



EUROPEAN COMMISSION

MEMO

Brussels, 21 November 2012

**November infringements package: main decisions**

|    | CLIMATE ACTION | EMPLOYMENT | ENERGY | INDUSTRY & ENTREPRENEURSHIP | ENVIRONMENT | HOME AFFAIRS | INTERNAL MARKET & SERVICES | TRANSPORT | HEALTH & CONSUMER POLICY | TAXATION & CUSTOMS UNION |
|----|----------------|------------|--------|-----------------------------|-------------|--------------|----------------------------|-----------|--------------------------|--------------------------|
| AT |                |            |        |                             | 2           |              |                            |           |                          |                          |
| BE |                | 1          |        |                             |             | 1            | 2                          |           |                          |                          |
| BG |                |            |        |                             | 1           |              |                            | 1         |                          |                          |
| CY |                |            |        |                             |             |              |                            | 2         |                          |                          |
| CZ |                |            |        |                             | 1           |              | 1                          |           |                          |                          |
| DE |                |            |        |                             | 1           |              |                            | 1         |                          |                          |
| EL |                |            |        |                             |             |              | 3                          |           |                          | 1                        |
| FI |                |            | 1      |                             |             |              |                            |           |                          |                          |
| FR |                |            |        |                             |             |              | 1                          | 1         |                          | 1                        |
| HU |                |            | 1      |                             |             |              | 1                          |           |                          | 1                        |
| IT |                | 1          |        |                             | 5           |              |                            |           |                          |                          |
| LU |                |            | 1      |                             |             |              | 1                          |           |                          |                          |
| LV |                |            |        |                             |             |              | 1                          |           |                          |                          |
| NL |                | 1          |        |                             |             |              |                            |           |                          | 1                        |
| PL | 1              |            | 1      |                             |             |              | 2                          |           | 1                        |                          |
| PT |                |            |        | 1                           | 1           |              | 1                          | 1         |                          |                          |
| SI |                |            |        |                             | 1           |              |                            |           |                          |                          |
| SK |                | 1          |        |                             |             |              |                            |           |                          |                          |

In its monthly package of infringement decisions, the European Commission is pursuing legal action against Member States for failing to comply properly with their obligations under EU law. These decisions covering many sectors aim at ensuring proper application of EU law for the benefit of citizens and businesses. The Commission has taken today **199 decisions**, including **48 reasoned opinions** and **7 referrals** to the European Union's Court of Justice, out of which 5 include financial penalties. Below is a summary of the main decisions.

For more information on infringements procedure, see [MEMO/12/12](#).

## 1. Referrals to the Court of Justice with financial penalties

- **Internal energy market: Commission refers POLAND and FINLAND to Court for failing to fully transpose EU rules**

The European Commission is referring **Poland** and **Finland** to the Court of Justice of the European Union for failing to fully transpose the EU internal energy market rules. To date Poland has transposed the Gas Directive into national law only partially. Finland has not fully transposed neither the Electricity nor the Gas Directive. These directives had to be transposed by the Member States by 3 March 2011.

For Poland, the Commission proposes a daily fine of € 88 819,20. For Finland, the Commission proposes a daily penalty of € 32 140,80 for the non-transposed Electricity Directive and a daily fine of € 28 569,60 for the non-transposed Gas Directive. The daily penalties would be paid as from the date of the Court's affirmative ruling until Poland and Finland notify the Commission that they have fully implemented the rules into national law.

(for more information: [IP/12/1236](#) – M. Holzner - Tel. +32 229 60196 - Mobile +32 498 98 2280)

- **Electronic money: Commission asks Court of Justice to fine BELGIUM for not implementing EU rules**

The European Commission has decided to refer **Belgium** to the Court of Justice of the EU for failing to implement the Directive on the taking up, pursuit and prudential supervision of the business of electronic money institutions. The Commission has also decided to ask the Court to impose daily penalty payments on Belgium, until it fully implements the Directive.

The Commission proposes a daily fine of € 59 212,80 which would be paid as from the date of the Court's ruling until Belgium notified the Commission that it had fully implemented the rules into national law.

