



EUROPEAN COMMISSION

MEMO

Brussels, 20 June 2013

June infringements package: main decisions

	AGRICULTURE	EDUCATION & CULTURE	EMPLOYMENT & SOCIAL AFFAIRS	ENERGY	ENVIRONMENT	HEALTH & CONSUMER POLICY	INTERNAL MARKET & SERVICES	JUSTICE	TAXATION & CUSTOMS UNION	TRANSPORT
AT										1
BE				2					1	3
BG									1	
CY				1				1		
CZ				1		1				
DE				1						1
DK			1							
EL	1				1	1			2	
ES					1	1			1	1
FI				1					1	
FR				1						1
HU					1		1			
IT	1				2		1		1	
LU						1				
LV				1						
NL		1		1	1					
PL				2		2			1	
PT				2	1				1	1
RO				1			1			
SE						1				
SI					1	2	1			
UK									1	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 **186 decisions**, including **47 reasoned opinions** and **12 referrals** to the European Union's Court of Justice, out of which **4 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

- **Environment: ITALY referred again to Court over waste management in Campania, Commission asks for fines**

The European Commission has decided to refer **Italy** back to the European Court of Justice for its long-running failure to manage waste adequately in the Campania region. Under EU law, Member States are to recover and dispose of waste in a manner that protects human health and the environment. More than three years after a previous ruling on this matter, the Commission is taking Italy back to the Court. This time the Commission is asking for a lump sum penalty of € 25 million (€ 21 067 per day between Court cases) and a daily penalty payment of € 256 819.20 for each day after the second Court ruling until the infringement ends.

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- **Transport: Commission refers BELGIUM to Court over rules on intelligent transport systems**

The European Commission has decided to take **Belgium** to the Court of Justice of the European Union over its failure to transpose [Directive 2010/40/EU](#) on intelligent transport systems (or "ITS"). The Commission proposes a daily fine of € 34 540.80 to be paid from the date of the Court's affirmative ruling until Belgium notifies the Commission that it has fully implemented the rules into national law.

Directive 2010/40/EU should have been transposed into national law by all EU Member States by 27 February 2012. The rules establish a framework to support the deployment of ITS (information and communication technologies applied to transport) in the field of road transport and for interfaces with other modes of transport.

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- **Maritime safety: Commission refers BELGIUM to Court over rules on the investigation of maritime accidents**

The European Commission decided to take **Belgium** to the Court of Justice for failing to fully implement the [Directive on the investigation of maritime accidents](#). The Commission proposes a daily fine of € 55 265.28 to be paid from the date of the Court's affirmative ruling until Belgium notifies the Commission that it has fully implemented the rules into national law. These financial penalties are proposed by the Commission under the Lisbon Treaty and take into account the duration and the gravity of the infringement and the size of the Member State. The final decision on the penalties rests with the Court. The directive requires that Member States establish an impartial permanent investigative body, endowed with the necessary powers, and staffed by suitably qualified investigators, competent in matters relating to marine casualties and incidents.

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- **Energy efficiency in buildings: Commission refers PORTUGAL to Court for failing to transpose EU rules**

The European Commission is referring **Portugal** to the Court of Justice of the European Union for failing to transpose the [Energy Efficiency of Buildings Directive](#). Under this directive, Member States must establish and apply minimum energy performance requirements for all buildings, ensure the certification of buildings' energy performance and require the regular inspection of heating and air conditioning systems. In addition, the directive requires Member States to ensure that by 2021 all new buildings are so-called nearly zero-energy buildings. The Commission proposes a daily penalty of € 25 273.60. The level of this penalty is set taking into account the duration and the gravity of the infringement and the size of the Member State. In case of an affirmative judgment of the Court, the daily penalty is to be paid from the date of the judgment until the transposition is completed. The final amount of the daily penalty will be decided by the Court.

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2. Other referrals

- **Customs: BULGARIA referred to Court of Justice for failing to review duty and tax relief in its agreement with USA**

The European Commission has today referred **Bulgaria** to the Court of Justice for failing to bring its bilateral agreement with the USA on technical assistance into line with EU law.

