



## January Infringements package: key decisions

Brussels, 26 January 2023

### Overview by policy area

In its regular package of infringement decisions, the European Commission pursues legal action against Member States for failing to comply with their obligations under EU law. These decisions, covering various sectors and EU policy areas, aim to ensure the proper application of EU law for the benefit of citizens and businesses.

The key decisions taken by the Commission are presented below and grouped by policy area. The Commission is also closing 221 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 [Q&A](#). For more detail on all decisions taken, consult the [infringement decisions' register](#).

## 1. Environment and fisheries

(For more information: Adalbert Jahnz – Tel. +32 229 53156, Daniela Stoycheva – Tel.: +32 229 53664)

### Letters of formal notice

#### **Clean air: Commission calls on 14 Member States to reduce emissions of several air pollutants**

The Commission is calling on 14 Member States (**Bulgaria** ([INFR\(2022\)2068](#)), **Denmark** ([INFR\(2022\)2070](#)), **Ireland** ([INFR\(2022\)2073](#)), **Spain** ([INFR\(2022\)2071](#)), **Cyprus** ([INFR\(2022\)2069](#)), **Latvia** ([INFR\(2022\)2076](#)), **Lithuania** ([INFR\(2022\)2074](#)), **Luxembourg** ([INFR\(2022\)2075](#)), **Hungary** ([INFR\(2022\)2072](#)), **Austria** ([INFR\(2022\)2067](#)), **Poland** ([INFR\(2022\)2077](#)), **Portugal** ([INFR\(2022\)2078](#)), **Romania** ([INFR\(2022\)2079](#)) and **Sweden** ([INFR\(2022\)2080](#))) to respect their reduction commitments for several air pollutants as required by [Directive 2016/2284](#) on the reduction of national emissions of certain atmospheric pollutants (the 'National Emission Ceilings' or 'NEC Directive'). The NEC Directive sets national emission reduction commitments for several pollutants to be attained by each Member State each year between 2020 and 2029, and more ambitious reductions for 2030 onwards. Member States are required to establish national air pollution control programmes (NAPCPs) to show how these reduction commitments will be met. The [European Green Deal](#), with its [zero pollution ambition](#), puts emphasis on cutting air pollution, which is among the key factors negatively affecting human health. The Commission analysed the national emission inventories of several pollutants submitted by Member States in 2022 (reflecting emissions from 2020). The 14 Member States mentioned above have failed to meet their commitments for one or several pollutants targeted by the NEC Directive. Moreover, since the measures set out in the NAPCP of most of these Member States have not ensured reaching the emission reduction commitment for one or several pollutants, these measures are not sufficient to limit the annual human-caused emissions as required by the Directive. Ammonia (stemming from the agricultural sector) is the pollutant for which most of these Member States do not comply with their obligations. The Commission is therefore sending letters of formal notice to these 14 Member States, which now have two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### **Air quality: Commission calls on ESTONIA to correctly transpose EU air quality rules**

The Commission is calling on **Estonia** ([INFR\(2022\)2134](#)) to bring its national legislation fully in line with EU laws on air quality ([Directive 2004/107/EC](#)) relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air and [Directive 2008/50/EC](#) on ambient air quality and cleaner air for Europe, as amended by [Directive 2015/1480](#)). The [European Green Deal](#), with its [zero pollution ambition](#), puts emphasis on cutting air pollution, which is among key threats to health.

Full implementation of the air quality standards set out in EU legislation is essential both for human health and for the natural environment. The directives in question lay down measures to define and establish objectives for air quality. These include assessing the ambient air quality in Member States, obtaining information on ambient air quality, ensuring that the information on ambient air quality is made available to the public, maintaining and improving air quality, as well as promoting increased cooperation between the Member States in reducing air pollution. Estonia has not correctly transposed certain requirements of these directives, for instance those related to sampling points, quality assurance and quality control systems and documentation of the site selection. The Commission is therefore sending a letter of formal notice to Estonia, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### **Nature: Commission calls on ESTONIA to effectively manage its Natura 2000 sites**

The Commission is calling on **Estonia** ([INFR\(2022\)2002](#)) to take measures to manage its Natura 2000 sites to respect obligations under the Habitats Directive ([Directive 92/43/EEC](#)). Under the Habitats Directive, Member States must set specific conservation objectives and measures for habitats and species present in special areas of conservation (SAC) to maintain or restore them to favourable conservation status at national biogeographical level. These are key requirements to protect biodiversity across the EU. The [European Green Deal](#) and the [European Biodiversity Strategy for 2030](#) both stress the importance for the EU to stop its biodiversity loss by preserving our natural sites and restoring damaged ecosystems. In 2016, the Commission launched a dialogue with all Member States, including Estonia, to address the remaining gaps in SAC designation and management. Estonia has designated all sites as SACs, but the conservation objectives do not always fulfil the legal requirements of the Habitats Directive as they are not sufficiently detailed, measurable and reportable. As a consequence, conservation measures that must be established with the view to attaining the conservation objectives set for each Natura 2000 site are also inadequate. The Commission is therefore sending a letter of formal notice to Estonia, which has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### **EU Ecolabel: Commission calls on GREECE to allow Greek companies to obtain EU Ecolabel and ensure market surveillance**

The Commission is calling on **Greece** ([INFR\(2022\)2110](#)) to correctly apply the EU Ecolabel Regulation ([Regulation \(EC\) No 66/2010](#)). The Regulation establishes a voluntary ecolabel award scheme to promote products with a lower environmental impact and to give customers accurate, non-deceptive, science-based information on the environmental impact of products. The Regulation obliges each participating Member State to establish a competent body that grants the right to use the EU Ecolabel on products complying with EU Ecolabel criteria. The Greek competent body has not been operational since 2020 and therefore cannot process any applications made by businesses. This means that Greek companies cannot obtain ecolabels for their products before exporting them to other Member States, leading to unfair competition with other European companies. Moreover, this also means that there is no market surveillance on the Greek EU Ecolabel products already on the market. Although the Greek authorities have acknowledged the issue, it has not yet been resolved. The Commission is therefore sending a letter of formal notice to Greece, which has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### *Reasoned opinions*

#### **Nature protection: Commission calls on ROMANIA to complete its Natura 2000 network**

The Commission is calling on **Romania** ([INFR\(2019\)2138](#)) to ensure adequate protection for habitats and species of EU interest by designating [Natura 2000](#) sites, as required under the Habitats Directive ([Directive 92/43/EEC](#)). Member States committed to develop a coherent European Natura 2000 network. The Habitats Directive requires Member States to propose adequate sites of Community importance (SCIs) to the Commission and obliges EU countries to protect and restore to favourable conservation status habitats that play a vital role for biodiversity. The [European Green Deal](#) and the [Biodiversity Strategy for 2030](#) also both indicate that it is crucial for the EU to stop biodiversity loss. The Commission sent a [letter of formal notice](#) to Romania in July 2019 over its failure to ensure adequate protection for habitats and species of EU interest by designating Natura 2000 sites. Romania has not yet proposed all the sites it should have, and those proposed do not adequately cover the various habitat types and species that need protection. Therefore, the Commission has decided to issue a reasoned opinion to Romania, which now has two months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