(for more information: [IP/12/1248](#) – S. De Rynck - Tel. +32 229 63421 - Mobile +32 498 98 3969)

- **Driving licences: Commission proposes reduced fine for CYPRUS**

The European Commission decided today to amend its decision referring **Cyprus** to the European Court of Justice for not fully transposing the Directive on driving licences. Since the previous court referral decision in June ([IP/12/642](#)), Cyprus has notified a measure that partially transposes Directive 2006/126/EC. To take these new developments into account the Commission has reduced the proposed daily penalty payment to € 6 504,96. The Directive should have been transposed by 19 January 2011. Failure to fully implement the Directive may affect road safety and makes it difficult for the Cypriots to exchange the relevant driving licences in other parts of the EU.

(for more information: [IP/12/1237](#) – H. Kearns - Tel. +32 229 87638 - Mobile +32 498 98 7638)

## 2. Other referrals to the Court of Justice

- **Commission takes BELGIUM to Court for failing to issue biometric passports with fingerprints**

More than three years after the deadline was set for issuing biometric passports with fingerprints, **Belgium** still fails to comply with this requirement. As a result, the Commission has today referred the country to the Court of Justice of the EU, requesting Belgium to speed-up the delivery of biometric passports containing the agreed security feature.

(for more information: [IP/12/1247](#) – M. Cercone - Tel. +32 229 80963 - Mobile +32 498 98 2349)

- **Public procurement: Commission requests GREECE to ensure fair access to public contracts for the provision of software services**

The European Commission has decided to refer **Greece** to the Court of Justice because it has failed to ensure full compliance with EU rules on public procurement as regards the purchase of an information system for the Social Security Foundation (IKA). In particular, Greece has failed to fulfil its commitment, made under Directive 2004/18/EC in February 2012, to launch a new tendering procedure for the award of the above contract, without the illegal clauses included in the original call for tender.

(for more information: [IP/12/1249](#) – S. De Rynck - Tel. +32 229 63421 - Mobile +32 498 98 3969)

## 3. Reasoned opinions

- **Environment: Commission requests AUSTRIA, GERMANY and ITALY to notify transposition of modified EU rules on the limitation of emissions of volatile organic compounds**

Member States had to transpose a 2009 amendment of EU rules on the limitation of emissions of volatile organic compounds by 10 June 2012. **Austria, Germany and Italy** have not notified the legal instruments transposing these changes to the [Paints Directive](#) to the Commission. This Directive is an essential instrument to protect the environment and human health by limiting the emission of volatile organic compounds into the air. Despite letters of formal notice from the Commission, Austria, Germany and Italy have not yet notified their implementation measures. The Commission is therefore sending reasoned opinions (the second stage in EU infringement proceedings), giving these countries two months to reply. In the absence of a satisfactory response, the Commission may refer them to the EU Court of Justice.

(for more information: J. Hennon - Tel. +32 229 53593 - Mobile +32 498 95 3593)

- **Financial services supervision: Commission requests BELGIUM, FRANCE, GREECE, LUXEMBOURG, POLAND and PORTUGAL to implement EU rules**

The Commission has requested **Belgium, France, Greece, Luxembourg, Poland and Portugal** to notify within two months measures to implement EU rules in the financial sector (Directive 2010/78/EU) concerning the powers of the three new European supervisory authorities for banks (European Banking Authority), insurance and occupational pensions (European Insurance and Occupational Pensions Authority) and securities (European Securities and Markets Authority). The Directive aims at adapting the provisions of key financial services Directives to the new supervisory framework. This will make sure that European Supervisory authorities will be fully allowed to carry out all the tasks conferred upon them. Member States were due to implement the Directive, no later than 31 December 2011. The Commission's requests take the form of reasoned opinions under EU infringement procedures. If the Member States fail to notify measures to implement the Directive within two months, the Commission may decide to refer them to the EU Court of Justice.

