



EUROPEAN COMMISSION

## MEMO

Brussels, 28 March 2014

### March infringements package: main decisions

	EMPLOYMENT & SOCIAL AFFAIRS	ENERGY	ENVIRONMENT	INTERNAL MARKET	JUSTICE	TAXATION & CUSTOMS UNION	TRANSPORT
AT							2
CZ					1		
EL			1				
FI							1
FR	2						
HU			1				
IE						1	
IT			1	1			1
LT		1					
PT							1
SV			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 to ensure proper application of EU law for the benefit of citizens and businesses.

The Commission has today taken **139 decisions**, including **11 reasoned opinions** and **3 referrals** to the European Union's Court of Justice. 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

- **Railway safety: Commission refers AUSTRIA to the Court of Justice**

The European Commission has decided to refer **Austria** to the European Court of Justice for failing to bring national rules into line with a European directive on rail safety. Directive [2004/49/EC](#) aims to improve safety for the European Union's railways and to improve access to the market for rail transport services. The directive requires Member States to establish a safety authority, to establish accident and incident investigation bodies, and to define common principles for the management, regulation and supervision of railway safety. In failing to transpose and implement the directive, Austria is denying the safety authority the right to revise safety certificates or authorisations following changes to the regulatory framework. Austria is also failing to ensure proper investigation of accidents and incidents – specifically those which under slightly different conditions might have led to serious accidents – by the independent investigation body. This potentially puts rail passengers at risk and hinders the creation of fair competition in the market.

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- **Environment: Commission takes GREECE to court over failure to protect iconic species**

The European Commission is taking **Greece** to Court for a failure to provide adequate protection for endangered sea turtles. The case concerns developments in Kyparissia Bay in the Western Peloponnese, one of the most important nesting beaches for *caretta caretta* loggerhead turtles in the Mediterranean, and an area protected under EU legislation. A high number of developments and construction activities are being tolerated and given permits in the area, and the developments are having a significant negative effect on the endangered turtles. On the recommendation of Environment Commissioner Janez Potočnik, the Commission is referring the case to the EU Court of Justice.

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- **Rail Passenger Rights: Commission refers ITALY to Court for failing to comply with EU rules**

The European Commission is referring **Italy** to the Court of Justice of the EU for failing to fully comply with EU rules on rail passenger rights. Regulation ([EC](#)) No. [1371/2007](#) on rail passengers' rights establishes several legally binding obligations for Member States and had to be fully applied by 3 December 2009.

Italy has not yet established an official and authorised body for the application of the Regulation in its territory, nor has it set up rules to sanction violations of rail passenger rights legislation. Without these two necessary actions, passengers travelling by train in Italy or from Italy to other EU countries will not be able to claim the rights they are entitled to if something goes wrong with their journey.

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## 2. Reasoned Opinions

- **Commission urges AUSTRIA and PORTUGAL to apply bus and coach passenger rights rules**

The European Commission has requested **Austria** and **Portugal** to adopt the necessary measures for the correct application of the bus and coach passenger rights regulation ([Regulation \(EU\) No 181/2011](#)). Both Austria and Portugal failed to set up a sanctioning system to ensure that the regulation is respected. In addition, Austria has not designated a national enforcement body (or NEB) to handle passenger complaints, supervise the application of the regulation and impose sanctions and has not sent the list of bus terminals where passengers with disability and reduced mobility can receive adequate assistance. The regulation sets out the rights of passengers traveling by bus and coach in the EU and it became applicable on 1 March 2013. By that time, Member States were bound by law to fulfil the tasks abovementioned. The requests have been sent in the form of a 'reasoned opinion' under EU infringement procedures. Austria and Portugal have two months to notify the Commission of the measures taken to apply the regulation correctly, otherwise, the Commission may decide to refer Austria and Portugal to the EU's Court of Justice.

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- **European Parliament elections: Commission acts to reinforce EU citizens' rights in the CZECH REPUBLIC**

The Commission has today continued legal action against the Czech Republic for failing to implement rules designed to make it easier for EU citizens to stand for the 2014 European Parliament elections in their Member State of residence. The European Commission sent a Reasoned Opinion to the Czech Republic, who has so far failed to inform the Commission of its measures to implement the EU Directive at national level. The new European [Directive 2013/1/EU](#), agreed at the end of 2012 (see [MEMO/12/1020](#)), updates the previous rules by simplifying the procedure for non-national EU citizens to stand as candidates for the European Parliament.