On its accession to the EU, Bulgaria committed to take all steps necessary to bring its existing agreements with third countries into line with EU law. This includes the bilateral agreement with the United States on technical assistance, under which Bulgaria waives customs duties and VAT on imports linked to US-funded assistance projects. This goes beyond what is allowed under EU customs duty rules and EU VAT rules.

The Commission had requested Bulgaria to amend the agreement so as to make it compatible with EU law or to unilaterally terminate it (see [IP/12/672](#)). Given that Bulgaria has failed to do this, the Commission is now referring the case to the European Court of Justice.

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- **Environment: Commission takes GREECE to Court over nitrate pollution**

The European Commission is referring **Greece** to the EU Court of Justice for failing to take measures to guarantee that water pollution by nitrates is addressed effectively. Although the Nitrates Directive has been in force since 1991, Greece has still not designated a number of zones that are vulnerable to nitrates pollution, and it has yet to adopt measures to effectively combat nitrates pollution in these zones. The Commission is therefore taking Greece to the EU Court of Justice.

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- **Internal Market: Commission brings proceedings against HUNGARY before the Court of Justice for restrictive conditions on the issuing of luncheon vouchers and other benefits in kind**

The European Commission has decided to bring **Hungary** before the Court of Justice of the European Union with regard to its legislation on the issuing of luncheon, leisure and holiday vouchers. The Commission believes that the restrictions introduced by the new Hungarian legislation are contrary to the fundamental principles of freedom of establishment and the freedom to provide services, which are guaranteed by the Treaty on the Functioning of the European Union (Articles 49 and 56 TFEU) and by the Services Directive (Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market).

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- **Commission takes NETHERLANDS to Court for student fares discrimination**

The European Commission has decided to take the **Netherlands** to the Court of Justice of the European Union for discriminating against students from other EU countries who are prevented from benefitting from discount fares on public transport which are offered to Dutch students. Under the EU Treaty, wherever EU students choose to study in the Union, they have the same rights to benefits as local students, unless EU law expressly excludes a benefit from the principle of equal treatment such as maintenance aid.

The Commission believes that the Netherlands has failed to apply the principle of equal treatment by limiting discounted fares on trains and buses to students who are either Dutch nationals or long-term residents in the Netherlands. All other EU citizens studying in the country, including Erasmus students, are therefore discriminated against.

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- **GMO: Commission refers POLAND to Court for failure to set up registers for recording the location of GMOs grown**

Today, the Commission decided to take **Poland** to the European Court of Justice for non-compliance with EU rules on monitoring of Genetically Modified Organisms' cultivation.

[Directive 2001/18/EC](#) 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 available to the public; 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.

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- **Internal gas market: the Commission takes POLAND to Court over regulated gas prices for business consumers**

Today, the European Commission decided to refer **Poland** to the Court of Justice of the European Union for failing to comply with the EU internal energy market rules. Under the [Gas Directive \(2009/73/EC\)](#) prices should primarily be determined by supply and demand. State-set tariffs for non-household end-users impede new gas suppliers from entering the gas market and do not allow Polish consumers to reap the full benefits that the internal market can offer.

According to EU law regulated prices can only be applied in exceptional circumstances and not as a main rule for price setting: a number of strict conditions have to be met, including a proportionality requirement.

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- **Transport: Commission refers SPAIN to Court over rules for the recruitment of port workers**

The European Commission has today decided to refer **Spain** to the EU Court of Justice over its rules on hiring port labour in several Spanish ports. Currently, cargo-handling companies in these ports are not allowed to resort to the market to employ their staff. On the contrary, the rules in place oblige cargo-handling companies to participate financially in the capital of private companies, which in turn provide them with the required workforce. It is only when the workforce proposed by these private companies is not suitable or not sufficient that cargo-handling companies may freely hire staff from the market. The Commission considers that cargo-handling providers from other Member States wishing to establish themselves in Spanish ports may be discouraged from doing so because of these restrictive labour practices.