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- **Transport: Commission asks BULGARIA, CYPRUS and PORTUGAL to adopt national measures on Intelligent Transport Systems**

The European Commission has today requested **Bulgaria, Cyprus and Portugal** to take further measures to facilitate the deployment of intelligent transport systems (ITS). [Directive 2010/40/EU](#) supports the deployment of Intelligent Transport Systems in road transport and for interfaces with other modes of transport. The Commission adopts specifications to ensure compatibility, interoperability and continuity in the deployment and use of ITS. The three Member States have not fully transposed this directive into national law, although they were required to do so by 27 February 2012. According to the directive, Member States shall ensure that the specifications adopted by the Commission are applied to ITS applications and services, when these are deployed. The lack of timely transposition of the Directive could undermine the effectiveness and the timely application of these specifications. The Commission's request takes the form of a reasoned opinion under EU infringement procedures. If these Member States fail to inform the Commission within two months of the measures they have taken to ensure full compliance with EU law, the Commission could refer the cases to the European Court of Justice.

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- **Notaries: Commission acts to enforce freedom of establishment in the CZECH REPUBLIC and LATVIA**

The European Commission has today sent an additional request to the **Czech Republic** and **Latvia** to respect EU law by withdrawing their nationality requirements for notaries. The Court of Justice of the EU has already ruled in May 2011 that such nationality requirements are contrary to the principle of freedom of establishment, and that the activities of notaries are not covered by an exception under Article 51 of the Treaty on the Functioning of the EU concerning activities linked to public authority. The Czech Republic and Latvia have argued that their notaries fall under this exception as they have judicial powers. However, their notaries do not have the power to rule on disputes. Therefore, although the powers of the notaries might in some instances lead to decisions which are equivalent to judicial decisions in the Czech Republic and Latvia, in the Commission's view such participation in public authority is not sufficient to justify the nationality requirement. The additional request takes the form of a complementary reasoned opinion under EU infringement procedures. The two countries now have two months to notify the Commission of measures taken to respect their obligations under EU law on notaries. Otherwise, the Commission may decide to refer them to the EU's Court of Justice. More information on freedom of establishment:

[http://ec.europa.eu/internal\\_market/top\\_layer/living\\_working/services-establishment/index\\_en.htm](http://ec.europa.eu/internal_market/top_layer/living_working/services-establishment/index_en.htm)

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- **Investment funds: Commission requests GREECE and POLAND to comply with EU rules**

The European Commission has requested **Greece** and **Poland** to notify national legislation to implement the latest amendments to the UCITS (Undertakings for Collective Investment in Transferable Securities) Directive (Directive [2009/65/EC](#) - UCITS IV), as well as the two supporting implementing Directives (see [IP/10/869](#)). The deadline to notify implementation measures was 30 June 2011. The Directive covers common rules for setting up and operating UCITS funds, and rules governing UCITS managers, in the EU. Fund managers that comply with these rules may benefit from the right to offer their services across borders. UCITS authorised in accordance with the provisions of this Directive may be distributed to investors across the EU after following a defined procedure for notifying the relevant competent authorities. Greece and Poland now have two months to notify the Commission of measures taken to respect their obligations under EU law. Otherwise, the Commission may decide to refer them to the EU's Court of Justice.

More information: [http://ec.europa.eu/internal\\_market/investment/ucits-directive/index\\_en.htm](http://ec.europa.eu/internal_market/investment/ucits-directive/index_en.htm)

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- **Renewable Energy: Commission sends Reasoned Opinions to HUNGARY and LUXEMBOURG**

Today the European Commission has sent Reasoned Opinions to **Hungary** and **Luxembourg** for not informing the Commission about the full transposition of the Renewable Directive. The Renewable Energy [Directive \(2009/28/EC\)](#) had to be implemented by Member States by 5 December 2010. However, Hungary and Luxembourg have not informed the Commission of all the necessary transposition measures for fully transposing the Directive into their national legislation. If the two Member States do not comply with their legal obligation within two months, the Commission may decide to refer them to the Court of Justice. These two Reasoned Opinions complement 11 similar procedures involving Austria, Bulgaria, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Malta, Poland and Slovenia.