#### **Nature protection: Commission calls on CROATIA to correctly implement the Habitats Directive in relation to wind energy projects**

The Commission is calling on **Croatia** ([INFR\(2020\)2204](#)) to properly apply the Habitats Directive ([Directive 92/43/EEC](#)) concerning authorisation of wind farm projects affecting Natura 2000 sites. The Habitats Directive requires that projects likely to have significant effects on Natura 2000 sites, either individually or in combination with other plans or projects, can be authorised only after having ascertained that the integrity of the sites concerned will not be adversely affected. Croatia failed to correctly apply the Habitats Directive when authorising changes to certain wind farm projects. In particular, the changes to such projects were authorised without ensuring that they would not negatively affect the integrity of the sites. The [European Green Deal](#) and the [Biodiversity Strategy](#) for 2030 indicate that it is crucial for the EU to stop biodiversity loss by protecting and restoring it. The Commission sent a [letter of formal notice](#) to Croatia in May 2020. Despite some progress, the Croatian authorities have not fully addressed all grievances and refused to take any measures to remedy to the problems identified. Therefore, the Commission has decided to issue a reasoned opinion to Croatia, which now has two months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

#### **Access to environmental information: Commission calls on FRANCE to improve citizens' access to environmental information**

The Commission is calling on **France** ([INFR\(2020\)4014](#)) to comply with [Directive 2003/4](#) on public access to environmental information. The Directive aims to increase public access to environmental information and the dissemination of such information contributing to a greater awareness of environmental matters, a more effective participation by the public in environmental decision-making and, eventually, to a better environment. The Directive provides that an applicant who considers that a request for information has been ignored, or wrongfully refused, may ask an independent and impartial body to review the case in an expeditious manner. In France, such a procedure exists but the deadline of one month given to the independent body to provide its opinion has been repeatedly exceeded. The Commission sent a [letter of formal notice](#) to France in May 2020. Although France took some measures to reduce the delays, the breach still persists. In 2021, the French independent body (la Commission d'accès aux documents administratifs - CADA) continued to exceed the legal delay to deliver its opinion in the vast majority of cases. The average time for delivering the opinion was around 2 months. Therefore, the Commission has decided to issue a reasoned opinion to France, which now has two months to reply and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

#### Additional reasoned opinions

#### **Nature protection: Commission calls on FRANCE to stop illegal bird hunting and capture methods**

The Commission is calling on **France** ([INFR\(2019\)2151](#)) to stop hunting methods that are prohibited by the Birds Directive ([Directive 2009/147/EC](#)). The latter aims to protect all wild bird species naturally occurring in the European Union. Among the 64 species that can be hunted, 20 are threatened of disappearing. France has authorised several methods for the capture of huntable birds, such as nets and cage traps for skylark and pigeons including the turtle dove, which are not selective and are forbidden by the Directive. Alternative methods to secure skylarks and pigeons for food consumption exist (gun hunting and breeding on farm). The use of glue for hunting thrushes is also still permitted in the French law, contrary to the Directive. Member States may derogate from certain provisions of the Directive but only under strict conditions that are not fulfilled in this case, especially because the skylarks captured are not in a good conservation status and in steep decline. Moreover, protected species such as ortolans and goldfinches are trapped and harmed. France has also declared its intention to reopen spring hunting of greylag goose which has been systematically authorised or tolerated in the past, violating the Directive. France has also not fully reported on derogations to the Commission as required by the Directive. These are key requirements to protect biodiversity across the EU as emphasised by the [European Green Deal](#) and the [Biodiversity Strategy](#) for 2030. The Commission sent a [letter of formal notice](#) to France in July 2019 followed by a [reasoned opinion](#) in July 2020. In March 2021, the Court of Justice developed the legal interpretation for the notion of selectivity and alternatives in its judgment in case [C-900/19](#). The Commission has now added to its analysis on the non-selectivity of the above-mentioned hunting methods in the light of the criteria established by the Court. The Commission has therefore decided to send an additional reasoned opinion to France, which now has two months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

#### Referrals to the Court of Justice

#### **Water: Commission decides to refer IRELAND to the Court of Justice for failing to correctly transpose the Water Framework Directive protecting waters from pollution**

The Commission decided today to refer **Ireland** ([INFR\(2007\)2238](#)) to the Court of Justice of the European Union for failing to correctly transpose the Water Framework Directive ([Directive 2000/60/EC](#)) into national law. The Directive establishes a framework for protecting inland surface waters, transitional waters, coastal waters and groundwater by preventing their further deterioration, preventing pollution as well as protecting and enhancing water dependent ecosystems and water resources. It requires that all inland and coastal waters reach at least good status by 2027 at the latest. To achieve this, Member States are to establish river basin management plans and programmes with measures. This is an important aspect of the [European Green Deal's zero pollution ambition](#), aiming for water pollution to be reduced to levels no longer considered harmful to human health and natural ecosystems. The Commission sent a letter of formal notice to Ireland in October 2007, followed by a reasoned opinion in November 2011. The Commission reassessed the case after Ireland adopted new amending legislation and sent an additional letter of formal notice to Ireland in January 2019, followed by an additional reasoned opinion in October 2020. Despite some progress and the adoption of new legislation in June 2022, the Irish authorities have not yet fully addressed the grievances, more than 20 years since the entry into force of this directive. The Commission considers that efforts by the Irish authorities have to date been unsatisfactory and insufficient and is therefore referring Ireland to the Court of Justice of the European Union. More information is available in the [press release](#).

### **Biodiversity: Commission decides to refer six Member States to the Court of Justice for failing to prevent invasive alien species damaging European nature**

The Commission decided today to refer **Bulgaria** ([INFR\(2021\)2007](#)), **Ireland** ([INFR\(2021\)2015](#)), **Greece** ([INFR\(2021\)2011](#)), **Italy** ([INFR\(2021\)2016](#)), **Latvia** ([INFR\(2021\)2019](#)) and **Portugal** ([INFR\(2021\)2021](#)) to the Court of Justice of the European Union for failing to implement various provisions of [Regulation 1143/2014](#) on the prevention and management of the introduction and spread of invasive alien species (the 'Invasive Alien Species' or 'IAS Regulation'). Invasive alien species are plants and animals which are accidentally or deliberately introduced to an area where they are not normally found. The IAS Regulation includes measures to be taken across the EU in relation to invasive alien species included on the Union list. The six Member States did not establish, implement and communicate to the Commission an action plan (or a set of action plans) to address the most important pathways of introduction and spread of invasive alien species of concern for the EU. The Commission therefore sent [letters of formal notice](#) to 18 Member States in June 2021 (Belgium, Bulgaria, Czechia, Germany, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia and Slovakia), followed by [reasoned opinions](#) to 15 of these (Belgium, Bulgaria, Czechia, Ireland, Greece, France, Italy, Cyprus, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia and Slovakia) in February 2022. Since then, 11 Member States have complied with their obligations and one of them will adopt the missing steps promptly. However, despite some progress, the remaining six Member States (Bulgaria, Ireland, Greece, Italy, Latvia and Portugal) have not fully addressed the grievances. The Commission considers that efforts by the authorities of these six Member States have to date been unsatisfactory and insufficient and is therefore referring them to the Court of Justice of the European Union. More information is available in the [press release](#).