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- **Animal Health: Commission refers SWEDEN to Court for failing to end paratuberculosis testing on bovines**

Today, the Commission has decided to take **Sweden** to the European Court of Justice over the failure to correctly implement [Directive 64/432/EEC](#) by continuing the practice of testing bovine animals imported from other Member States for paratuberculosis.

The harmonised animal health conditions for trade in bovine animals laid down in Directive 64/432/EEC do not provide for any health requirements for paratuberculosis. Moreover, mandatory post-arrival testing discourages Swedish farmers from introducing bovine animals from other EU Member States, which have the equivalent effect of quantitative restrictions. Therefore, it cannot be justified under Article 36 of the Treaty on the Functioning of the European Union (TFEU), which regulates restrictions and prohibitions on imports.

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3. Other cases of specific interest

- **Commission requests ITALY to recover surplus levies due from Italian milk producers**

Today, the European Commission has called on **Italy** to take action to address shortcomings in the recovery of surplus levies due from dairy producers who exceeded their individual quotas in years when Italy overran its national dairy quota.

In spite of repeated and numerous requests from the Commission, the majority of levies due between 1995 and 2009 has still not been recovered by Italian authorities, who have manifestly not taken the appropriate measures to effectively recover the total estimated amount of at least € 1.42 billion from producers. This amount needs to be reimbursed to the Italian budget, so that the Italian taxpayers do not lose out, the Commission has underlined today.

The failure to ensure the effective recovery of these levies undermines the efforts undertaken at European level to stabilize the market of dairy products. In addition, it creates distortions of competition with other European and Italian producers who respected the production quotas or paid the surplus levies in case of overrun.

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- **Taxation: Commission demands that 5 Member States implement key EU rules against tax evasion**

Today the Commission has sent reasoned opinions to **Belgium, Greece, Finland** (Province of Åland), **Italy** and **Poland** asking them to notify the transposition of the Directive on administrative cooperation into national law.

The [Directive on administrative cooperation](#) aims to increase transparency, improve information exchange and tighten cross-border cooperation: fundamental tools for fighting tax evasion (see [IP/12/1376](#)). Member States had a legal obligation to start applying this Directive from 1 January 2013. Belgium, Greece, Finland, Italy and Poland have not informed the Commission of the transposition of the Directive into their national legislation.

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- **Rail Transport: FRANCE and UNITED KINGDOM to implement European rules regarding the Channel Tunnel**

The European Commission has sent a formal request to **France** and the **United Kingdom** to comply with EU rules against excessive track access charges for passenger and freight trains in the Channel Tunnel. The Commission has also asked them to ensure a fully independent regulator and to end an agreement which currently reserves capacity for certain train operators in a restrictive way. The high track access charges get passed on to passengers in their ticket prices and rail freight companies complain that they cannot afford to send more freight through the Tunnel – it remains on the roads causing congestion and pollution.

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- **Transport: Commission urges GERMANY to comply with EU rules on the separation of accounts in rail**

The Commission is concerned that **Germany** is failing to implement European rules on the separation of accounts between infrastructure managers and railway undertakings, and on the use of track access charges. This procedure is part of a series of similar procedures against a number of Member States on account separation. The German system creates the possibility for cross-subsidising commercial transport activities from state funds for infrastructure and public-service passenger transport.

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4. Other reasoned opinions

- **BELGIUM, CYPRUS, CZECH REPUBLIC, PORTUGAL and ROMANIA are called upon to comply with EU rules on oil stocks**

Today the Commission has formally requested **Belgium, Cyprus, the Czech Republic, Portugal** and **Romania** to take action to ensure full compliance with their obligations under EU legislation on oil stocks. The [directive \(2009/119/EC\)](#) requires that Member States maintain minimum stocks of crude oil and/or petroleum products to ensure security of oil supply in case of possible disruptions. Given the importance of oil in the EU's energy mix, the EU's strong external dependence for supply of crude oil and petroleum products and the geopolitical uncertainty in many producer regions, it is vital to guarantee consumers' access to petroleum products at all times. The European Commission sent today a reasoned opinion to Belgium, Cyprus, the Czech Republic, Portugal and Romania which have not yet informed the Commission of any measures for transposing the Directive into their national legislation. If the Member States do not comply with their legal obligation within two months, the Commission may decide to refer them to the Court of Justice.

