



IL-KUMMISSJONI EWROPEA

MEMO

Brussels, 20 November 2013

November infringements package: main decisions

	CLIMATE ACTION	COMPETITION	DIGITAL AGENDA	EMPLOYMENT & SOCIAL AFFAIRS	ENERGY	ENVIRONMENT	HEALTH	HOME AFFAIRS	INDUSTRY & ENTREPRENEURSHIP	INTERNAL MARKET & SERVICES	JUSTICE	MARTIME AFFAIRS &	TAXATION & CUSTOMS UNION	TRANSPORT
AT	1				1	1								
BE									1	1			3	
CY	1					1		1		2			1	
CZ										1				
DE									1					1
EL				1	1	1				1			1	
ES						1		1						1
FI				1			1			1	1			
FR	1								1				1	
HU	1										1			
IE	1		1	1										
IT		1		2		3	1	1			1		1	1
LT										1				
LU			1					1						
LV													1	
MT					1									
NL					1									
PL							2			1				
PT				2		1				1				1
RO						2	1			1		1		
SI	1					1	1							
SV	1					1				1			1	
UK					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 **248 decisions**, including **58 reasoned opinions** and **12 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. Major Cases involving Member States

- **Commission requests Member States to comply with EU law when regulating gambling services**

Today, the European Commission has called on a number of Member States to ensure compliance of their national regulatory frameworks for gambling services with the fundamental freedoms of the Treaty on the Functioning of the EU. Member States are in principle free to set the objectives of their policies on online gambling.

After consultation of the Member States concerned, decisions on a first series of pending cases have now been taken. Concretely, the Commission has today:

- requested **Sweden** to comply with EU rules on the free movement of services with regard to the regulation and supervision of its gambling monopoly;
- closed an infringement case against **Finland** on the compliance of the national provisions establishing exclusive rights for the offering of gambling services with EU law;
- decided to send to **Belgium, Cyprus, the Czech Republic, Lithuania, Poland and Romania** an official request for information on national legislation restricting the supply of gambling services.

(for more information: [IP/13/1101](#), C. Hughes - Tel. +32 2 2964450 - Mobile +32 498 964450)

2. Referrals to the Court of Justice

- **Renewable Energy: Commission refers AUSTRIA to Court for failing to transpose EU rules**

The European Commission is referring **Austria** to the Court of Justice of the European Union for failing to transpose the Renewable Energy Directive. The Directive aims at ensuring a 20% share of renewable energy in the EU by 2020. The Directive had to be transposed by the Member States by 5 December 2010.

The Commission proposes a daily penalty of € 40.512,00. The penalties proposed take into account the duration and the gravity of the infringement. In case of an affirmative judgement 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 penalties will be decided by the Court.

(for more information: [IP/13/1113](#) - M. Holzner - Tel. +32 229 60196 - Mobile +32 498 98 2280)

- **Environment: European Commission takes GREECE back to Court for waste water**

The European Commission is referring **Greece** back to the European Court of Justice for poor treatment of urban waste water.

The lack of treatment means that the health of residents is being put at risk, as untreated waste water can be contaminated with harmful bacteria and viruses. Untreated waste water also contains nutrients such as nitrogen and phosphorous which can damage the marine environment by promoting excessive growth of algae that chokes off other life. Proper waste water treatment is recognised as an important factor in ensuring a thriving tourist industry, a key sector for the Greek economy.

While fully aware of the difficult situation currently facing Greece, the Commission believes that not making this investment now would ultimately entail even higher costs to Greece in the future.

The Commission is therefore asking the Court to impose fines, suggesting a lump sum of € 11.514.081 and a daily penalty payment of € 47.462 until the obligations are fulfilled. The final amount of the daily penalties will be decided by the Court.

(for more information: [IP/13/1102](#), J. Hennon - Tel. +32 229 53593 - Mobile +32 498 95 3593)

- **State aid: Commission takes action against ITALY for failure to respect Court ruling to recover illegal aid**

The European Commission has referred Italy to the EU's Court of Justice for failure to implement a previous ruling by the Court that confirmed that certain reliefs granted by Italy from social security contributions in Venice and Chioggia were illegal state aid and had to be recovered from the beneficiaries. The Commission had originally reached this conclusion in a decision in 1999. As this is a second court referral for non-compliance with a previous judgment, the Commission has asked the Court of Justice to impose penalties on Italy.