### **Waste: Commission decides to refer SLOVAKIA to the Court for failing to comply with EU rules on landfills**

The Commission decided today to refer **Slovakia** ([INFR\(2017\)2035](#)) to the Court of Justice of the European Union for failing to rehabilitate and close a certain number of landfills which have not complied with the procedures required under the Landfill Directive ([Directive 1999/31/EC](#)). Under the Directive, only safe and controlled landfill activities should be carried out in Europe. It lays down standards to protect human health and the environment from the negative effects of treating and disposing of waste in landfills. It aims to prevent or reduce as far as possible negative effects, in particular on surface water, groundwater, soil, air and human health, of the landfilling of waste by introducing stringent technical requirements for waste and landfills. Fully applying EU rules on landfills is crucial to reap the benefits of the [Circular Economy Action Plan](#), one of the main building blocks of the [European Green Deal](#). The Commission sent a letter of formal notice to Slovakia in April 2017, followed by a [reasoned opinion](#) in March 2019. Since then, Slovakia has reconditioned and re-permitted a number of landfills and has closed several non-compliant ones. However, action is still needed for 21 landfills. The Commission considers that efforts by the Slovak authorities have to date been unsatisfactory and insufficient and has therefore decided to refer Slovakia to the Court of Justice of the European Union. More information is available in the [press release](#).

### **Environmental impact assessment: Commission decides to refer PORTUGAL to the Court of Justice for failing to correctly transpose EU rules**

The Commission decided today to refer **Portugal** ([INFR\(2019\)2254](#)) to the Court of Justice of the European Union for failing to correctly transpose the Directive on the assessment of the effects of certain public and private projects on the environment ([Directive 2011/92/EU](#)). The Directive was



amended in April 2014 (by [Directive 2014/52/EU](#)) to reduce the administrative burden and improve the level of environmental protection, while making business decisions on public and private investments more sound, predictable and sustainable. Portugal has not correctly reflected certain provisions of the amended Directive into national law. The Commission sent a [letter of formal notice](#) to Portugal in October 2019, followed by a [reasoned opinion](#) in November 2021. The Commission considers that efforts by the Portuguese authorities have to date been unsatisfactory and insufficient and is therefore referring Portugal to the Court of Justice of the European Union. More information is available in the [press release](#).

## 2. Internal Market, Industry, Entrepreneurship and SMEs

(For more information: Sonya Gospodinova – Tel.: +32 229 66953; Federica Miccoli – Tel.: +32 229 58300)

### Letters of formal notice

#### **Internal Market: Commission calls on BULGARIA to make its fuel compensation scheme compliant with the rules on free movement and the non-discrimination principle**

Today, the Commission decided to open an infringement procedure against **Bulgaria** ([INFR\(2022\)4109](#)) for having introduced measures going against internal market provisions. Bulgaria introduced a compensation scheme for fuel that results in a lower price of fuel only for owners of vehicles registered in Bulgaria. The scheme provides that the users of vehicles, motorbikes and motor-pedal bikes registered in Bulgaria are entitled to lower official fuel prices. The compensation leads to reducing the fuel price for the individual, as owed to the final distributor, by BGN 0.25 (EUR 0.13) per litre/kilogram of fuel. In contrast, the reduction does not apply to vehicles not registered in Bulgaria. This measure is therefore severely discriminatory and disproportionate. Thus, the Commission requests the Bulgarian authorities to comply with the principles of free movement of goods, free movement of citizens and workers, non-discrimination for EU citizens as well as with notifications rules under the [Single Market Transparency Directive](#). Ensuring the proper functioning of the single market is of particular importance in the present geopolitical situation as it represents the main instrument to overcome the current economic disruptive effects resulting from the Russian invasion of Ukraine. Acting unilaterally at national level and introducing discriminatory treatments cannot constitute a solution. Bulgaria now has two months to address the concerns raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion to Bulgaria.

#### **Public procurement: Commission calls on GREECE to respect EU rules in the utilities sector**

Today, the Commission decided to open an infringement procedure against Greece ([INFR\(2022\)4111](#)) with regard to the non-conformity of its national legislation with the EU rules on public procurement in the utility sector ([Directive 2014/25/EU](#)). Greek law foresees that contracting entities apply within a specific tender procedure, the so-called 'summary' tender procedure, for the award of all procurement contracts for the temporary installation and operation of desalination plants of certain capacity on islands in Greece, regardless of the value of the contracts. However, a 'summary' tender procedure for the award of procurement contracts whose value is equal to or above the EU thresholds does not comply with the transparency requirements of the Directive. Therefore, the Commission considers that the Greek legal provision authorising the use of this procedure for those contracts is in clear breach of EU law. Greece has now two months to address the concerns raised by the Commission. Otherwise, the Commission may decide to issue a reasoned opinion.

#### **Energy products: Commission asks HUNGARY to remove export restrictions related to energy products**

Today, the Commission has decided to open an infringement procedure against **Hungary** ([INFR\(2022\)4108](#)), requesting the Member State to comply with EU law when it comes to national rules affecting the energy sector. The Hungarian measures introduce prior notification schemes, which allow blocking the export of wood-based and coal-based energy carriers. The Commission considers the measures to have an equivalent effect to quantitative restrictions on exports within the internal market, in violation of [Article 35](#) of the Treaty on the Functioning of the European Union (TFEU). It appears that Hungary has further breached the standstill period under the [Single Market Transparency Directive](#), by adopting those measures during this period of time. In addition, the restriction, which also applies to exports from Hungary to third countries, affects trade with third countries. Hungary now has two months to reply to the arguments put forward by the Commission. Otherwise, the Commission may decide to send a reasoned opinion to Hungary.

### Reasoned opinions

#### **Construction products: Commission asks HUNGARY to comply with EU rules on freedom of establishment**

The Commission has decided today to send a reasoned opinion to **Hungary** ([INFR\(2022\)4009](#)) requesting the Hungarian authorities to bring in compliance with EU law national rules affecting the construction sector. According to the Commission, the Hungarian measures fixing prices for specific raw materials for the construction industry, which impose a 90% penalty on the difference between fixed prices and sale prices, do not comply with the freedom of establishment ([Article 49 TFEU](#)). The Hungarian rules also require economic operators to maintain certain output levels, even if economically not sustainable. The Commission considers that the penalty as well as the combined impact of both measures adversely impact economic operators in accessing and exercising activities in this sector. In addition, Hungary has failed to notify the measures in violation of the [Single Market Transparency Directive](#). Hungary now has two months to take the necessary measures to comply with the reasoned opinion. Otherwise, the Commission may decide to refer Hungary to the Court of Justice of the European Union.