More information here: [http://ec.europa.eu/energy/infringements/index\\_en.htm](http://ec.europa.eu/energy/infringements/index_en.htm)

*(for more information: M. Holzner - Tel. +32 229 60196 - Mobile +32 498 98 2280)*

- **Environment: Commission requests AUSTRIA to notify transposition of modified EU rules on petrol vapour recovery**

The European Commission is concerned that **Austria** has failed to notify implementation measures for the Directive on [petrol vapour recovery](#) during refuelling of motor vehicles at service stations. According to the Directive, Member States had to bring into force the necessary legislation and communicate laws, regulations, and administrative provisions before 1 January 2012. A letter of formal notice was sent in March 2012, but Austria still has not communicated the transposition. The Commission is therefore sending a reasoned opinion (the second stage in EU infringement proceedings), giving Austria two months to reply. If it fails to do so, the Commission may refer the case to the EU Court of Justice.

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- **Working Time: Commission requests BELGIUM to correctly apply Directive to teachers in residential schools**

The European Commission has requested **Belgium** to take measures to correctly apply the EU working time Directive ([2003/88/EC](#)) to teachers in Belgian residential schools. In Belgium, overnight on-call time at the workplace worked by teachers in residential schools is not counted 100% as working time e.g. an overnight duty of 8 hours is counted as 3 hours' actual working time. The teachers can be obliged to perform up to four such overnight duties per week. The overnight duty can be further combined with a daily shift. This could result in breaches of the provisions of Directive 2003/88/EC which sets a maximum limit to weekly working time (48 hours on average) and requires minimum rest periods, in particular a minimum daily rest of 11 consecutive hours per 24-hour period. Derogations from the rules on rest periods are possible in some cases provided that an equivalent period of compensatory rest follows on immediately from the working time which it is supposed to compensate. The Commission's request takes the form of a reasoned opinion under EU infringement procedures. Belgium now has two months to notify the Commission of measures taken to correctly implement the Directive. Otherwise, the Commission may decide to refer Belgium to the EU's Court of Justice.

*(for more information: J. Todd - Tel. +32 229 94107 - Mobile +32 498 99 4107)*

- **Environment: Commission asks BULGARIA to clean up landfills**

The European Commission is asking **Bulgaria** to bring its landfills in line with EU legislation. This is part of a horizontal exercise that concerns several Member States. Under EU law, [landfilling](#) should only be used as a last resort, and it can only be done under conditions that avoid impacts on human health and the environment. Bulgaria had agreed to close the landfills that do not meet the requirements of EU legislation. But, while some progress has been made, 124 landfills are still in breach of the legislation. The Commission is therefore sending a reasoned opinion (the second stage in EU infringement proceedings), giving Bulgaria two months to reply. If it fails to do so, the Commission may refer the case to the EU Court of Justice.

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- **Environment: Commission asks the CZECH REPUBLIC to put national legislation in line with the requirements of the Mining Waste Directive**

The European Commission is asking the **Czech Republic** to bring its national laws into line with the [Mining Waste Directive](#), which aims to prevent or reduce as far as possible the adverse effects of the management of waste from extractive industries on human health and the environment, in particular water, air, soil, fauna and flora. The Czech Republic should have transposed the Mining Waste Directive into national legislation since 1 May 2008. The Commission sent a letter of formal notice to the Czech Republic in May 2012. As the Czech Republic has still not adopted the appropriate legislation the Commission is sending a reasoned opinion (the second stage of the infringement procedure) giving the Czech Republic two months to reply. If it fails to do so, the Commission may refer the case to the EU Court of Justice.

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- **Rail transport: Commission asks FRANCE to transpose EU legislation on rail interoperability regarding Channel Tunnel**

The European Commission is asking **France** to bring its national rules into line with Directive 2008/57/EC on railway interoperability, especially regarding the Channel Tunnel. The legislation aims to achieve interoperability within the European rail transport system and to enable the rail sector to compete more effectively with other transport modes. The legislation should have been in place since 19 July 2010. If France fails to react satisfactorily, the Commission may refer the matter to the EU Court of Justice. The Commission opened infringement proceedings against France on the matter in June this year, and a reasoned opinion (the second stage in EU infringement proceedings) is now being sent. France has two months to reply to the Commission. In the absence of a satisfactory response from France, within two months, the Commission may refer the case to the European Court of Justice.