The Commission proposes a daily penalty of € 24.578,4 multiplied by the number of days between the first Court ruling and either the full compliance by the Member State or the second Court ruling under Article 260(2) TFEU and a degressive penalty payment of € 187.264,00 for every day from the judgment until implementation. The final amount of the daily penalties will be decided by the Court.

(for more information: [IP/13/1103](#) - A. Colombani - Tel. +32 229 74513 - Mobile +32 460 75 2063)

- **Customs: Commission refers BELGIUM to Court over customs offices' opening hours and fees**

The European Commission has decided to refer **Belgium** to the EU Court of Justice for failing to bring its legislation into line with EU rules on Customs opening hours and administrative fees. Not only do Belgian customs offices have limited opening hours, but they also charge operators an additional fee for overtime work. Moreover, even within normal opening hours, an extra fee is charged for validating, invalidating and discharging declarations, and for handling requests for repayment. The Commission considers that these Belgian rules are in violation of European Customs rules. A Reasoned Opinion was sent to Belgium on this matter in May 2011, but in the absence of a satisfactory response, the Commission has decided now to refer the case to the EU's Court of Justice.

(for more information: [IP/13/1104](#) - E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)

- **Taxation: Commission brings a case before the Court of Justice in respect of two discriminatory provisions in Belgian law**

The Commission has decided to bring an action before the Court of Justice of the European Union concerning the manner in which **Belgium** taxes, on the one hand, some of the income of foreign cooperative societies and foreign societies pursuing a social objective and, on the other hand, some of the interest paid to foreign companies.

(for more information: [IP/13/1105](#) - E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)

- **Transport: Commission takes GERMANY to Court for failure to separate financial flows between train operators and rail track managers**

The European Commission has decided to take **Germany** to the Court of Justice of the European Union for failure to comply with EU rules on financial transparency in the rail sector. The current arrangements in Germany do not exclude that public funds can be used to cross subsidise passenger and freight train services open to competition.

(for more information: [IP/13/1097](#) - H. Kearns - Tel. +32 229 87638 - Mobile +32 498 98 7638)

- **Social security: Commission refers FINLAND to Court for restricting rights of people that have worked in other Member States**

The European Commission has decided to refer **Finland** to the EU's Court of Justice for requiring workers applying for unemployment benefits to have worked in Finland for at least four weeks (or four months of self-employment) as a condition to take into account periods of unemployment insurance paid in another Member State. This requirement discriminates against workers that have worked in other Member States (both Finns and nationals of other Member States) and is in breach of EU law to ensure free movement of workers.

The Commission requested Finland to end this discrimination against workers from other Member States in its reasoned opinion of 30 May 2013 ([MEMO/13/470](#)), but the Finnish authorities have refused to take appropriate measures to comply.

(for more information: [IP/13/1107](#), J. Todd - Tel. +32 229 94107 - Mobile +32 498 99 4107)

- **Working time: Commission refers GREECE to Court for not respecting EU rules in public health services**

The European Commission has decided to refer **Greece** to the EU's Court of Justice for not complying with the EU rules on limits to working time for doctors in public health services. In particular, Greece fails to ensure that these doctors work no more than 48 hours per week on average, including any overtime.

In practice, doctors working in public hospitals and health centres in Greece often have to work a minimum average of 64 hours per week and over 90 hours in some cases, with no legal maximum limit.

The Commission considers this situation a serious infringement of the EU's [Working Time Directive](#), endangering not only doctors' health and safety but also their patients as over-tired doctors risk of making mistakes

(for more information: [IP/13/1108](#), J. Todd - Tel. +32 229 94107 - Mobile +32 498 99 4107)

- **Working time: Commission refers IRELAND to Court for not respecting EU rules on working time limits in public health services**

The European Commission has decided to refer **Ireland** to the EU's Court of Justice for not complying with the EU rules on limits to working time for doctors in public health services.