### **Services: Commission asks PORTUGAL to ensure equal treatment regarding beach concessions**

Today, the Commission has decided to send a reasoned opinion to **Portugal** ([INFR\(2022\)2020](#)) for not having correctly implemented rules regarding tendering procedures for the award of beach concessions. The Commission is requesting Portugal to comply with the provisions of the Services Directive ([Directive \(2006/123/EC\)](#) Directive 2006/123/EC) and the freedom of establishment ([Article 49 TFEU](#)). The Commission considers that the Portuguese legislation giving holders of existing 'beach concessions' a right of preference in tender procedures for the renewal of these concessions does not appear compatible with the Services Directive and with the freedom of establishment. According to the Commission, a preferential right in favour of incumbents would penalise and discourage undertakings located in other Member States from providing beach services in Portugal. Portugal has now two months to reply to the arguments put forward by the Commission. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

#### Referrals to the Court of Justice

### **Free movement of goods: Commission decides to refer HUNGARY to the Court regarding export restrictions in the construction sector**

Today, the Commission has decided to refer Hungary ([INFR\(2021\)2158](#)) to the Court of Justice of the European Union regarding a prior notification scheme introduced by the Hungarian authorities which allows them to block the export of building materials. Under the Hungarian law, construction materials intended for exports have to undergo a prior notification procedure. Exports may be blocked if the Hungarian authorities consider that these exports would "*significantly impede or render impossible the construction, operation, maintenance and development of critical infrastructures, thereby jeopardising public supply or pose a risk to the security of supply in the construction industry*". The Commission considers that these measures are in breach of [Article 35 TFEU](#) and [Article 36 TFEU](#), as they restrict the free movement of goods and are not justified. In particular, Hungary does not demonstrate in a satisfactory manner that the objective of the measure corresponds to a legitimate objective. In addition, there seems to be no actual risk to the security of supply of the products concerned in Hungary. Furthermore, the Hungarian measures do not provide objective and predefined criteria for the decision of whether exports could be blocked. Therefore, the Hungarian authorities can freely determine when there is a risk to the security of supply in the construction industry, making the decision potentially arbitrary. The measures therefore cannot be considered as justified to attain the intended public interest. A press release is available [here](#).

## **3. Migration, Home Affairs and Security Union**

(For more information: Anitta Hipper - Tel.: +32 229 85691; Yuliya Matsyk — Tél.: +32 229 13173, Andrea Masini — Tél.: +32 229 91519; Fiorella Belciu — Tél.: + 32 2 299 37 34)

#### Letters of formal notice

### **Reception conditions of asylum seekers: Commission calls BELGIUM, GREECE, SPAIN, and PORTUGAL to transpose in a fully conform manner all provisions of with the Reception Conditions Directive \***

The Commission has decided to open infringement procedures by sending letters of formal notice to **Belgium** ([INF\(2022\)2157](#)), **Greece** ([INF\(2022\)2156](#)), **Spain** ([INF\(2022\)2158](#)) and **Portugal** ([INF\(2022\)2153](#)) for failing to transpose in a fully conform manner all provisions of the Directive laying down standards for the reception of applicants for international protection ([Directive 2013/33/EU](#)). Ensuring the full respect of the Reception Conditions Directive is an important prerequisite for the well-functioning Common European Asylum System (CEAS) and the Commission is carefully monitoring the way in which all Member States have transposed this legislation into national law. The Commission considers that Belgium, Greece, Spain and Portugal have incorrectly

transposed certain provisions of the Directive and they have now two months to respond to the arguments raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

### **Qualification for international protection: Commission calls GREECE, PORTUGAL and FINLAND to comply with the Qualification Directive**

The Commission has decided to open an infringement procedure by sending letters of formal notice to **Greece** ([INFR\(2022\)2044](#)), **Portugal** ([INFR\(2022\)2149](#)) and **Finland** ([INFR\(2022\)2154](#)) for failing to transpose in a fully conform manner all provisions of the Directive on standards for the qualification of third-country nationals and stateless persons as beneficiaries of international protection ([Directive 2011/95/EU](#)). Ensuring the full respect of the Qualification Directive is an important prerequisite for the well-functioning Common European Asylum System (CEAS). The Directive aims to ensure that Member States apply common criteria for the identification of persons in need of international protection, as well as to ensure the minimum level of benefits available for those persons in all Member States. The Commission is carefully monitoring the way in which this legislation has been transposed in all Member States. The Commission considers that Greece, Portugal and Finland have incorrectly transposed or implemented certain provisions of the Directive and they have now two months to respond to the arguments raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

### **Terrorist content online: Commission calls BELGIUM, BULGARIA, CZECHIA, DENMARK, ESTONIA, IRELAND, GREECE, SPAIN, ITALY, CYPRUS, LATVIA, LITHUANIA, LUXEMBOURG, MALTA, NETHERLANDS, AUSTRIA, POLAND, PORTUGAL, ROMANIA, SLOVENIA, FINLAND and SWEDEN to comply with the terrorist content online Regulation**

The Commission has decided to open an infringement procedure by sending letters of formal notice to **Belgium** ([INFR\(2022\)2112](#)), **Bulgaria** ([INFR\(2022\)2113](#)), **Czechia** ([INFR\(2022\)2115](#)), **Denmark** ([INFR\(2022\)2116](#)), **Estonia** ([INFR\(2022\)2117](#)), **Ireland** ([INFR\(2022\)2121](#)), **Greece** ([INFR\(2022\)2118](#)), **Spain** ([INFR\(2022\)2119](#)), **Italy** ([INFR\(2022\)2122](#)), **Cyprus** ([INFR\(2022\)2114](#)), **Latvia** ([INFR\(2022\)2125](#)), **Lithuania** ([INFR\(2022\)2123](#)), **Luxembourg** ([INFR\(2022\)2124](#)), **Malta** ([INFR\(2022\)2126](#)), **Netherlands** ([INFR\(2022\)2127](#)), **Austria** ([INFR\(2022\)2111](#)), **Poland** ([INFR\(2022\)2128](#)), **Portugal** ([INFR\(2022\)2129](#)), **Romania** ([INFR\(2022\)2130](#)), **Slovenia** ([INFR\(2022\)2132](#)), **Finland** ([INFR\(2022\)2120](#)) and **Sweden** ([INFR\(2022\)2131](#)) for the incorrect implementation of the EU Regulation on addressing the dissemination of terrorist content online ([Regulation \(EU\) 2021/784](#)). Ensuring the full implementation of the Regulation is fundamental to prevent terrorists from misusing the internet to spread their ideology, intimidate, radicalise and recruit citizens online. The Regulation provides a legal framework to ensure removal of terrorist content online within one hour after receipt of a removal order issued by a national competent authority and obliges companies to take special measures when their platforms are exposed to such content. At the same time, it puts in place strong safeguards to guarantee that freedom of expression and information are fully respected. Following the entry into application of the Regulation on 7 June 2022, not all Member States have adopted all the measures as outlined in the Regulation into their national law. The Commission therefore considers that Belgium, Bulgaria, Czechia, Denmark, Estonia, Ireland, Greece, Spain, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Finland and Sweden have failed to fully implement the obligations under the regulation and they have now two months to respond to the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion. A press release with more information is available [online](#).