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- **Taxation: Commission asks FRANCE to tax luxury yacht hire**

The European Commission has formally requested that **France** remove the VAT exemption applied to the hire of yachts used for pleasure boating.

The VAT Directive (Article 148) provides for VAT exemption for certain transactions concerning vessels. However, this exemption does not apply to luxury boats used by individuals for recreational purposes. This has also been confirmed by the European Court of Justice (judgment of 22 December 2010 in case C-116/10, Bacino Charter Company SA).

The Commission request takes the form of a reasoned opinion. In the absence of a satisfactory response from France within two months, the Commission may refer the case to the European Court of Justice.

*(for more information: E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)*

- **Transport: Commission requests GERMANY to notify measures for transposition of EU rules on insurance of ship-owners for maritime claims**

The Commission has today requested **Germany** to notify the national transposition measures on insurance of ship-owners for maritime claims. Member States had to transpose [EU rules](#) obliging ship-owners, from 1 January 2012 onwards, to hold sufficient insurance cover for their ships in the EU. Contrary to its obligations, Germany did not notify any legal instruments transposing the Directive to the Commission. The obligation to have insurance guarantees better protection for victims, helps eliminate substandard shipping, and re-establishes competition between operators. In the absence of a satisfactory response from Germany, within two months, the Commission may refer the case to the European Court of Justice.

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- **Taxation: Commission requests GREECE to modify rules on leased or rented cars**

The European Commission has formally requested **Greece** to change its registration tax rules for leased or rented vehicles.

Under Greek law, if a customer resident in Greece leases or rents a vehicle from a lessor established in another Member State, registration tax must be paid in full in Greece. However, according to European Court of Justice case-law, Greece should only levy a tax proportionate to the duration of the vehicle's use. Given that this is currently not the case, the Greek legislation may act as a deterrent to cross-border activities. The Commission considers that this infringes the principle of free movement of services set down in the Treaties.

The request takes the form of a reasoned opinion. If Greece does not comply with the request within two months, the Commission may decide to refer Greece to the EU's Court of Justice.

*(for more information: E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)*



- **Taxation: Commission requests HUNGARY to amend its special retail tax and the special telecommunication tax**

The European Commission has formally requested that **Hungary** amend its legislation on the special taxes applied to the retail and the telecommunication sectors. It considers these taxes to be discriminatory, as they fall disproportionately on non-Hungarian operators.

Hungary imposes progressively increasing tax rates on all retail companies and on all telecommunication companies according to their annual turnover. Due to the design of these tax rates and the structure of the two markets, domestic companies are in practice given preferential treatment and the taxes are mainly borne by foreign-owned companies. The Commission considers that this infringes the freedom of establishment as guaranteed by the EU treaties (Article 49 TFEU).

Consequently, Hungary is requested to change its legislation within two months to bring it in line with EU law (the second stage of an infringement procedure). Failing this, the European Commission may refer the cases to the EU's Court of Justice.

A separate infringement procedure against the special telecommunication tax, related to the EU Authorisation Directive, was referred to the EU's Court of Justice in March 2012 (Case C-462/12, see [IP/12/286](#)).

*(for more information: E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)*

- **Service provision: Commission asks HUNGARY to ensure the freedom of establishment of luncheon voucher issuers**

The European Commission has today decided to take action to ensure the freedom of establishment and freedom to provide services of issuers of luncheon, leisure and holiday vouchers in **Hungary**. It asks Hungary to comply with its obligations under the Treaty on the Functioning of the European Union and Directive 2006/123/EC on services in the internal market (Services Directive) by putting an end to unjustified and disproportionate restrictions.

The Commission request takes the form of a reasoned opinion under EU infringement procedures. In the absence of a satisfactory response from the national authorities within four weeks, the Commission may refer Hungary to the European Court of Justice.