The directive had to be transposed by the Member States by 31 December 2012. Infringement procedures were opened in January 2013 against 17 Member States that had failed to comply with their transposition obligations. A letter of formal notice was sent to Belgium, Bulgaria, Cyprus, Czech Republic, Greece, Spain, Hungary, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia and the United Kingdom. The Commission examines the situation in the other Member States against which infringement procedures were opened and the present action could be complemented with further reasoned opinions in the forthcoming infringement cycles.

More information here: http://ec.europa.eu/energy/oil/secure_supply_en.htm

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- **Energy efficiency in buildings: the Commission asks seven Member States to adopt national measures on energy efficiency in buildings**

Today the Commission has formally requested **Belgium, Finland, France, Latvia, Germany, the Netherlands and Poland** to take action and ensure full compliance with their obligations under EU legislation on energy efficiency in buildings ([Directive 2010/31/EU](#)). The Commission sent a reasoned opinion to these Member States asking them to notify the Commission of all their implementation measures for the directive which had to be transposed into national law by 9 July 2012. Under this law Member States must establish and apply minimum energy performance requirements for new and existing buildings, ensure the certification of buildings' energy performance and require the regular inspection of heating and air conditioning systems. In addition, the directive requires Member States to ensure that from 2021 onwards all new buildings will be so-called nearly zero-energy buildings. By properly transposing and implementing the directive EU Member States can achieve a significant amount of cost-effective energy savings and lower greenhouse gas emissions. If the Member States do not comply with their legal obligation within two months, the Commission may decide to refer them to the Court of Justice.

In September 2012 the Commission started infringement procedures against 24 Member States that had not notified to the Commission the national measures transposing the directive into national law. In the meantime a number of Member States notified the Commission of their national transposition, although several did not, and reasoned opinions were therefore sent to Italy, Greece, Portugal, and Bulgaria in January 2013, and to Spain and Slovenia in April 2013. The Commission has also decided to refer Portugal to the European Court of Justice for not adopting legislation to transpose the energy efficiency of buildings directive into national law (see [IP/13/579](#)).

More information here: http://ec.europa.eu/energy/efficiency/buildings/buildings_en.htm

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- **Commission requests BELGIUM and PORTUGAL to take action regarding safety management of road infrastructure**

The European Commission has today asked **Belgium and Portugal** to adopt and transmit guidelines to support competent entities in charge of the management of road safety infrastructure, in accordance with their obligations under European Union law. These entities are responsible for, among other things, road safety audits and safety rankings. The Commission's request takes the form of a reasoned opinion under EU infringement procedures. If Belgium or Portugal fails to inform the Commission within two months of measures taken to ensure full compliance with the Directive, the Commission could refer the cases to the EU Court of Justice. Belgium and Portugal were requested to adopt national guidelines under Directive 2008/96/EC on road infrastructure safety management by 19 December 2011 and to communicate them to the Commission by 19 March 2012. While Portugal failed to do it, Belgium did it only partially. Not adopting or transmitting the guidelines may prevent competent entities from correctly applying the procedures established by the Directive. This might lower the safety level of road infrastructure with a detrimental effect for all road users.

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- **Pharmacovigilance: Commission requests four Member States to comply with rules on medicinal products for human use**

A formal request by the European Commission was today sent to **Czech Republic, Spain, Poland** and **Slovenia** urging them to ensure full compliance as regards [Directive 2010/84](#) on the Union code relating to medicinal products for human use. This Directive strengthens and rationalises the system for monitoring the safety of medicines on the European market. It improves patient safety and public health through better prevention, detection and assessment of adverse reactions to medicines. It also allows patients to report adverse drug reactions directly to the competent authorities. These four Member States still have not transposed this directive into national law, although they were required to do so by 21 July 2012. Member States concerned have 2 months to inform the Commission of measures taken to ensure full compliance with EU law. Failure to notify adequate measures could lead to the Commission referring the cases to the Court of Justice of the European Union.