### **Fight against child sexual abuse: Commission calls on CZECHIA, ESTONIA, GREECE and CROATIA to comply with the child sexual abuse Directive**

The Commission decided to send letters of formal notice to **Czechia** ([INFR\(2019\)2228](#)), **Estonia** ([INFR\(2019\)2229](#)), **Greece** ([INFR\(2019\)2230](#)) and **Croatia** ([INFR\(2019\)2233](#)) to ensure that they correctly transpose all the requirements of the child sexual abuse Directive ([Directive 2011/93/EU](#)). The Directive is an essential part of the EU's legal framework in the fight against child sexual abuse. It requires Member States to introduce minimum rules concerning the definition of criminal offences and sanctions in the area of sexual abuse and sexual exploitation of children, child pornography and solicitation of children for sexual purposes. It also introduces provisions to strengthen the prevention of those crimes and the protection of victims. Czechia, Estonia, Greece and Croatia now have two months to respond to the arguments raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### *Reasoned opinions*

### **Language requirements for long-term residence status: Commission proceeds with infringement case against MALTA**

The Commission is calling on **Malta** ([INFR\(2020\)2123](#)) to bring its national legislation in line with the EU long-term residency Directive ([2003/109/EC](#)). The Commission considers that the language

requirements for acquiring long-term residence status in Malta are disproportionate compared to the requirements for acquiring Maltese nationality. Under current Maltese legislation, knowledge of Maltese language is mandatory for acquiring the long-term residency while for acquiring nationality, knowledge of English is sufficient. On 2 July 2020, the Commission sent a [letter of formal notice](#) to Malta to address the issue and followed with the [additional letter of formal notice](#) on 9 June 2021. Given that the reply from Malta did not address the Commission's concerns, the Commission has decided to issue a reasoned opinion. Malta now has two months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

#### **Fight against non-cash payment fraud: Commission urges PORTUGAL to communicate all measures necessary to transpose the directive on combating fraud and counterfeiting of non-cash means of payment**

The Commission has sent a reasoned opinion to **Portugal** ([INFR\(2021\)0328](#)) for failure to communicate to the Commission its national measures transposing EU rules on combating fraud and counterfeiting of non-cash means of payment ([Directive \(EU\) 2019/713](#)). The Directive aims at updating the existing rules on combating fraud and fabricating of non-cash means of payment (credit cards, online shopping, etc.) to ensure that a clear, robust and technology-neutral legal framework is in place. It also gets rid of operational obstacles that hamper investigation and prosecution, and foresees actions to enhance public awareness of fraudulent techniques such as phishing or skimming. Member States agreed to transpose this Directive and communicate national transposition measures to the Commission by 31 May 2021. Since Portugal had missed the initial deadline, the Commission sent a [letter of formal notice](#) on 23 July 2021. To date, Portugal has not notified any transposition measure to the Commission. Portugal now has two months to comply with the transposition obligation and notify the Commission. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

## **4. Justice**

*(For more information: Christian Wigand - Tel.: +32 229 62253; Katarzyna Kolanko - Tel.: +32 229 63444; Cristina Torres Castillo - Tel.: +32 229 90679)*

### Letters of formal notice

#### **Data protection: Commission launches infringement procedure against BELGIUM for lack of judicial remedy against the Parliament's decision to dismiss of members of the Data Protection Authority**

Today, the European Commission has decided to send a letter of formal notice to **Belgium** ([INFR\(2022\)2160](#)) for failing to fulfil its obligations under the General Data Protection Regulation (GDPR) ([Regulation \(EU\) 2016/679](#)) and the [Charter of Fundamental Rights of the European Union](#). Two members of the Belgian Data Protection Authority (DPA) were dismissed in 20 July 2022. According to national legislation on the DPA, such dismissals are not open to any judicial remedy. The Commission considers that such national rule violates the GDPR and the right to an effective remedy and to a fair trial enshrined in the Charter. Dismissed members must have the right to an effective remedy before a tribunal, in order to guarantee that the conditions for the dismissal have been respected. Furthermore, ensuring a proper judicial remedy against such dismissals is essential to guarantee the effective independence of national DPAs. Belgium now has two months to reply to the Commission's letter of formal notice. Otherwise, the Commission may decide to issue a reasoned opinion.

#### **Parental child abduction: Commission launches infringement procedure against POLAND for failure to protect children in cross-border family proceedings**

Today, the European Commission sent a letter of formal notice to **Poland** ([INFR\(2021\)2001](#)) for failure to fulfil its obligations under the [Brussels IIa Regulation](#). The Regulation aims to protect children in the context of cross-border disputes relating to parental responsibility and child abduction. This infringement case concerns the non-conformity of the Polish law with the Brussels IIa Regulation, specifically the provisions relating to the enforcement of judgments or orders that require the return of abducted children to their place of habitual residence. The Commission considers that there is a systematic and persistent failure of Polish authorities to speedily and effectively enforce judgments ordering the return of abducted children to other EU Member States. Poland now has two months to reply to the Commission's letters of formal notice and take the necessary measures to remedy the breach of EU law identified by the Commission. Failing this, the Commission may decide to issue a reasoned opinion.

### Letters of formal notice and reasoned opinions



## **Combating racism and xenophobia: Commission sends letters of formal notice to ESTONIA, POLAND and FINLAND and urges GREECE and HUNGARY to correctly transpose EU law criminalising hate speech and hate crimes**

The aim of the [Framework Decision on combating racism and xenophobia by means of criminal law](#) (Council Framework Decision 2008/913/JHA) is to ensure that serious manifestations of racism and xenophobia, such as public incitement to violence or hatred, are punishable by effective, proportionate and dissuasive criminal penalties throughout the European Union. Today, the European Commission sent additional letters of formal notice to **Estonia** ([INFR\(2016\)2048](#)), **Poland** ([INFR\(2020\)2322](#)) and **Finland** ([INFR\(2020\)2320](#)). The Commission had previously sent letters of formal notice to [Estonia](#) on 30 October 2020, and to [Poland](#) and [Finland](#) on 18 February 2021. These three Member States responded with new information relating to the concerns raised by the Commission. Having analysed this additional information, the Commission found further transposition issues - in addition to the concerns already raised in the letters of formal notice - that needed to be specifically addressed. To that end, the Commission decided to send the three Member States an additional letter of formal notice. The three Member States now have two months to reply to the Commission's letter. Failing this, the Commission may decide to send them a reasoned opinion. Today, the Commission has also decided to send a reasoned opinion to **Greece** ([INFR\(2021\)2063](#)) and **Hungary** ([INFR\(2016\)2078](#)) for failing to fulfil their obligations to transpose the Framework Decision. On [9 June 2021](#), the Commission sent a letter of formal notice to Greece, asking for an appropriate level of criminalisation of hate speech. The Commission also sent a letter of formal notice to Hungary on [2 December 2021](#), calling it to criminalise public condoning, denial or gross trivialisation of international crimes and to ensure the required level of criminalisation of racist and xenophobic hate crimes in general. Greece and Hungary's replies did not sufficiently address the Commission's concerns. Therefore, the Commission has decided to send Greece and Hungary reasoned opinions. Greece and Hungary now have two months to reply to the Commission's reasoned opinions. If the replies are not satisfactory, the Commission may decide to bring this matter before the Court of Justice of the European Union.