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- **Health and Safety: Commission requests ITALY to fully apply EU legislation**

The European Commission has requested **Italy** to take measures to fully apply the EU Directive that establishes the general principles concerning the prevention of occupational risks and the protection of the workers' health and safety. The Directive ([89/391/EEC](#)) requires Member States to put in place legislation requiring employers to undertake a risk assessment and to take preventive measures to eliminate risks with a view to reducing accidents at work and occupational diseases. The problem in Italy is that the current legislation exonerates the employer from his responsibility for health and safety in case of delegation and sub-delegation of functions and deferring the obligation to provide a risk assessment document in case of new business or substantial changes. The request takes the form of a 'reasoned opinion' under EU infringement procedures. If Italy does not notify measures to ensure full compliance with its obligations under the Directive within two months, the Commission may decide to refer Italy to the EU's Court of Justice.

*(for more information: J. Todd - Tel. +32 229 94107 - Mobile +32 498 99 4107)*

- **Environment: Commission asks ITALY to clean up landfills**

Under EU law, Member States had to ensure that landfills which had been granted a permit or were already in operation when the [landfill](#) Directive was transposed did not continue to operate after July 2009 unless they complied with the Directive. According to the Commission, a number of landfills in **Italy** were still operating after the 2009 deadline in breach of the Directive, and a letter of formal notice was therefore sent. After assessing the Italian reply, the Commission has concluded that despite some progress, some landfills have still not been closed or brought in compliance with the Directive. The Commission is sending a reasoned opinion (the second stage in EU infringement proceedings), giving Italy two months to reply. In the absence of a satisfactory response, the Commission may refer it to the EU Court of Justice.

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- **Environment: Commission asks ITALY to review Bathing Water legislation**

EU [bathing water laws](#) oblige Member States to cooperate and exchange information if a river basin gives rise to transboundary impacts on bathing water quality. The European Commission is concerned that the Italian transposition of this legislation contains no such provisions, and **Italy** was notified of these concerns in a letter of formal notice in January this year. The Commission is now sending a reasoned opinion (the second stage in EU infringement proceedings) as it appears that the legislative amendment has not yet been adopted. Italy has two months to reply. In the absence of a satisfactory response, the Commission may refer it to the EU Court of Justice.

*(for more information: J. Hennon - Tel. +32 229 53593 - Mobile +32 498 95 3593)*

- **Environment: Commission asks ITALY to improve transposition of EU rules on batteries and accumulators**

The European Commission is concerned that **Italian legislation** on [batteries](#) is falling short of European norms. Under the Batteries Directive, manufactures are obliged to clearly mark chemical contents such as lead, mercury and cadmium in a visible, legible and permanent manner. The Italian authorities have recognised that Italian law fails to do this, but despite a letter of formal notice from the Commission on this matter, the appropriate legislative amendment has still not been adopted. The Commission is therefore sending a reasoned opinion (the second stage in EU infringement proceedings), giving Italy two months to reply.

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- **Environment: Commission asks ITALY to improve transposition of Floods Directive**

Under EU law, Member States have to perform flood risk assessments for their river basins, and draw up emergency plans. The Commission is concerned that **Italian legislation** transposing the [floods](#) Directive is unduly restrictive, in that it appears to exclude floods caused by non-meteorological events, such as tsunamis, and infrastructure failures, such as dam breaks. The Italian authorities have agreed to make the appropriate changes, but despite a letter of formal notice from the Commission on this matter in March 2012, the problem persists. The Commission is therefore sending a reasoned opinion (the second stage in EU infringement proceedings), giving Italy two months to reply. In the absence of a satisfactory response, the Commission may refer it to the EU Court of Justice.