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- **Environment: Commission asks ITALY and the NETHERLANDS to enact EU rules on the protection of animals used for scientific purposes**

The European Commission is urging **Italy** and the **Netherlands** to enact EU legislation on the [protection of animals used for scientific purposes](#) in their national law. The Directive in question aims to minimise the use of animals in experiments, and requires alternatives to be used where possible, while ensuring that research in the EU remains of top quality. The Directive had to be enacted in national legislation by 10 November 2012. As both Member States missed the deadline, they were sent letters of formal notice on 31 January 2013. Italy has yet to inform the Commission about any change to its legislation. The Netherlands claim that existing legislation partially covers the scope of the Directive, but the Commission is still concerned that certain provisions have not been included in Dutch law. The Commission is therefore sending both Member States a reasoned opinion. If they fail to act within two months, their cases may be referred to the EU Court of Justice, where financial penalties may be imposed.

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- **Public Health: Commission requests two Member States to comply on standards of quality and safety of human organs transplantation**

A formal request by the European Commission was today sent to **Luxembourg** and **Slovenia** urging them to ensure full compliance with [Directive 2010/53/EU](#) on standards of quality and safety of human organs intended for transplantation. This Directive provides for the appointment of Competent Authorities in all Member States, for authorisation of procurement and transplantation centers and activities, for traceability systems, as well as for the reporting of serious adverse events and reactions. Moreover, the Directive sets requirements for the safe transportation of organs and for the characterisation of every donor and organ. These two Member States still have not transposed this directive into national law, although they were required to do so by 27 August 2012. Member States concerned have 2 months to inform the Commission of measures taken to ensure full compliance with EU law. Failure to notify adequate measures could lead to the Commission referring the cases to the Court of Justice of the European Union.

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- **Rail transport: Commission asks AUSTRIA to transpose EU rules on rail safety**

The European Commission is asking **Austria** to bring its national rules into line with a European directive on railway safety (2004/49/EC), in particular regarding safety certification and authorisation, decision-making of the safety authority, obligation to investigate serious accidents and information on investigation of such accidents, and reporting back on safety recommendations. The legislation should have been in place since 30 April 2006. If Austria fails to react satisfactorily, the Commission may refer the case to the EU Court of Justice. The Commission opened infringement proceedings against Austria on the matter in November last year, and a reasoned opinion (the second stage in EU infringement proceedings) is now being sent. Austria has two months to reply to the Commission.

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- **Free movement: Commission asks CYPRUS to comply with EU rules**

Today, the European Commission decided to send a reasoned opinion to **Cyprus** due to its failure to correctly transpose and apply the Free Movement Directive ([Directive 2004/38/EC](#)). Under this Directive, Member States may require EU citizens to report their presence in their territory within a reasonable and non-discriminatory period of time and to sanction non-compliance with this requirement by "proportionate and non-discriminatory sanctions". This is not the case for the sanction prescribed in Cypriot law, which provides for a fine of up to EUR 1 000 for EU citizens staying in Cyprus for longer than 21 days and who fail to report their presence within 35 days of their arrival.

Furthermore, great delays persist in issuing residence cards for third-country national family members of EU citizens, beyond the 6 month deadline provided for in the Directive.

Finally, the fees for obtaining documents certifying permanent residence after 5 years of residence (80 EUR) are higher than those for issuing identification documents to Cypriot nationals (20 EUR), whilst the Directive provides that residence documents should be issued to EU citizens and their family members "free of charge or for a charge not exceeding that imposed on nationals for the issuing of similar documents."

With this reasoned opinion, the Commission requests Cyprus comply with the relevant EU rules. In the absence of a satisfactory response within two months, the Commission can refer Cyprus to the Court of Justice of the EU.

