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 European 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, 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.

Background

Croatia took the commitment to align the so-called INA law with EU rules before its accession to the EU. In November 2014, the European Commission decided to take action against Croatia for failure to amend such law. After assessing the observations of the Croatian authorities in December 2016, the European Commission sent a reasoned opinion to Croatia to formally request the amendment of the INA law, on the ground that it violates the rules of the Treaty on the Functioning of the European Union (TFEU) on the freedom of establishment (Art. 49 of TFEU) and the free movement of capital (Art. 63 of TFEU). Then, concluding that Croatia had not fully complied with the Commission's reasoned opinion, the Commission decided on 13 July 2017 to refer the matter to the Court of Justice.

For More Information

– On the monitoring the EU law in the area of free movement of capital Capital movements | European Commission.

– 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.

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.

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

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 4th 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 5th 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 5th Anti-Money Laundering Directive into national legislation by 10 January 2020.

Next steps

Regarding the 4th Anti-Money Laundering Directive the Commission has opened so far infringement procedures for non-communication of transposition measures against 20 Member States: 3 are currently 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 analysing whether these laws completely transpose the provisions of the 4th Anti-Money Laundering Directive before deciding on whether closing or proceeding with further infringements against Member States.

Background

In July 2017 the Commission opened infringement proceedings for non-communication of the transposition measures and sent a letter of formal notice to sixteen Member States, who had either not notified any measures (Bulgaria, Cyprus, Estonia, Greece, Finland, Hungary, Luxembourg, Latvia, Malta, the Netherlands, Poland, Portugal, Romania) or whose measure were not satisfactory (Ireland, Lithuania, Slovakia).

In November 2017 (Belgium and Spain) and January 2018 (Austria and France), the Commission opened infringement proceedings for non-communication of the transposition measures as the measures notified by these Member States represented only a partial transposition.

Last December 2017- 8 Member States (Bulgaria, Cyprus, Greece, Luxembourg, Malta, the Netherlands, Poland and Romania) had not yet notified any transposition measure. The Commission therefore sent them a reasoned opinion.

In March 2018 the Commission also sent a reasoned opinion to Slovakia and Ireland who – despite having notified to the Commission a partial transposition – had not yet transposed the main obligations of the 4th Anti-money laundering Directive into their national law.

Following these infringement steps, a majority of Member States have adopted the relevant laws. The Commission is now carefully analysing whether these laws completely implement the provisions of the 4th Anti-Money Laundering Directive before deciding on whether closing these infringements or further proceeding with infringements against Member States.

Today, the Commission has also sent reasoned opinions to **Latvia** and **Spain** and an additional reasoned opinion to **Malta** for failing to transpose the 4th Anti-Money Laundering Directive into national law as the assessment of the transposition laws notified by these countries has showed that the transposition is not complete.

For More Information

– 4th Anti-Money Laundering Directive and Funds Transfer Regulation

– The Supranational Risk Assessment Report

– The Staff Working Document on Financial Intelligence Units

– 5th Anti-Money Laundering Directive and factsheet

– 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

Declaration by the High Representative on behalf of the EU on the alignment of certain countries with concerning restrictive measures in view of the situation in Venezuela

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On 25 June 2018 the Council adopted Decision (CFSP) 2018/901[1] amending Council Decision (CFSP) 2017/2074.

In view of the elections held on 20 May 2018, eleven persons are included in the list of natural and legal persons, entities and bodies subject to restrictive measures in Annex I to Decision (CFSP) 2017/2074.

The Candidate Countries the former Yugoslav Republic of Macedonia*, Montenegro* and Albania*, the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, and the EFTA countries Iceland, Liechtenstein and Norway, members of the European Economic Area, as well as the Republic of Moldova and Georgia, align themselves with this declaration.

They will ensure that their national policies conform to this Council Decision.

The European Union takes note of this commitment and welcomes it.

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[1] Published on 25.06.2018 in the Official Journal of the European Union L 160I, p.12.

*The former Yugoslav Republic of Macedonia, Montenegro and Albania continue to be part of the Stabilisation and Association Process.

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Declaration by the High Representative on behalf of the EU on the alignment of certain countries concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol

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