Irish national law provides for limits to doctors' working time, but in practice public hospitals often do not apply the rules to doctors in training or other non-consultant hospital doctors. There are still numerous cases where junior doctors are regularly required to work continuous 36-hour shifts, to work over 100 hours in a single week and 70-75 hours per week on average, and to continue working without adequate breaks for rest or sleep.

The Commission considers this situation a serious infringement of the EU's Working Time Directive, endangering doctors' health and safety

(for more information: [IP/13/1109](#), J. Todd - Tel. +32 229 94107 - Mobile +32 498 99 4107)

- **Air transport: Commission refers PORTUGAL to the Court of Justice for failing to guarantee independence of airport slot coordinator**

The European Commission has decided to refer **Portugal** to the EU's Court of Justice for failure to comply with [EU common rules on the allocation of airport slots](#). The Commission considers that the slot coordinator cannot function independently and autonomously from ANA. Furthermore, up to now ANA has covered all the slot coordinator's costs. Consequently the Commission considers that the slot coordinator is not financially independent from ANA and that this may prejudice fair competition.

(for more information: [IP/13/1100](#)- H. Kearns - Tel. +32 229 87638 - Mobile +32 498 98 7638)

- **VAT: Commission refers SWEDEN to the Court over VAT on postal services**

The European Commission has decided to refer **Sweden** to the Court of Justice over its application of VAT on postal services. Sweden applies VAT to some services that, under EU rules, should be exempt from VAT. Sweden does not exempt postal services from VAT. All operators, including the one which provides the universal service, are obliged to charge VAT. Sweden has consequently failed to apply an exemption provided for under EU legislation.

(for more information: [IP/13/1111](#)- E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)

3. Reasoned opinions

- **Climate change: Commission asks SIX MEMBER STATES to adopt national measures for environmentally safe geological storage of carbon dioxide**

Today the Commission requested **Austria, Cyprus, Hungary, Ireland, Sweden and Slovenia** to adopt the necessary measures to fully transpose Directive 2009/31/EC on the geological storage of CO₂ (so-called "CCS Directive"). To date, these Member States have not notified complete transposing measures. The Commission is therefore today asking these Member States, in a Reasoned Opinion (the second stage in EU infringement proceedings), to comply with EU law.

The CCS Directive was adopted as part of the climate-energy package in 2009. The Directive establishes a legal framework for the environmentally safe geological storage of CO₂, removes legal barriers to the geological storage of CO₂ and lays down requirements covering the entire lifetime of a storage site. Carbon capture and storage technology, if commercialised, is seen as one of the major contributors to a low carbon transition in the EU.

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

- **Commission requests BELGIUM and GERMANY to implement the Late Payment Directive (cases 2013/0206 and 2013/0213)**

The European Commission has requested that **Belgium** and **Germany** update their legislation in line with EU rules on combating late payment in commercial transactions, as neither country met the required deadline of 16 March 2013 to do so. [Late payments](#) constitute a major obstacle to the free movement of goods and services in the internal market as they impose administrative and financial burdens on companies, impede cross-border trade, and distort competition.

The [Directive on combating late payment in commercial transactions](#) harmonises the period for payment by public authorities to businesses: public authorities must pay for the goods and services that they procure within 30 days or, in very exceptional circumstances, within 60 days. If the Directive is not transposed in time, enterprises, particularly small and medium-sized ones (SMEs), will continue to be at risk of liquidity problems and may end up in bankruptcy.

The Commission therefore issued reasoned opinions asking Belgium and Germany to update their legislation. If the Member States concerned do not inform the Commission within two months of measures taken to ensure full compliance with their obligations under the Directive, the Commission may decide to refer them to the European Court of Justice.

(for more information: C. Corazza - Tel. +32 229 51752 - Mobile +32 498 99 2862)

- **Trafficking in Human beings: The Commission asks CYPRUS, SPAIN, ITALY AND LUXEMBOURG to enact EU rules on trafficking in human beings**

The Commission has formally requested **Cyprus, Spain, Italy and Luxembourg**, to ensure full compliance with their obligations under EU legislation on human trafficking ([IP/11/332](#)).

