETHERLANDS stop taxing transfers of pension capital by mobile workers**

The Commission decided today to send a reasoned opinion to **the Netherlands** for taxing transfers of pension capital by mobile workers to the thirteen EU Member States which allow pension out-payments by pension funds in other forms than annuities. Under EU law, mobile workers are free to take up jobs in Member States that allow full or partial lump sum out-payments of pensions. The Dutch legislation is a restriction of the freedom of movement of workers (Article 45 TFEU), the freedom to provide services (Article 56

TFEU) and the free movement of capital ([Article 63 TFEU](#)). If the Netherlands does not act within 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 the Lisbon airport tax with EU law**

The Commission decided today to send a reasoned opinion to **Portugal** to bring the Lisbon airport tax in line with EU rules. Under Portuguese law, the tax currently only applies to non-residents of Portugal. Applying the airport tax to non-residents in Portugal alone goes against Articles 18 and 21 of the TFEU as it constitutes a discrimination based on nationality. If Portugal 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 national practices regarding the VAT Mini One-Stop-Shop scheme in line with EU rules**

The Commission decided today to send a reasoned opinion to the **United Kingdom** for failing to collect and transmit to other Member States the bank account details for each taxable person registered for the EU-wide system for VAT collection on online sales of e-services (VAT Mini One-Stop-Shop). This practice violates EU rules on administrative cooperation and exchange of information (Council Regulation 904/2010 and Commission Implementing Regulation 815/2012). At the moment, Member States who want to refund taxable persons in the UK have to collect additional information on a case-by-case basis, which is burdensome and delays refunds. If the United Kingdom does not act within the next two months, the Commission may decide to bring the case before the Court of Justice of the EU.

#### *Letter of formal notice and closures*

#### **Taxation: Commission calls on ESTONIA to amend its rules on exchange of information and closes 4 tax transparency cases**

The Commission decided today to send a letter of formal notice to **Estonia** asking it to align its rules on exchange of certain tax information held by Member States on taxpayers from other EU countries, as foreseen in the Directive on Administrative Cooperation (DAC1 [Council Directive 2011/16/EU](#)). Estonian law currently does not oblige its tax authorities to provide their counterparts in other EU Member States with the requested information. Nor does it require them to initiate tax proceedings for obtaining such information where needed or to engage in spontaneous exchanges of information. If Estonia does not act within the next two months, the Commission may send a reasoned opinion to the Estonian authorities. At the same time, the Commission is closing four other separate tax transparency cases today. It welcomes the communication on the exchange of information on advance cross-border tax rulings and on rules providing tax authorities access to anti-money-laundering information by **Belgium** under EU law (DAC3 and DAC5 Council Directives [2015/2376](#) and [2016/2258](#)). The Commission also decided to close infringement proceedings against **Cyprus** and **Italy** because those Member States have communicated to the Commission their transposition of

rules on the exchange of country-by country reporting with other Member States under DAC4 ([Council Directive 2016/881](#)) and rules providing tax authorities access to anti-money-laundering information required by DAC5 ([Council Directive 2016/2258](#)).

*Other letters of formal notice*

**Taxation: Commission requests that BELGIUM comply with the rules on taxation of savings income**

The Commission decided today to send a letter of formal notice asking **Belgium** to bring its rules on savings income in the form of interest payments to Belgian residents with accounts in Luxembourg and Austria into line with EU law. Currently, Belgium refuses to grant tax credits for the withholding tax levied in Luxembourg and Austria from the above interest payments. This refusal is contrary to EU law on taxation of savings income in the form of interest payments (Article 14, [Council Directive 2003/48/EC](#)). If Belgium does not act within the next two months, the Commission may send a reasoned opinion to the Belgian authorities.

**Taxation: Commission requests that GREECE align its rules on deduction of foreign losses with EU law**

The Commission decided today to send a letter of formal notice to **Greece** for treating business losses incurred domestically and those incurred in another EU/EEA state differently for tax purposes. While both business profits originating domestically and those originating in another EU/EEA state are subject to taxes in Greece, the treatment of losses incurred abroad is limited by Greek law and guidelines issued by the Greek tax authorities. This difference in treatment constitutes a restriction to the right of establishment ([Article 49 TFEU](#)). If Greece does not act within the next two months, the Commission may send a reasoned opinion to the Greek authorities.

**Taxation: Commission requests that ITALY bring its VAT rules on the supply of services relating to the importation of goods in line with EU law**

The Commission decided today to send a letter of formal notice to **Italy** concerning the fact that it adds further conditions for the exemption from VAT of services relating to importation of goods. The Italian legislation currently requires that for the exemption from VAT to be applied to ancillary services relating to the importation of goods, not only their value must be included in the taxable amount, but also that VAT is actually charged on them at the customs stage at the time of importation. This runs against the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (the [VAT Directive](#)). If Italy does not act within the next two months, the Commission may send a reasoned opinion to the Italian authorities.

**Taxation: Commission requests that ITALY put an end to the regional tax on petrol for motor vehicles**

The Commission decided today to send a letter of formal notice to Italy

requesting the abolition of the regional tax on petrol for motor vehicles (the IRBA). The IRBA is levied at approximately 2 cents per litre of petrol, compared with 72 cents for the excise duty levied on the basis of harmonised EU legislation. The IRBA does not pursue specific objectives, but has only budgetary objectives, which is contrary to EU law (Article 1 (2) of the Excise duty Directive, [Council Directive 2008/118/EC](#)). If Italy does not act within the next two months, the Commission may send a reasoned opinion to the Italian authorities.