### Reasoned opinions

## **Procedural rights: Commission sends reasoned opinions to BELGIUM, LATVIA, and PORTUGAL for incorrect transposition of EU rules on interpretation and translation in criminal proceedings**

Today, the European Commission decided to send reasoned opinions to **Belgium** ([INFR\(2021\)2102](#)), **Latvia** ([INFR\(2021\)2103](#)) and **Portugal** ([INFR\(2021\)2104](#)) for failing to correctly transpose provisions of the Directive on the right to interpretation and translation in criminal proceedings ([Directive \(EU\) 2010/64](#)). The Directive is one of six directives adopted by the EU to create common minimum standards ensuring that the fair trial [rights of suspects and accused persons](#) are sufficiently protected across the EU. In particular, the Directive guarantees the right for suspects and accused persons in the EU to be provided with interpretation and translation during criminal proceedings, free of charge, into a language they understand. On 23 September 2021, the Commission sent [letters of formal notice](#) to these three Member States, asking them to take the necessary measures to address the shortcomings identified by the Commission. As the replies did not sufficiently address the Commission's concerns, the Commission decided today to send reasoned opinions. The Member States concerned now have two months to respond to the reasoned opinions. If the replies are not satisfactory, the Commission may decide to refer these cases to the Court of Justice of the European Union.

## **Consumer Protection: Commission calls on LATVIA and PORTUGAL to fully transpose the EU rules for the modernisation of consumer protection**

Today, the European Commission decided to send reasoned opinions to **Latvia** ([INFR\(2022\)0127](#)) and **Portugal** ([INFR\(2022\)0159](#)) for failing to fully transpose the provisions of [Directive \(EU\) 2019/2161](#) for the better enforcement and modernisation of Union consumer protection rules. This directive amends four directives: the [Unfair Commercial Practices Directive](#), the [Consumer Rights Directive](#), the [Unfair Contract Terms Directive](#), and the [Price indication Directive](#). Member States had to transpose the Directive by 28 November 2021. On 27 January 2022, the Commission sent [letters of formal notice](#) to 22 Member States which did not notify any transposition measures or notified only partial transposition measures. On 29 September, the Commission sent [reasoned opinions](#) to seven Member States which still had not notified any transposition measures for this directive. Today, the Commission sent reasoned opinions to these two Member States, which have notified only partial transposition measures. These Member States now have two months to respond to the Commission's reasoned opinions. If the replies are not satisfactory, the Commission may decide to refer their cases to the Court of Justice of the European Union.

## **Data protection: Commission calls on FINLAND to ensure an effective judicial remedy against inaction of the Data Protection Authority**

The European Commission has decided today to send a reasoned opinion to **Finland**

([INFR\(2022\)4010](#)) for failing to provide the data subjects with an effective judicial remedy when the Data Protection Authority does not handle a complaint or does not inform the data subject within three months on the progress or outcome of the complaint. In Finland, such situations can be addressed through a complaint to the Chancellor of Justice or the Parliamentary Ombudsman. However, this remedy does not fulfil the requirements of an effective remedy before a court or a tribunal, as required by EU law. Therefore the Commission holds that Finland has failed to fulfil its obligations under the General Data Protection Regulation ([Regulation \(EU\) 2016/679](#)) and the Data Protection Law Enforcement Directive ([Directive \(EU\) 2016/680](#)), read in conjunction with the [EU Charter of Fundamental Rights](#). On 6 April 2022, the Commission sent a [letter of formal notice](#) to Finland. As Finland's reply did not address the Commission's concerns, the Commission has decided today to send a reasoned opinion. Finland now has two months to reply; if the reply is not satisfactory, the Commission may refer the matter to the Court of Justice of the European Union.

## 5. Energy and climate

(For more information: Tim McPhie – Tel.: +32 229 58602; Giulia Bedini – Tel. +32 229 58661)

### Letters of formal notice

#### **Commission calls on CROATIA, HUNGARY and ROMANIA to submit reports on their 2020 renewable and energy efficiency national targets**

The Commission decided today to send a letter of formal notice to **Croatia** ([INFR\(2022\)2164](#)) for failing to fully report under [Regulation \(EU\) 2018/1999](#) on the Governance of the Energy Union and Climate Action, on the achievement of its 2020 targets for energy efficiency and share of energy from renewable sources. The Commission also decided today to send letters of formal notice to **Hungary** ([INFR\(2022\)2165](#)) and **Romania** ([INFR\(2022\)2166](#)) for failing to fully report, under the Governance of the Energy Union and Climate Action, on the achievement of their 2020 energy efficiency targets. The Governance Regulation sets out the requirement for Member States to report to the Commission by 30 April 2022 on the achievement of their 2020 energy efficiency targets established in [Directive 2012/27/EU](#) on energy efficiency. The Governance Regulation also requires that, by the same deadline, Member States report on their targets for the share of energy from renewable sources in 2020, as set out in [Directive 2009/28/EC](#) on renewable energy sources. The three Member States now have two months to reply and address the shortcomings identified by the Commission. In the absence of a satisfactory response, the Commission may decide to send a reasoned opinion.

#### **Energy efficiency: Commission calls on POLAND and ROMANIA to notify their comprehensive assessments on high-efficiency cogeneration**

The Commission decided today to send letters of formal notice to **Poland** ([INFR\(2022\)2162](#)) and **Romania** ([INFR\(2022\)2161](#)) requesting from Member States to comply with the Energy Efficiency Directive ([Directive 2012/27/EU](#)). In particular, Member States should develop efficient heating and cooling infrastructure and/or accommodate the development of high-efficiency cogeneration and the use of heating and cooling from waste heat and renewable energy sources. Member States have to carry out and submit to the Commission a comprehensive assessment of the potential for the application of high-efficiency cogeneration and efficient district heating. The comprehensive assessment has to be updated every five years and notified to the Commission. So far, Poland and Romania have not communicated an updated assessment by the deadline of 31 December 2020. The two Member States now have two months to reply and address the shortcomings identified by the Commission. In the absence of a satisfactory response, the Commission may decide to send reasoned opinions.

### Letter of formal notice and reasoned opinion

#### **Basic Safety Standards: Commission calls on HUNGARY to correctly transpose EU radiation protection legislation, and urges SLOVAKIA to fully transpose it**

The Commission decided today to send a letter of formal notice to **Hungary** ([INFR\(2022\)2168](#)) requesting the correct transposition of the revised Basic Safety Standards Directive ([Council Directive 2013/59/Euratom](#)) into national legislation. Also today, the Commission decided to send a reasoned opinion to **Slovakia** ([INFR\(2020\)2296](#)) requesting its complete transposition into its national legislation. Member States were required to transpose the Directive by 6 February 2018. However, the Commission considers that Hungary has still not complied with certain requirements of the law. It also considers that Slovakia has still not fully transposed all the requirements of the Directive, following its letter of formal notice to the Member States in October 2020. The Directive modernises and consolidates EU radiation protection legislation, and lays down basic safety standards to protect members of the public, workers and patients against the dangers arising from exposure to ionising radiation. It also includes emergency preparedness and response provisions that were strengthened following the Fukushima nuclear accident. Hungary now has two months to reply and address the

shortcomings identified by the Commission. Otherwise, the Commission may decide to send a reasoned opinion. Slovakia has two months to address the shortcomings identified by the Commission. Otherwise, the Commission may decide to refer Slovakia to the Court of Justice of the EU.