More than 6 months after the deadline for transposing [Directive 2011/36/EU](#), and despite letters of formal notice sent on 29 May 2013, these countries have still not notified the Commission of national measures taken to enact EU rules.

The Commission is therefore sending reasoned opinions. 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 EU Directive on trafficking in human beings can make a real difference on the lives of the victims and to prevent others from falling victim. The Directive covers actions in different areas such as criminal law provisions, prosecution of offenders, victims' support and victims' rights in criminal proceedings, prevention and monitoring of the implementation.

To date 20 countries have notified a full transposition (Czech Republic, Sweden, Estonia, Latvia, Lithuania, Hungary, Poland, Romania, Finland, Bulgaria, Croatia, Ireland, Greece, France, Austria, Portugal, Slovakia and UK, the Netherlands and Malta).

(for more information: M. Cercone - Tel. +32 229 80963 - Mobile +32 498 98 2349)

- **Energy Efficiency in Buildings: GREECE AND MALTA are requested to adopt the EU legislation on energy efficiency in buildings**

The Commission has formally requested **Malta** and **Greece** to ensure full compliance with their obligations under EU legislation on energy efficiency in buildings (Directive 2010/31/EU). The directive had to be transposed into national law by 9 July 2012. To date Malta and Greece did not fully transpose EU Provisions into national law. The Commission sent a reasoned opinion to Malta asking it to notify the Commission of all necessary implementing measures. The Commission also reminded Greece that they needed to fully transpose the directive in a complementary reasoned opinion to the one sent in January. 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. Under this directive Member States must establish and apply minimum energy performance requirements for buildings; ensure that the building's energy performance is certified and carry out regular inspections 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. In September 2012 the Commission started infringement procedures against 24 Member States (all except Denmark, Ireland and Sweden) that had not notified the Commission of national measures transposing the directive into national law. Reasoned opinions were already sent to Italy, Greece, Portugal and Bulgaria in January 2013, to Spain and Slovenia in April 2013, to Belgium, Germany, Finland, France, Latvia, Poland and the Netherlands in June 2013 and to Austria, Cyprus, Estonia, Lithuania, Luxembourg, Hungary and the United Kingdom in September 2013 and to the Czech Republic and Romania in October 2013. More information here: http://ec.europa.eu/energy/efficiency/buildings/buildings_en.htm

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

- **Falsified medicines: Commission requests FOUR MEMBER STATES to comply with rules on patient safety**

Today, the European Commission sent a formal request to **Italy, Poland, Slovenia** and **Finland**, urging them to ensure full compliance with the Falsified Medicines Directive¹. This Directive aims to prevent falsified medicines from reaching patients. It lays down harmonised, pan-European safety and control measures, ensuring easier identification of falsified medicines, and improved verifications and controls at EU borders and within the EU.

These four EU countries have not yet transposed this Directive into national law, despite their deadline of 2 January 2013 to do so. The 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.

(for more information: F. Vincent - Tel. +32 2 2987166 - Mobile +32 498 987166)

- **Taxation: Commission asks FRANCE AND LATVIA to implement key EU rules against tax evasion**

Today the Commission requested **France** and **Latvia** to fully transpose the [Directive on administrative cooperation](#) into national law. This Directive is fundamental to the EU fight against tax evasion, as it contains measures to increase transparency, improve information exchange and tighten cross-border cooperation (see [IP/12/1376](#)). Moreover, it is under the Administrative Cooperation Directive that automatic exchange of information between tax authorities will be considerably extended in the future. Member States were legally obliged to apply this Directive from 1 January 2013, but France and Latvia have not yet notified their complete transposition of the new rules. In the absence of a satisfactory response within two months, the Commission may refer the two countries to the EU's Court of Justice. Ref.: IN/2013/0036 et IN/2013/0052

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

- **Environment: Commission asks ITALY, ROMANIA AND SLOVENIA to enact EU rules on the storage of metallic mercury considered as waste**

The European Commission is urging **Italy, Romania and Slovenia** to send details about how EU legislation on the [storage of metallic mercury considered as waste](#) is being enacted in their domestic law. After the Member States in question missed the original deadline of 15 March 2013, the Commission sent letters of formal notice giving the Member States two months to reply. As no replies have been received, the Commission is sending a reasoned opinion. If Italy, Romania or Slovenia fails to act within two months, their case may be referred to the EU Court of Justice.