Member States had until 28 January 2014 ([IP/14/87](#)) to implement the updated rules. However, only 14 Member States (Croatia, Cyprus, Estonia, Finland, Germany, Hungary, Ireland, Latvia, Luxembourg, The Netherlands, Portugal, Slovenia, Sweden, United Kingdom) formally notified their laws in time for the deadline. On 4 February 2014, the Commission opened infringement proceedings against the other 14 EU countries under a fast track procedure to make sure the new EU rules are in place for the elections taking place on 22-25 May 2014. Out of the 14 Member States, 13 (BE, BG, DK, EL, ES, FR, IT, LT, MT, PL, RO, SI, SK) notified their transposition measures by replying to the letter of formal notice. Based on examination of the notified measures, the Commission considers that the Directive has been transposed now in 12 of these Member States (all but Greece) and has therefore decided to close infringement proceedings against those 12 EU countries. Greece formally notified the Commission of its transposition measures very recently only, thus the Commission is still assessing whether the country has completely transposed the rules.

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- **Rail transport: the Commission asks FINLAND to ensure rail interoperability**

The Commission is asking **Finland** to bring its national rules into line with Directive [2008/57/EC](#) on railway interoperability. The legislation aims at establishing the conditions for achieving interoperability within the European rail transport system, i.e. technical compatibility of infrastructure, rolling stock, signalling, etc. In the absence of interoperability, rail cannot compete effectively with other transport modes.

The legislation should have been in place since 19 July 2010. If Finland fails to react satisfactorily, the Commission may refer the matter to the EU Court of Justice. The Commission opened infringement proceedings against Finland on the matter in October 2013, and a reasoned opinion (the second stage in EU infringement proceedings) is now being sent. Finland now has two months to reply to the Commission.

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- **Working Time: Commission requests FRANCE to respect rights of doctors in training to maximum working hours and minimum rest periods**

The European Commission has requested **France** to respect the rights of doctors in training to minimum rest periods and limits to their working hours as required by the Working Time Directive ([2003/88/EC](#)). Currently French law fails to guarantee several key rights contained in this Directive, such as the 48-hour limit to average weekly working time, to doctors in training. French law does not take into account all the hours actually worked by doctors in training when applying the 48-hour limit set by the Working Time Directive. Supplementary on-call periods and training hours at university are not covered whereas the Directive requires them to be considered as working time. In addition, French law does not ensure proper monitoring of working hours and makes it difficult to verify whether hospitals abide by the rules as provided for in the Directive. As a result, doctors in training often work excessive hours in public hospitals in France. The request to France takes the form of a 'reasoned opinion' under EU infringement procedures. France now has two months to notify the Commission of the measures taken to bring national legislation in line with EU law. Otherwise, the Commission may decide to refer France to the EU's Court of Justice.

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- **Pensions: Commission requests FRANCE to protect workers' pensions in case of employer's bankruptcy**

The European Commission has requested **France** to guarantee the protection of workers' pensions financed through book reserves (i.e. by allocations on a company's balance sheet). Under French law, occupational pension rights are insufficiently protected if the employer becomes insolvent. This is in breach of the Directive on protection of employees in the event of their employer's insolvency ([2008/94/EC](#)), which requires Member States to adopt the necessary measures to protect these pensions. The EU's Court of Justice has ruled that a system guaranteeing less than half of a pension entitlement cannot be considered sufficient to "protect" workers' pensions as required by the Directive. According to a Commission report of 2008, the only protective measures applicable in France are the accountancy rules issued by the 'Comité de la Réglementation Comptable' on the basis of the International Accounting Standard, which stipulates that companies should preserve assets intended for pensions. However, these are only guidelines with no binding force. The Commission's request takes the form of a 'reasoned opinion' under EU infringement procedures. France has two months to notify the Commission of measures taken to bring national legislation into line with EU law. Otherwise, the Commission may decide to refer France to the EU's Court of Justice.

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- **Environment: Commission asks HUNGARY to act on air pollution**

The European Commission is concerned that **Hungary** is failing to protect citizens from fine dust (PM10) pollution. These tiny particles originate in emissions from industry, traffic and domestic heating, and they can cause asthma, cardiovascular problems, lung cancer and premature death. Under EU law, Member States have to limit citizens' exposure to these particles. Citizens in Budapest region, Sajó valley (including the city of Miskolc) and the Alloted cities region (including in particular the cities of Nyíregyháza and Szeged) have been exposed to unhealthy levels of PM10s every year reported since 2005 (i.e. until at least 2012). Citizens in the Pécs region, which had a compliance exemption until June 2011, have also been affected. The Commission believes that Hungary has not taken measures that should have been in place since 2005 to protect citizens' health, and is asking Hungary to take forward-looking, speedy and effective action to keep the period of non-compliance as short as possible. Today's action, technically an additional reasoned opinion, follows an additional letter of formal notice sent in February 2013 (see [IP/13/47](#)). If Hungary fails to act, the Commission may take the matter to the EU Court of Justice.