#### Reasoned opinions

#### **Renewable energy: Commission urges SPAIN to fully transpose the Renewable Energy Directive**

The Commission decided today to send a reasoned opinion to **Spain** ([INFR\(2021\)0220](#)) for not having fully transposed EU rules on the promotion of the use of energy from renewable sources set out in [Directive \(EU\) 2018/2001](#). This Directive provides the legal framework for the development of renewable energy in electricity, heating and cooling, and transport in the EU. It sets an EU-level binding target for 2030 of at least 32% renewable energy and includes measures to ensure support for renewable energy is cost-effective, and to simplify administrative procedures for renewable energy projects. It also facilitates the participation of citizens in the energy transition, and sets specific targets to increase the share of renewables in the heating and cooling and transport sectors by 2030. The deadline to transpose the Directive into national law was 30 June 2021. In July 2021, the Commission sent a letter of formal notice to Spain. To date, Spain has only partially transposed the Directive. It now has two months to comply with the transposition obligation and notify the Commission. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

#### **Energy performance of buildings: Commission urges FRANCE and PORTUGAL to fully transpose the Energy Performance of Buildings Directive**

The Commission decided today to issue reasoned opinions to **France** ([INFR\(2020\)0185](#)) and **Portugal** ([INFR\(2020\)0233](#)), for failing to ensure full transposition into national law of [Directive \(EU\) 2018/844](#) which amended [Directive 2010/31/EU](#) on the energy performance of buildings. The Directive introduced new elements to strengthen the existing framework, such as minimum energy performance requirements for new buildings, electromobility and recharging points, and new rules on the inspection of heating and air-conditioning systems. The deadline to transpose the Directive into national law expired on 10 March 2020. In May 2020, a letter of formal notice was sent to these Member States after they failed to declare full transposition of the Directive. Having examined the replies from France and Portugal as well as the national transposition measures notified, the Commission considers that France and Portugal have still not fully transposed the Directive. They now have two months to comply with the transposition obligation and notify the Commission. Otherwise, the Commission may decide to refer the cases to the Court of Justice of the European Union.

#### Referrals to the Court of Justice

#### **Commission decides to refer BULGARIA and SLOVAKIA to the Court of Justice to ensure development of renewable energy**

The Commission decided today to refer **Bulgaria** ([INFR\(2021\)0157](#)) and **Slovakia** ([INFR\(2021\)0360](#)) to the Court of Justice of the European Union for not having transposed EU rules on the promotion of the use of energy from renewable sources set out in [Directive \(EU\) 2018/2001](#). This Directive provides the legal framework for the development of renewable energy in electricity, heating and cooling, and transport in the EU. It sets an EU-level binding target for 2030 of at least 32% renewable energy and includes measures to ensure that support for renewable energy is cost-effective, and to simplify administrative procedures for renewable energy projects. It also facilitates the participation of citizens in the energy transition, and sets specific targets to increase the share of renewables in the heating and cooling and transport sectors by 2030. The deadline to transpose the Directive into national law was 30 June 2021. In July 2021, the Commission sent a letter of formal notice to both Member States. In December 2021, the Commission sent a [reasoned opinion](#) to Bulgaria and Slovakia. The Commission has now decided to refer Bulgaria and Slovakia to the Court of Justice of the European Union, with a request to impose financial sanctions in accordance with Article 260(3) TFEU. A press release is available [here](#).

## **6. Taxation and Customs Union**

(For more information: Daniel Ferrie – Tel.: +32 229 86500; Francesca Dalboni – Tel.: +32 229 88170)

#### Letter of formal notice

#### **Taxation: Commission requests SPAIN to implement properly the new EU tax dispute resolution mechanism (DRM)**

The Commission has today decided to send a letter of formal notice to **Spain** ([INFR\(2022\)2096](#)) for the incorrect transposition of the resolution mechanism for cross-border tax disputes ([Directive \(EU\) 2017/1852](#)). The mechanism ensures a faster and more effective resolution of tax disputes between Member States, providing much more tax certainty for businesses and citizens experiencing double taxation issues. In its assessment of the Spanish transposition of the Directive, the Commission considers that the national implementing legislation does not provide for a number of key features of the new rules. Spain has now two months to reply to the letter of formal notice. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### Reasoned opinion

#### **Taxation: Commission urges SPAIN to transpose new rules on excise duties**

The Commission has today decided to send a reasoned opinion to **Spain** ([INFR\(2022\)0074](#)) for failing to notify the measures for the transposition into national law of [Directive \(EU\) 2020/262](#) laying down the general arrangements for excise duty (recast). This Directive, which repeals and replaces [Directive 2008/118/EC](#), sets out common provisions applicable to all products subject to excise duties. It lays down a series of new rules, which will be applicable from 13 February 2023 and Member States were required to transpose this Directive by 31 December 2021. To date, Spain has not notified any transposition measures to the Commission. Spain has now two months to comply with the transposition obligation and notify the Commission. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

## **7. Mobility and Transport**

*(For more information: (For more information: Adalbert Jahnz – Tel.: +32 229 53156, Anna Wartberger - Tel.: +32 229 82054)*

#### Letter of formal notice and reasoned opinion

#### **Rail transport: Commission urges GERMANY and POLAND to fully transpose and apply EU rail safety and interoperability rules**

The Commission is calling on **Germany** ([INFR\(2022\)2100](#) and [INFR\(2022\)2101](#)) and **Poland** ([INFR\(2020\)0551](#)) and [INFR\(2020\)0552](#)) to implement correctly the rail interoperability and safety rules of [Directive \(EU\) 2016/797](#) and [Directive \(EU\) 2016/798](#). These directives are part of the [Fourth Railway Package](#), a set of six European laws that aim to complete the single market for rail services (Single European Railway Area), revitalise the rail sector and make it more competitive towards other modes of transport. The directives infringed by Germany and Poland aim to make it easier and cheaper for companies to run railway services across Europe. They notably created faster and cheaper ways to have railway stock certified for use in several Member States. They also removed unneeded national technical and operational barriers to facilitate cross-border rail traffic. Member States had until June 2019 to transpose the new rules in their national laws, a deadline they could extend by one year. Poland has yet to notify the Commission of full transposition of the Directive into national law. Germany has not applied all the requirements to all of its regional networks. Today, the Commission is sending letters of formal notice to Germany and reasoned opinions to Poland. Germany now has two months to reply to the letters of formal notice. In the absence of a satisfactory response, the Commission may decide to issue reasoned opinions. Today's reasoned opinions sent to Poland follow letters of formal notice sent by the Commission in November 2020. Poland now has two months to reply and take the necessary measures. Otherwise, the Commission may refer the cases to the Court of Justice of the European Union.

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

*(For more information: Daniel Ferrie – Tel.: +32 229 86500, Aikaterini Apostola - Tel.: +32 229 87624)*

#### Letters of formal notice

#### **Anti-Money Laundering: Commission urges SPAIN and ITALY to apply correctly the Anti-Money Laundering Directive**

The Commission has today sent letters of formal notice to **Spain** ([INFR\(2022\)2151](#)) and **Italy** ([INFR\(2022\)2150](#)) on grounds of their incorrect application of the Anti-Money Laundering Directive ([4<sup>th</sup>AML](#) as amended by [5<sup>th</sup>AML](#)). These Member States had notified a complete transposition of the Directive. Nevertheless, the Commission has identified several instances of incorrect application of the Directive, which refer to the functioning of one of its keystones: the setting up of the central beneficial ownership registers. Enhancing transparency is fundamental to combat the misuse of legal



entities. Member States have to ensure that information about the real owners of these legal entities (their beneficial owners) is stored in a central register. Member States can, for that purpose, use a central database which collects beneficial ownership information, or the business register, or another central register. Confidence in financial markets from investors and the general public depends largely on the existence of an accurate disclosure regime that provides transparency in the beneficial ownership and control structures of companies. This is particularly true for corporate governance systems that are characterised by concentrated ownership, such as the ones in the European Union. Without a satisfactory response from these Member States within two months, the Commission may decide to continue the infringement procedure and send a reasoned opinion.