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

¹ DIRECTIVE 2011/62/EU on the prevention of the entry into the legal supply chain of falsified medicinal products: http://ec.europa.eu/health/files/eudralex/vol-1/dir_2011_62/dir_2011_62_en.pdf

- **Energy Efficiency in Buildings: the UNITED KINGDOM and the NETHERLANDS are requested to comply with their obligations under the EU legislation on energy efficiency in buildings**

The Commission has requested the **Netherlands** and the **United Kingdom** to ensure that performance certificates are always provided when a building is sold or rented. Issuing an energy performance certificate is one of the key requirements of the EU energy efficiency in buildings legislation (Directive 2010/31/EU). These infringements concern the incorrect implementation of the requirements for the issuing of Energy Performance Certificates. The certificate seeks to inform buyers and tenants about the energy efficiency class of their building and provides an incentive to lower the energy consumption of buildings. These requests take the form of reasoned opinions under the EU infringement procedure. In the absence of a satisfactory response within two months, the Commission may refer these two Member States to the Court of Justice. The Commission has also sent to the Netherlands in June 2013, and to the UK in September 2013, a reasoned opinion asking them to transpose all the provisions of the energy efficiency in buildings directive into national law. More information here: http://ec.europa.eu/energy/efficiency/buildings/buildings_en.htm

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

- **Environment: Commission asks AUSTRIA to reconsider authorisation of power plant on Schwarze Sulm river**

The European Commission is asking **Austria** to re-examine an authorisation granted to a power plant planned for the Schwarze Sulm river in Styria. The Commission is concerned that authorisation was given without due consideration for the [Water Framework Directive](#), and that building the power plant would inevitably cause the high natural quality of the river to deteriorate. Under EU law, water quality can only be permitted to deteriorate when there is an overriding public interest, and the Commission is of the view that the conditions for such an exemption have not been met in this instance. A letter of formal notice was sent in April 2013, and as the replies provided by Austria so far do not solve the issue, a reasoned opinion has now followed. If Austria fails to act within two months, the case may be referred to the EU Court of Justice.

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

- **Environment: Commission asks CYPRUS to enact EU rules on the restriction of the use of certain hazardous substances in electrical and electronic equipment**

The European Commission is urging **Cyprus** to send details about how EU legislation on the [restriction of the use of certain hazardous substances in electrical and electronic equipment](#) is being enacted in its domestic law. Cyprus has failed to enact technical measures on exemptions for certain equipment containing cadmium. The Directive had to be enacted in national legislation by 2 January 2013. After Cyprus missed the original deadline, the Commission sent a letter of formal notice on 21 March 2013. As the shortcomings have still not been corrected, the Commission is sending a reasoned opinion. If Cyprus fails to act within two months, the case may be referred to the EU Court of Justice.

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

- **Postal services: Commission requests CYPRUS to apply EU rules**

The European Commission has today requested that **Cyprus** implement Directive [2008/6/EC](#) of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the single market for Community postal services. The so-called 3rd Postal Directive had to be implemented by the 11 Member States that had notified their intention to extend the implementation deadline, by 31 December 2012. However to date Cyprus has not put the required provisions in place. 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 Cyprus to the EU Court of Justice.