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- **Labour law: Commission asks DENMARK to apply equal treatment to part-time staff in the municipal education sector**

The European Commission has asked **Denmark** to comply in full with the EU Directive on part-time work in the municipal education sector. In particular, the Commission wants the Danish authorities to ensure equal employment conditions with comparable permanent staff for part-time staff who work for less than 8 hours per week or who are employed for less than one month. Various collective agreements in the municipal education sector in Denmark exclude this type of staff from a number of benefits that full-time and other part-time employees receive. [Directive 97/81/EC on part-time work](#) requires equal treatment for part-time staff with comparable permanent staff. As an exception, a Member State may decide to exclude casual staff from this protection. However, the Danish rules in question exclude 'low-intensity' staff where this exception does not apply. The Commission's request takes the form of a 'reasoned opinion' under EU infringement

procedures. Denmark now has two months to notify the Commission of the measures taken to bring national legislation into line with the EU Directive. Otherwise, the Commission may decide to refer Denmark to the EU's Court of Justice.

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- **Agriculture: Commission requests GREECE to ensure free market access for wine producers in Samos**

The European Commission has officially requested **Greece** to modify its national legislation requiring all wine producers on the island of Samos to be members of the local wine cooperative and to deliver all their must production to the cooperative.

A complainant who applied for permission to produce independently saw his application rejected on this basis. The Commission considers that making membership of a producer organisation compulsory contravenes the open market principle, according to which every producer has free access to the market, regulated only by the measures provided for by rules common to the sector at EU level.

The request takes the form of a reasoned opinion, which follows an unsatisfactory response from the Greek authorities to a letter of formal notice sent in 2011. In the absence of a satisfactory response within two months, the Commission may refer the matter to the European Court of Justice.

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- **Plant reproductive material: Commission asks GREECE to amend its provisions on import of plant reproductive material from other Member States**

The Commission considers that **Greek** legislation violates Article 34 TFEU on the free movement of goods by requiring any person importing plant propagating material from another Member State, to be in possession of a marketing licence. Certain restrictive conditions have to be fulfilled so that the licence is granted. With minor exceptions, the requirement applies to both private and business users. Greece maintains that the aim is to prevent infected material from being planted and thus to protect plant health. However, the arguments brought forward by the Greek authorities were not considered satisfactory as they did not address the core of the Commission's concerns, namely the conditions subject to which the marketing licence is granted. None of them is considered relevant to the aim to protect plant health in the case of persons purchasing propagating material for business use. In the case of private users, the requirement for a marketing licence as such is considered disproportionate. Greece has two months to align its legislation with Union Law.

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- **Taxation: Commission requests GREECE to end discriminatory taxation on milk and meat**

The European Commission has formally requested **Greece** to amend its discriminatory tax legislation for milk, milk products and meat from other Member States.

Currently Greece applies a levy on purchases of milk and milk products. However, the levy does not apply in the same manner to domestic products as it does to products from other Member States. Some domestic products are exempt from taxation and others are taxed at a lower rate.

A levy is also imposed on purchases of both domestic and imported meat. However, this levy is used to finance ELOGAK, a public body that grants subsidies to Greek farmers, and therefore only benefits domestic products.

These provisions breach EU rules that prohibit measures which have an equivalent effect to customs duties and create discriminatory internal taxation. The request takes the form of a reasoned opinion. In the absence of a satisfactory response within two months, the Commission may refer the matter to the European Court of Justice.

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

The European Commission is urging **Hungary** 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. After missing the original deadline, Hungary was sent a letter of formal notice on 31 January 2013. The Commission is now sending a reasoned opinion, and if Hungary fails to act within two months, the case may be referred to the EU Court of Justice.