## 9. Digital economy

(For more information: Johannes Bahrke – Tel.: +32 229 58615, Charles Manoury - Tel.: +32 229 13391)

### Letters of formal notice

#### **Platform-to-business online trading practices: The Commission calls on CZECHIA, LITHUANIA, HUNGARY, THE NETHERLANDS, POLAND, PORTUGAL, SLOVENIA and SLOVAKIA to respect EU rules on promoting fairness and transparency for business users**

The Commission decided today to send letters of formal notice to **Czechia** ([INFR 2022/2141](#)), **Lithuania** ([INFR 2022/2143](#)), **Hungary** ([INFR 2022/2142](#)), the **Netherlands** ([INFR 2022/2144](#)), **Poland** ([INFR 2022/2145](#)), **Portugal** ([INFR 2022/2146](#)), **Slovenia** ([INFR 2022/2147](#)) and **Slovakia** ([INFR 2022/2148](#)) for failing their obligations under the [EU rules on promoting fairness and transparency for business users of online intermediation services \(Regulation \(EU\) 2019/1150](#), also called 'P2B Regulation'). The P2B Regulation has applied since 12 July 2020. In the letters of formal notice, the Commission raised concerns regarding the requirements in the P2B Regulation for Member States to adopt a national legal framework for ensuring the effective enforcement of the Regulation. The Member States concerned do not yet have any national legislation in place. They now have two months to reply to the arguments raised by the Commission. Otherwise, the Commission may decide to send them reasoned opinions.

## 10. Jobs and social rights

(For more information: Veerle Nuyts – Tel.: +32 229 96302; Flora Matthaes – Tel.: +32 229 83951)

### Reasoned opinions

#### **Posting of workers: Commission calls on 17 Member States to comply with EU Posting of Workers Enforcement Directive**

The Commission decided to send reasoned opinions to **Belgium** ([INFR\(2018\)2226](#)), **Bulgaria** ([INFR\(2018\)2227](#)), **Czechia** ([INFR\(2018\)2230](#)), **Denmark** ([INFR\(2021\)2057](#)), **Germany** ([INFR\(2021\)2056](#)), **Ireland** ([INFR\(2018\)2235](#)), **France** ([INFR\(2018\)2232](#)), **Italy** ([INFR\(2021\)2059](#)), **Hungary** ([INFR\(2018\)2234](#)), **Malta** ([INFR\(2018\)2238](#)), **Netherlands** ([INFR\(2021\)2061](#)), **Austria** ([INFR\(2018\)2225](#)), **Poland** ([INFR\(2018\)2239](#)), **Romania** ([INFR\(2018\)2241](#)), **Slovenia** ([INFR\(2018\)2243](#)), **Slovakia** ([INFR\(2018\)2242](#)), and **Finland** ([INFR\(2021\)2058](#)) for failing to bring various national provisions in line with the Enforcement Directive on Posting of Workers ([2014/67/EU](#)). The Enforcement Directive aims to strengthen the practical application of the rules on posting of workers by addressing issues related to fighting fraud and circumvention of rules, access to information, and administrative cooperation between EU Member States. In particular, the Enforcement Directive defines the administrative requirements and control measures that Member States may impose to monitor compliance with the rules on posting of workers; defends the rights of posted workers and protects them from unfavourable treatment by their employer in case of legal or administrative action; protects the rights of posted workers in subcontracting situations; ensures the effective application and collection of administrative penalties and fines across Member States; obliges Member States to put in place effective, proportionate and dissuasive penalties. The Commission had sent in July 2021 [letters of formal notice](#) to 24 Member States and is now following up on these letters for 17 Member States who have still not correctly transposed some, or all, of the above-mentioned provisions of the Directive. The Member States concerned now have two months to take the necessary measures, otherwise the Commission may decide to refer the cases to the Court of Justice of the European Union.

#### **Coordination of social security: Commission calls on GERMANY to comply with EU rules on social security coordination and on free movement of workers**

The Commission has decided to send a reasoned opinion to **Germany** ([INFR\(2021\)4039](#)) for failing

to comply with the EU rules on social security coordination ([Regulation \(EC\) No 883/2004](#)) and on the free movement of workers ([Regulation \(EU\) No 492/2011](#) and [Article 45 of the Treaty on the Functioning of the European Union](#) (TFEU)). The German State of Bavaria introduced a new scheme of family allowances for residents of Bavaria with young children (up to 3 years old). Under this scheme, EU nationals whose children reside in one of the 15 Member States where the cost of living is lower than in Bavaria receive only a reduced amount of the benefit. The Commission raised concerns that this legislation breaches EU law and constitutes unjustified indirect discrimination based on the nationality of migrant workers. Moreover, this legislation breaches EU rules on the free movement of workers and on social security coordination. EU workers, whose children reside permanently in another Member State, should be entitled to the same family benefits as other workers in Bavaria. In June 2022, the Court of Justice of the European Union [ruled in case C-328/20](#) that an Austrian child benefit scheme, which was very similar to the one in Bavaria, was not in line with EU law. This ruling confirmed the Commission's position. The Commission sent a [letter of formal notice](#) to Germany in November 2021. Germany replied to the Commission's letter in March 2022. Since the Commission considers that the reply does not satisfactorily address its concerns, it is sending a reasoned opinion. Germany now has two months to take the necessary measures, otherwise the Commission may decide to refer the case to the Court of Justice of the European Union.

### **Labour mobility: Commission calls on ITALY to put an end to discrimination of foreign lecturers**

The Commission decided to send a reasoned opinion to **Italy** ([INFR\(2021\)4055](#)) for failing to comply with EU rules on free movement of workers ([Regulation \(EU\) No 492/2011](#)). Under EU law, EU citizens who exercise their right to free movement must not be discriminated against because of their nationality as regards access to employment and working conditions. In its [ruling](#) in case C-119/04, the Court of Justice of the European Union stated that a 2004 Italian law provides an acceptable framework for the so-called reconstruction of careers of foreign lecturers ('Lettori') in Italian universities. This means that the law allows for the adjustment of their salary, seniority and corresponding social security benefits to those of a researcher under a part-time contract, and it grants them the right to back-payments as of the start of their employment. However, the majority of universities did not take the steps needed for a correct reconstruction of the Lettori's careers, the result being that most foreign lecturers have still not received the money to which they are entitled. Italy has not adopted the necessary measures since the launch of the [infringement procedure](#) in September 2021 and is therefore still discriminating against foreign lecturers. Italy now has two months to take the necessary measures, otherwise the Commission may decide to refer the case to the Court of Justice of the European Union.

*\*Updated 26/01 12h12*

INF/23/142

Press contacts:

[Eric MAMER](#) (+32 2 299 40 73)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)