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

(for more information: C. Hughes - Tel. +32 2 2964450 - Mobile +32 498 964450)

- **Taxation: Commission asks CYPRUS to transpose VAT invoicing rules**

The Commission has formally requested **Cyprus** to transpose EU rules on VAT invoicing into national law. New rules regulating VAT invoicing ([Directive 2010/45/EU](#)) entered into force on 1 January 2013. They create a simpler, more modern system for VAT invoicing, and cut red tape and compliance costs for companies. Member States were obliged to transpose this Directive by the beginning of 2013, but Cyprus has not notified the Commission of any measures it has taken to do so. The request is in the form of a Reasoned Opinion. In the absence of a satisfactory response within two months, the Commission may refer Cyprus to the EU's Court of Justice. Ref.: IN/2013/0010

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

- **Public Procurement: Commission requests GREECE to respect EU rules**

The European Commission has today asked **Greece** to respect EU public procurement rules. Greek legislation establishes a system of compulsory registry for national construction companies that predetermines which operators may take part in each tender procedure. The conditions of the registry under which potential bidders can participate in tender procedures violate EU rules on public procurement. Therefore, the Commission is urging Greece to repeal the corresponding national provisions within two months. In the absence of appropriate action, the Commission may refer the matter to the EU Court of Justice. Greek law establishes a registry system whereby all approved domestic construction companies are divided into classes, each class corresponding to a specific minimum and maximum budget range. This system of compulsory registry results in the exclusion of companies that have the economic, financial, professional and technical capacity to perform a given contract from the relevant tendering procedure, only because their financial capacity is different - usually greater - than the specific budget class which is allowed for a given procedure. Such a restrictive regime is in breach of the rules of [Directive 2004/18/EC](#) and of the fundamental principles of equal treatment and non-discrimination on which the EU public procurement rules are founded. More information: http://ec.europa.eu/internal_market/publicprocurement/index_en.htm

(for more information: C. Hughes - Tel. +32 2 2964450 - Mobile +32 498 964450)

- **The Commission asks GREECE to stop discriminatory inheritance tax provisions**

The Commission has today sent requests to **Greece** to change two discriminatory inheritance tax rules. The first relates to a tax exemption which Greek law allows on real estate inheritances. The exemption is only given to EU nationals who are residing in Greece and who do not own a primary residence. The Commission considers this to discriminate against EU and EEA nationals residing outside Greece, and an obstacle to the free movement of capital set out in the Treaties. The second request relates to a discriminatory provision whereby Greece allows a preferential tax rate for bequests to non-profit organisations in other EU/EEA States, solely on condition of reciprocity. The Commission considers that applying a condition of reciprocity results in discriminatory treatment that is an obstacle to the free movement of capital. The Commission's requests take the form of Reasoned Opinions. If Greece fails to comply within two months, the Commission may refer the matter to the European Court of Justice. Ref.: IN/2012/2134

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

- **Environment: Commission asks SPAIN to improve nature protection in the Canary Islands**

The European Commission is asking **Spain** to improve provisions designed to protect nature in the Canary Islands. Under the [Habitats Directive](#), certain species require a system of strict protection regardless of their location. Spain's Regional Law 4/2010 establishes a catalogue of protected species in the Autonomous Community of the Canary Islands, including one category – species “of special interests for the eco-systems of the Canary Islands” – that only receive strict protection if they occur within the limits of a protected area. Some of the species in question, however, require strict protection irrespective of their location. The Commission therefore considers that the new catalogue is not in line with the obligations laid down in the Habitats Directive. If Spain fails to act within two months, the case may be referred to the EU Court of Justice.

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

- **Rail transport: Commission asks SPAIN to transpose EU legislation on rail interoperability**

The Commission is asking **Spain** to bring its national rules in line with EU legislation on railway interoperability. Directive 2008/57/EC aims at establishing the conditions for making the European rail transport system interoperable across borders, meaning that more trains should be able to run in more than one country. This will create more competition in national markets and hence enable the rail sector to compete more effectively with other transport modes. The legislation should have been in place since 19 July 2010. If Spain fails to react satisfactorily, the Commission may refer the matter to the EU Court of Justice. The Commission opened infringement proceedings against Spain on the matter in March this year, and a reasoned opinion (the second stage in EU infringement proceedings) is now being sent. Spain has two months to reply to the Commission.