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- **Public procurement: the Commission requests ITALY to respect EU rules**

The European Commission has today requested that **Italy** correctly apply EU rules on public procurement to a procedure for the construction of new buildings for the judicial administration of Bari, the estimated value of which is €350 million. Italy has not applied the applicable EU public procurement rules because it considered that the contract would only constitute a lease agreement, not a works contract. The Commission therefore considers that Italy has violated its obligations under [Directive 93/37/EEC](#) concerning the coordination of procedures for the award of public works contracts (applicable at the time of award). The EU rules on public procurement are designed to ensure EU-wide competition, transparency and equal treatment as well as best value for money. Not to apply those rules potentially damages the public interest as well as making it more difficult for private economic operators to compete for procurement opportunities.

The Commission's request takes the form of a reasoned opinion under EU infringement procedures. If no measures are notified to put an end to the violation of EU law within two months, the Commission may decide to refer the matter to the EU Court of Justice.

More information: http://ec.europa.eu/internal_market/publicprocurement/index_en.htm

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- **Environment: Commission asks PORTUGAL to improve assessment of windfarms**

The European Commission is concerned that wind farms in **Portugal** are being allowed to expand before the effect of the expansion is adequately assessed. The problem also affects the Natura 2000 network of protected areas, with potentially serious consequences for the environment and for protected species. In an effort to urge Portugal to modify its laws, the Commission is sending a reasoned opinion.

Under the [Environmental Impact Assessment Directive](#), projects that are likely to have a significant impact on the environment must be assessed before they are officially sanctioned, and projects located inside Natura 2000 areas must also undergo an appropriate assessment in line with the [Habitats Directive](#). Portugal is currently breaching both directives due to a new law that exempts projects from assessments if the work is classed as an upgrade below a certain threshold. The Commission is concerned that allowing the systematic expansion of projects that are already near the threshold will inevitably entail an eventual infringement of the legislation designed to protect human health and the environment.

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- **Taxation: The European Commission requests PORTUGAL to end discriminatory taxation of non-resident companies**

The European Commission has requested **Portugal** to amend its tax rules for non-resident companies that are owned by Portuguese residents.

Companies which do not have their registered offices or effective place of management in Portugal are subject to corporate income tax on the income obtained in Portugal. Like other taxpayers, these companies may enjoy a number of tax benefits. However, these benefits are not granted if more than 25% of the capital of the non-resident company is owned by Portuguese residents.

The European Commission considers that a different tax treatment of non-resident companies on the basis of their shareholders' residence is an obstacle to the free movement of capital. The request takes the form of a reasoned opinion. In the absence of a satisfactory response within two months, the Commission may refer the matter to the European Court of Justice.

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- **Public Procurement: the Commission requests ROMANIA to comply with EU rules**

The European Commission has today requested that **Romania** comply fully with the European Directives on public procurement. The Commission argues that the tender procedure for a works contract for the rehabilitation of the National Road between Crasna and Iași was conducted in breach of [Directives 2004/18/EC](#) and [89/665/EEC](#). The tender procedure was managed by the Romanian National Company of Roads and Motorways and was conducted on the basis of a national law which was later found to be incompatible with European rules on public procurement. As a result, essential information from the contract notice was missing and tenderers were deprived of their full right to effective review.

The Commission's request takes the form of a reasoned opinion under EU infringement procedures. If no measures are notified to put an end to the violation of EU law within two months, the Commission may decide to refer Romania to the Court of Justice of the European Union.

More information:

http://ec.europa.eu/internal_market/publicprocurement/infringements/cases/index_en.htm

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- **Environment: Commission asks SLOVENIA to improve management of waste and landfills**

The European Commission is urging **Slovenia** to improve waste management at several sites in the town of Celje. One concern is a landfill close to the center of the town where soil excavated from a large brownfield site heavily polluted by heavy metals has been illegally dumped, and another is a landfill in nearby Bukovžlak. More generally, the Commission also considers that Slovenia did not take sufficient measures to ensure that excavated soil and contaminated debris did not endanger human health and the environment during the construction of Celje Technological Centre in 2006. The Commission is sending a reasoned opinion, and if Slovenia fails to act within two months, the case may be referred to the EU Court of Justice.