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- **Social security: Commission requests THE NETHERLANDS to pay disability allowance to insured people residing in another Member State**

The European Commission has requested **The Netherlands** to ensure that people who qualify for a disabled persons allowance under Dutch social security legislation can obtain it regardless of whether they reside in another Member State. The Commission considers that the Dutch allowance for disabled persons granted on the basis of the Dutch Law on Indemnity of Chronically III and Disabled Persons (Wet tegemoetkoming chronisch zieken en gehandicapten –WTCG) should be provided to those entitled to it even if they reside outside The Netherlands. By refusing to provide this allowance to people who live in other Member States, the Netherlands is in breach of its obligations under EU law, in particular Article 48 of the Treaty on the Functioning of the EU, as implemented by Regulation (EC) [883/2004](#). The request takes the form of a 'reasoned opinion' under EU infringement procedures. The Netherlands now has two months to notify the Commission of measures to ensure compliance with the obligations under EU law. Otherwise, the Commission may decide to refer this Member State to the EU's Court of Justice.

*(for more information: J. Todd - Tel. +32 229 94107 - Mobile +32 498 99 4107)*

- **Taxation: Commission requests THE NETHERLANDS to amend tax rules on cross-border pensions**

The European Commission has formally requested **The Netherlands** to change three rules related to cross-border pension taxation.

First, foreign pension service providers have to give guarantees to the Dutch authorities if they transfer pensions abroad or if they want to do business on the Dutch market. Second, employees have to give guarantees if their pensions are transferred abroad or if they want to buy pension services abroad. Third, transfers of pensions to foreign providers by workers employed outside the Netherlands are only exempt from tax if the taxpayer provides a guarantee or if foreign providers assume the responsibility for any tax claims. None of these conditions have to be met by Dutch pension service providers in the Netherlands.

The Commission believes that these rules therefore constitute restrictions to the free movement of citizens and workers, to the freedom of establishment, the freedom to provide services and the free movement of capital (Articles 21, 45, 49, 56 and 63 TFEU).

The Commission's request takes the form of a reasoned opinion. If there is no satisfactory reaction to the reasoned opinion within two months, the Commission may decide to refer the matter to the Court of Justice of the European Union.

*(for more information: E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)*

- **GMO: Commission asks POLAND to monitor GMO cultivation**

**Poland** has today been formally requested by the European Commission to amend its legislation to comply with EU rules on monitoring of GMO cultivation.

EU law requires that GMO cultivation locations are notified to competent national authorities, recorded in a register established by the Member State, and made known to the public. This process ensures that appropriate information is made publically available; permits monitoring of possible effects of GMOs on the environment; and allows the establishment of coexistence measures. Poland has so far failed to include these requirements into its national legislation.

GMOs may be grown in the EU provided that they have been authorised for that purpose after having successfully undergone an assessment of risks to human and animal health and to the environment. Currently, maize MON 810 is the only GMO which is cultivated in the EU.

Polish authorities have two months from the date of the formal request to take the necessary action to comply with EU law and to inform the European Commission of the measures adopted. If Poland fails to do so within the deadline, the European Commission may decide to refer the case to the Court of Justice of the European Union.

*(for more information: F. Vincent - Tel. +32 229 87166 - Mobile +32 498 98 7166)*

- **Climate change: Commission calls for POLAND to comply with EU legislation on fluorinated greenhouse gases**

Regulation 842/2006 requires companies to take a range of measures to reduce leaks from appliances containing fluorinated gases (F-gases) and to recover the gases from appliances at the end of their life. The Regulation also establishes rules on training and certification for personnel involved in servicing, labelling of F-gas equipment and reporting. F-gases are used in refrigeration and air conditioning equipment, insulation foam, aerosol sprays and fire extinguishers. As emissions of F-gases have a warming effect up to 23,000 times more powerful than carbon dioxide, this legislation is important in the fight against global warming.

To date, **Poland** has failed to notify the Commission about what penalties have been put in place in case these rules are not observed. Poland has also not yet notified the national certification bodies that should train and certify the relevant service personnel and service companies. The Commission is today requesting, in a Reasoned Opinion, that Poland complies with these rules within two months.