(for more information: H. Kearns - Tel. +32 229 87638 - Mobile +32 498 98 7638)

- **FINLAND: inadequate implementation of rules on assistance to victims of discrimination**

Today, the Commission has issued a reasoned opinion to **Finland** in the second stage of infringement proceedings concerning inadequacies relating to the country's national race equality body, which all Member States are required to set up under EU equality law ([Directive 2000/43/EC](#)). EU anti-discrimination rules make it obligatory for Member States to establish a national equality body tasked with providing independent assistance in pursuing complaints to victims of discrimination, as well as monitoring and reporting on discrimination. National equality bodies are crucial, in particular for the proper enforcement of the Directive and to ensure protection for victims of discrimination. It is essential that the national equality bodies actually carry out all the tasks required by the Directive. Finnish law currently fails to designate any equality body responsible for addressing cases of racial or ethnic discrimination in employment. The Commission is therefore calling on Finland to bring its rules in line with EU requirements to ensure victims of discrimination can receive proper assistance.

(for more information: M. Andreeva - Tel. +32 229 91382 - Mobile +32 498 99 1382)

- **Climate change: Commission asks FRANCE to comply with EU laws on fluorinated greenhouse gases**

[Regulation 842/2006](#) requires companies to take a range of measures to reduce leaks from equipment containing fluorinated gases (F-gases) and to recover the gases at the end of the equipment's lifetime. The Regulation also establishes rules on training and certification for personnel involved in servicing equipment, labelling of F-gas equipment, reporting on production, imports and exports of F-gases as well as some bans in specific areas. These are important measures to limit emissions of this family of industrial gases, which are also powerful greenhouse gases, and thus help prevent further global warming.

To date **France** has failed to indicate to the Commission which national bodies should certify companies recovering certain F-gas-based solvents from equipment. The Commission is therefore today asking France, in a Reasoned Opinion (the second stage in EU infringement proceedings), to comply with these rules.

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

- **Commission requests FRANCE to remove barriers to trade for kit cars (case 2012/4176)**

The European Commission has requested that **France** changes its rules for registration of imported kit cars previously registered in another Member State, as they do not comply with the principle of free movement of goods within the EU and the principles established in the [EU Directive on the registration documents for vehicles](#). Kit cars consist of a set of parts sold by a manufacturer and used by the buyer to assemble a car. Usually, the mechanical systems such as the engine and transmission are sourced from donor vehicles or purchased new from other vendors. Currently the French authorities refuse to register some imported kit cars as they claim certain data in the car's registration documents are incorrect (such as the initial registration date of the vehicle), despite the fact that the registration documents were produced by the relevant authorities in another EU country.

The Commission considers that the documents provided by the Member State of origin should be trusted and France's concerns should focus on the safety aspects of the vehicle. To allow the efficient registration of such cars, the relevant national authorities should cooperate and establish an efficient dialogue to clarify any missing or incorrect data, rather than placing additional administrative burdens on the private individual purchasing

the vehicle. If it is not possible to reach an agreement between national administrations, other steps should be taken to allow the vehicle's registration, for example the French authorities should be allowed to select a more recent registration date for the vehicle.

The Commission has therefore issued a reasoned opinion asking France to allow the registration of such vehicles already registered in another Member State. If France does not inform the Commission within two months of measures taken to ensure full compliance with their obligations under the Directive, the Commission may decide to refer them to the European Court of Justice.

(for more information: C. Corazza - Tel. +32 229 51752 - Mobile +32 498 99 2862)

- **Labour law: Commission asks ITALY to stop discriminating against staff with fixed-term contracts at public schools**

The European Commission has requested **Italy** to review the conditions of employment of staff employed in public schools on fixed-term contracts.

The European Commission has received numerous complaints indicating that such staff working on fixed-term contracts is treated less favourably than comparable permanent staff. In particular, they are being employed on successive fixed-term contracts over many years, leaving them in precarious employment even though they are essentially doing permanent tasks. National law does not provide effective measures to prevent such abuses. Furthermore, they receive a lower salary than permanent staff with a comparable professional record. The European Commission considers this situation to be contrary to the EU's [Fixed-Term Work Directive](#).