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- **Taxation: Commission asks IRELAND to stop discriminatory taxation of termination payments**

The European Commission has officially asked **Ireland** to amend its legislation on termination payments, as it discriminates against individuals who work in group companies in other Member States.

An employment termination payment (ETP) is a lump sum payment which firms make to employees who stop working for them. ETPs are taxed at different rates depending on the employee's age and length of employment.

To compute the tax relief on such payments, Irish law takes into account the number of years of service in group companies in Ireland, but not the years of service in group companies in other Member States and EEA countries (Norway, Lichtenstein and Iceland). This leads to a higher tax burden for individuals who worked in group companies in other EU/EEA Member States.

The Commission considers that such rules run contrary to the free movement of workers set out in the Treaties and the European Economic Area Agreement.

The Commission's request takes the form of a Reasoned Opinion. If Ireland fails to comply within two months, the Commission may refer the matter to the European Court of Justice

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### **Copyright: Commission urges ITALY to respect EU rules**

The European Commission has today asked **Italy** to respect EU rules on copyright protection of designs provided for in Article 17 of [Directive 98/71/EC](#) on the legal protection of designs. Under this provision, a design protected by a design right (for example the design of a piece of furniture) shall also be eligible for protection under copyright law. The objective of this provision is to grant a broad and cumulative protection to a design right holder. However, under Italian law, designs pre-dating the implementation of the Directive in Italy are excluded from copyright protection for a period of 13 years. This deprives right holders from the benefits of copyright protection for their designs. The Court of Justice of the EU had already ruled that a 10-year transitional period is in breach of EU law. Despite this clear guidance from the Court, Italy did not adapt its national legislation. The Commission's request takes the form of a reasoned opinion, the second stage of the infringement procedure. If the Italian authorities do not provide a satisfactory reply within two months, the Commission may refer the matter to the Court of Justice of the EU.

More information:

[http://ec.europa.eu/internal\\_market/indprop/design/index\\_en.htm](http://ec.europa.eu/internal_market/indprop/design/index_en.htm)

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### **• Environment: Commission asks ITALY to improve domestic law on environmental impact assessments**

The European Commission is asking **Italy** to ensure that its legislation is in line with EU rules on Environmental Impact Assessments (EIAs). These assessments are intended to ensure that projects likely to have a significant impact on the environment are assessed before they are authorised, so that people are aware of the possible effects. The Commission's concerns include the definition of "project" in Italian legislation, the provisions regarding public participation in EIA procedures, and the scope of certain project categories. A letter of formal notice was sent in April 2009, followed by a complementary letter of formal notice in February 2012. While several issues have been resolved, most of the grievances raised by the Commission are still pending, as the drafts submitted by Italy to date are either insufficient to solve the breach, or remain at draft stage. The Commission is therefore sending a reasoned opinion. If Italy fails to act within two months, the case may be referred to the EU Court of Justice.

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- **Energy Services: the Commission asks LITHUANIA to ensure that heat and hot-water consumers are provided with individual meters**

The Commission has today formally requested **Lithuania** to bring its national law in line with the EU Energy Services Directive (2006/32/EC) as regards heat and hot-water metering and billing. Under this Directive the Member States have to ensure that final energy customers are provided with competitively priced individual meters that accurately reflect their actual consumption. Individual metering plays a crucial role in promoting the efficient use of energy as it allows energy consumers to better monitor their individual consumption of electricity, gas, heating/cooling or hot water. Individual metering is also needed for the provision of individual billing based on actual consumption. The Directive had to be fully transposed into national law by 17 May 2008. The Commission's request takes the form of a reasoned opinion under the EU infringement procedure. If Lithuania does not comply with its legal obligation within two months, the Commission may decide to refer it to the Court of Justice. For more information on the Energy Services Directive: [http://ec.europa.eu/energy/efficiency/end-use\\_en.htm](http://ec.europa.eu/energy/efficiency/end-use_en.htm)

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- **Environment: The Commission asks SWEDEN to enact EU rules on industrial emissions**

The European Commission is urging **Sweden** to send details about how EU legislation on industrial emissions is being enacted in its domestic law. The new Industrial Emissions Directive replaces and updates older rules seeking to prevent, reduce and as far as possible eliminate pollution arising from industrial activities and had to be enacted in national legislation by 7 January 2013. Sweden missed the deadline and was sent a letter of formal notice on 21 March 2013. The Commission considers that the Directive has not been completely enacted as certain provisions, related inter alia to the permit conditions and environmental inspections, are not yet fully covered by Swedish law. A reasoned opinion is therefore being sent, and if Sweden fails to act within two months, the case may be referred to the EU Court of Justice, where financial penalties may be imposed.

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