The Commission is also asking Slovenia to ensure its legislation complies with EU standards for assessing the impact of infrastructure projects on the environment. Slovenia has adopted a national system for screening projects which does not fully coincide with EU standards, and the notion of "development consent" is also not fully in line with the requirements of the Directive and the jurisprudence of the European court. A reasoned opinion is being sent, and if Slovenia fails to act within two months, the Commission may refer the case to the EU Court of Justice.

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- **Freedom of establishment and free movement of services: Commission asks SLOVENIA to respect EU rules**

The European Commission has today requested that **Slovenia** respect EU rules on the freedom of establishment and free provision of services (Articles 49 and Article 56 of the [Treaty on the Functioning of the EU](#) as well as Articles 10, 13 and 16 of the [Services Directive](#) in the field of education).

Following infringement procedures initiated by the Commission, Slovenian legislation has been amended to allow higher education institutions from other Member States to offer their programmes in Slovenia. However, the current law states that a special administrative procedure needs to be set up by secondary legislation in order for EU providers to be able to operate in Slovenia. This secondary legislation has not been adopted despite the legal obligation to do so. In practice this means that higher education institutions from other Member States cannot exercise their right to establish a branch or subsidiary or provide education through validation or franchise agreements because the administrative procedure provided by the law is not yet in place.

Due to the failure to adopt the criteria and conditions for this administrative procedure, the Commission requests Slovenia, in the form of a reasoned opinion, to take action to fully comply with EU rules. If the Slovenian authorities do not reply satisfactorily within two months, the Commission may refer the matter to the EU Court of Justice.

More information: http://ec.europa.eu/internal_market/services/services-dir/index_en.htm

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- **Environment: Commission asks SPAIN to review the impact of planned rail link in Andalusia**

The European Commission is concerned that **Spain** has authorised the construction of a high-speed rail link project before properly assessing its effects on the environment, contrary to the requirements of [EU legislation](#). The problem concerns one section of the project to link Almeria and Seville, which is due to cut across one of the most important areas for steppic birds in Andalusia, currently designated as Special Protection Area, and will cause significant deterioration of the habitat.

The Commission sent a letter of formal notice on this matter in June 2011, and while some progress has been made, the Commission is not convinced that the appropriate steps to protect the area have been taken, and is therefore sending a reasoned opinion. If Spain fails to act within two months, the case may be referred to the EU Court of Justice.

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- **Taxation: Commission requests SPAIN to end discriminatory taxation of investments in non-resident companies**

The European Commission has requested **Spain** to amend its discriminatory tax rules for foreign dividends. These are dividends distributed by a non-resident company to a Spanish company. The tax treatment for foreign dividends is more burdensome compared to that of domestic dividends (i.e. dividends distributed by companies resident in Spain). For example, a Spanish company which invests in a non-resident company must fulfil more conditions (for example related to volume of income and level of shareholder participation) than for a domestic investment if it wants to benefit from the tax break. In other cases, the tax advantage foreseen for domestic dividends is not available for foreign dividends.

The Commission considers that this regime is incompatible with the right of establishment, the freedom to provide services, the cross-border supply of goods and the free movement of capital as set out in the EU Treaties.

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

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- **Taxation: Commission requests UNITED KINGDOM to ensure that consumers can receive VAT refunds from manufacturers**

The European Commission has formally requested the **United Kingdom** to amend its legislation to ensure that final customers can get their VAT back in any refund from manufacturers for goods that have reduced in price and bought through a third party (for example shampoo in a supermarket).

Under EU VAT rules, consumers are entitled to receive the VAT back too when they get a refund on goods that are faulty, flawed or do not meet the customer's expectations or the customer returns the goods. However, the current rules in the UK do not allow manufacturers to refund VAT paid at the time of the purchase.

On 24 May 2012, the United Kingdom announced its intention to amend its rules in line with EU legislation but it has not yet done so. The Commission's request takes the form of a reasoned opinion. In the absence of a satisfactory response within two months, the Commission may refer the United Kingdom to the EU's Court of Justice.

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