*(for more information: I. Valero Ladron - Tel. +32 229 64971 - Mobile +32 498 96 4971)*

- **Environment: Commission asks PORTUGAL to bring Environmental Impact Assessment into line with European norms**

The European Commission is concerned that **Portugal's** Environmental Assessment laws are falling short of [European standards](#). Portuguese EIA law automatically excludes projects from these assessments when they are covered by a land-use plan. Under current legislation, urban development projects such as shopping centres and car parks, coastal works, holiday villages and hotel complexes outside urban areas are all outside the scope of the legislation. Portugal has informed the Commission on several occasions that it agrees with the Commission's stance, but despite an earlier letter of formal notice on this matter, the Portuguese law has still not been reviewed. The Commission is therefore sending a reasoned opinion (the second stage in EU infringement proceedings), giving Portugal two months to reply. In the absence of a satisfactory response, the Commission may refer it to the EU Court of Justice.

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- **Free movements of goods: Commission requests PORTUGAL to implement EU rules on tractors**

The European Commission has asked **Portugal** to implement into national law [Commission Directive 2010/62/EU](#) on the type-approval of tractors, which has not been transposed by Portugal within the deadline (29 September 2011). The non-transposition of such EU rules would hinder the free movement of tractors between Member States. In particular, it would hinder registration and sales in Portugal of vehicles which type is approved in other EU Member States, thus affecting the smooth functioning of the internal market.

Under the EU type-approval system, manufacturers can obtain approval for a vehicle type in one Member State if it meets the Union technical requirements, and then market it EU-wide with no need for further tests or checks. Registration must then be granted on simple presentation of a certificate stating the conformity of the vehicle to the requirements of the approved type. In particular, the EU rules on tractors are now extended also to tractors other than special purpose ones and the category of tractors for specific purposes having the bottom part closer to the ground than other tractor types. Moreover the required clearance zones around and dimensions of the power take-off shaft and its protective guard are adapted in order to achieve higher levels of safety at workplace. This also helps to promote worldwide harmonisation, so as to facilitate the global competitiveness of Union manufacturers.

The Commission request takes the form of a reasoned opinion under EU infringement procedures. If Portugal does not inform the Commission within two months of measures taken to ensure full compliance with its obligations, the Commission may decide to refer the case to the Court of Justice of the European Union.

See our website: [http://ec.europa.eu/enterprise/sectors/automotive/technical-harmonisation/regulatory-framework/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/automotive/technical-harmonisation/regulatory-framework/index_en.htm)

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- **Old-age benefits: Commission requests SLOVAKIA to provide a Christmas supplement to pensioners resident in other Member States**

The European Commission has requested **Slovakia** to ensure that its pensioners who reside in another Member State can claim a Christmas supplement (vianočný príspevok) to their pension. Slovakia provides this benefit only to its pensioners living within the Slovak Republic and thus breaches its obligations under EU law (and in particular Article 48 of the [Treaty on the Functioning of the EU](#), as implemented by [Regulation \(EC\) 883/2004](#)).

Under EU rules, the Christmas supplement to a pension constitutes an old-age benefit, which cannot be refused on the account that the beneficiary resides in another Member State than the competent one. The Commission's request takes the form of a reasoned opinion under EU infringement procedures. If Slovakia does not notify the Commission within two months of measures to ensure compliance with these obligations under EU law, the Commission may decide to refer Slovakia to the EU's Court of Justice.

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- **Environment: Commission asks SLOVENIA to boost nature protection legislation**

The European Commission is asking **Slovenia** to designate more sites for [Natura 2000](#), Europe's network of protected natural areas. Under the [Birds Directive](#), Member States need to designate the most suitable sites as special protection areas (SPAs) for the conservation of bird species. Slovenia has designated 27 SPAs, but their number and size is insufficient compared to the Important Bird Areas (IBA) inventory used by the Commission to assess whether Member States are complying with their obligations. While Slovenia is the Member State with the highest percentage of territory designated as Natura 2000, eight additional sites still need to be designated and 14 increased in order to meet the requirements of the Directive. The Commission sent a letter of formal notice in June 2007, but no progress has been made in reviewing the SPAs. The Commission is therefore sending a reasoned opinion (the second stage of the infringement procedure), giving Slovenia two months to reply. In the absence of a satisfactory response, the Commission may refer it to the EU Court of Justice.

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