#### **Taxation: Commission requests that LATVIA amend its rules on the real estate tax in Riga**

The Commission decided today to send a letter of formal notice to Latvia on discriminatory requirements set up by Riga City Council to apply reduced rates of the tax on real estate. Reduced rates are applicable on a property owned by a Latvian national if he or she declares it as a principal residence. However, nationals of other EU and EEA Member States are subject to an additional condition – they must have declared residence in Latvia seven years before the relevant tax year. This additional condition violates the free movement of capital (Article 63(1) TFEU). If Latvia does not act within the next two months, the Commission may send a reasoned opinion to the Latvian authorities.

#### **Taxation: Commission requests the UNITED KINGDOM to bring its income tax rules into line with EU law**

The Commission decided today to send a letter of formal notice to the **United Kingdom** asking it to align its rules with EU 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 TFEU](#)). If the United Kingdom does not act within the next two months, the Commission may send a reasoned opinion to the authorities of the United Kingdom.

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

The Commission decided today to send a letter of formal notice 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 TFEU](#)). If the United Kingdom does not act within the next two months, the Commission may send a reasoned opinion to the authorities of the United Kingdom.

## **Taxation: Commission closes inheritance tax case for BELGIUM**

The Commission welcomes the changes made by **Belgium** to the rules on inheritance tax in the Wallonia region. The new rules now allow for immovable property located in Belgium to be exempted from inheritance tax and for that property to be passed on by a deceased person who was living in another country within the EEA under the same conditions as for the property inherited from a Belgian resident. Today, the Commission decided to close that infringement case.

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## **Financial services: Commission refers Spain to Court for not applying EU prudential rules for banks and investment firms**

The European Commission has decided to refer **Spain** to the Court of Justice of the EU for failing to fully implement the Capital Requirements Directive ([Directive 2013/36/EU](#)).

To date, Spain has not fully implemented these EU rules and some provisions are still missing from national law. Those refer mostly to the following aspects: certain powers and discretions of national competent authorities in relation to investment firms; and the imposition of administrative penalties or other measures applicable to institutions found liable of a serious breach in anti-money laundering. Missing provisions also include whistle-blowing mechanisms in case of capital requirements' breaches, rules on the integrity and independence of the members of the management body and the obligation by the Spanish competent authorities to contact the consolidated supervisor in order to obtain information, thereby making supervisory cooperation more difficult. Lastly, corporate governance rules are weaker in Spain given that the obligation to have diverse and skilled management bodies of institutions is not transposed.

Together with the Capital Requirements Regulation ([Regulation \(EU\) No 575/2013](#)), the Directive sets out the prudential requirements for credit institutions and investment firms in the EU, laying down rules on the amount of capital that institutions must have in order to cover potential losses of the risks to which they are exposed. The Directive also formulates rules on the authorisation and supervision of institutions, on supervisory cooperation, on risk management, on corporate governance (including remuneration) and on capital buffers.

## Background

Member States had to transpose the Directive into national law by 31 December 2013. In January 2015, the European Commission formally requested Spain to transpose the Directive. In January 2018, a reasoned opinion was issued against Spain. Since then, Spain did not notify the missing measures related to the Directive at stake.

### For More Information:

- On the key decisions in the July 2018 infringements package, see full [MEMO/18/4486](#).
- On the general infringements procedure, see [MEMO/12/12](#).
- On the [EU infringements procedure](#).

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## Securities markets: Commission refers Slovenia and Spain to the Court of Justice for failing to fully enact EU rules on markets in financial instruments

The European Commission decided today to refer **Slovenia** and **Spain** to the Court of Justice of the EU for failing to fully implement European rules on markets in financial instruments ([MiFID II](#)) as well as its supplementing Directive ([Delegated Directive \(EU\) 2017/593](#)).

These rules are crucial building blocks for the proper functioning of securities markets and are essential for the continued operation of the European single market. If Member States do not transpose the rules, investors are not able to benefit from the enhanced investor protection provided under MiFID II. This includes safeguards of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits. It also makes markets less safe as trading venues and investment firms do not have to operate under the more stringent and transparent operational requirements. National competent authorities of non-transposing Member States are further not able to deliver legally sound authorisations for activities that had not been previously regulated, or that were regulated differently under MiFID I. This includes the operation of trading venues, such as regulated markets, multilateral trading facilities (MTF) and organised trading facilities (OTF) and the registration of MiFID I



investment firms as a systematic internaliser.

Not fully transposing these EU rules disrupts the single market as they became applicable on 3 January 2018 and complement the provisions of the [Market for Financial Instruments Regulation \(MIFIR\)](#). Cross-border “passporting” of various investment services and activities might not operate as smoothly as between Member States that have fully transposed the MiFID II rulebook.

## **Background**

In September 2017, the European Commission formally requested several Member States to transpose MiFID II and its Delegated Directive. In January 2018, reasoned opinions were issued against those Member States that had not notified full transposition yet. To date, Slovenia has not notified any measures related to the Directives at stake and Spain has notified partial transposition only.

## **For More Information:**

- On the key decisions in the July 2018 infringements package, see full [MEMO/18/4486](#).
- On the general infringements procedure, see [MEMO/12/12](#).
- On the [EU infringements procedure](#).