The request takes the form of a 'reasoned opinion' under EU infringement procedures. Italy now has two months to notify the Commission of the measures taken to ensure compliance with the Directive. Otherwise, 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)

- **Health and Safety: Commission requests ITALY to transpose Directive on prevention of sharp injuries in the hospital and healthcare sector**

The Commission has requested **Italy** to transpose into national law the EU Directive on prevention of injuries from sharp medical instruments in the hospital and healthcare sector ([2010/32/EU](#)). The Directive implements the Framework agreement on prevention of sharp injuries which was concluded by the European Hospital and Healthcare Employers' Association (HOSPEEM) and the European Public Services Union (EPSU). Its aim is to achieve the safest possible working environment for healthcare and hospital workers, by a combination of planning, awareness-raising, information, training, prevention and monitoring measures. The Commission's request takes the form of a 'reasoned opinion' under EU infringement procedures. Italy now has two months to notify the Commission of measures taken to comply with the Directive. Otherwise, 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 enact EU rules on the restriction of the use of certain hazardous substances used in electrical and electronic equipment**

The European Commission is urging **Italy** to send details about how EU legislation on the [restriction of the use of certain hazardous substances in electrical and electronic equipment](#) (the RoHS Directive) is being enacted in its domestic law. Italy has failed to enact a number of measures, including the recast of the RoHS Directive itself, which had to be enacted by 2 January 2013, and measures on exemptions for certain equipment containing lead or cadmium, two related Directives that had to be enacted in national legislation by the same date. After Italy missed the original deadline, the Commission sent letters of formal notice on 21 March 2013. As the shortcomings have still not been corrected, the Commission is sending three reasoned opinions. If Italy fails to act within two months, the cases may be referred to the EU Court of Justice where financial penalties may be imposed for the RoHS Directive.

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

- **VAT: Commission requests ITALY to review its rules on ancillary costs to VAT exempt imports**

The Commission has formally requested that **Italy** bring its national tax rules for ancillary costs of import (such as transport, insurance etc.) into line with the EU's VAT Directive. Under EU law, ancillary costs of import – especially transport costs – should be included in the tax base of the import, and exempt from VAT until they reach their first destination. Under Italian law, this VAT exemption for ancillary costs is only granted if these costs have already been taxed at the border. This approach is not in line with EU rules and may generate a disproportionate administrative burden for transporters and traders. The request is in the form of a Reasoned Opinion. In the absence of a satisfactory response within two months, the Commission may refer Italy to the EU's Court of Justice. Ref: 2012/2088

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

- **Rail passenger rights: Commission asks ITALY to comply with EU rules**

Today the Commission has requested **Italy** to take action and ensure full compliance with EU rules on rail passenger rights. Italy has not yet established an official and authorised body for the application of rail passenger rights in its territory, nor it has set up rules to sanction violations of rail passenger rights legislation. Without these two necessary as much as legally binding 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 should go wrong during their travel. Regulation [1371/2007](#) on rail passenger rights had to be implemented by Member States by 3 December 2009. However, currently Italy has set up just a temporary body, which does not have the full competences and authority to apply the EU Rules on passenger rights. If Italy does not comply with its legal obligations within two months, the Commission may decide to refer them to the Court of Justice. [More information on rail passenger rights](#).

(for more information: H. Kearns - Tel. +32 229 87638 - Mobile +32 498 98 7638)

- **Electronic communications: the Commission is concerned by delays in the analyses of relevant product and service markets within the electronic communications sector in LUXEMBOURG**

The European Commission has issued today a reasoned opinion to **Luxembourg** for not complying with the 2009 EU Regulatory Framework for Electronic Communications. Under Article 16(6) of the Framework Directive national regulators shall carry out an analysis of the relevant market to ensure that it is sufficiently competitive and effectively delivers to consumers and companies the benefits expected from competitive markets in terms of choice, prices and innovation. Regulators must then notify the corresponding draft measure to the Commission within three years of the previous measure. However, with the exception of the late notification of 3 out of seven markets to be analysed, Luxembourg has not notified the Commission of any market analysis since 2008 - or even since 2006 depending on the markets concerned. Furthermore, Luxembourg has neither asked for extension of the deadline nor requested assistance from the Body of European Regulators for Electronic Communications (BEREC), as provided for in Article 16(7) of the Framework Directive.

Luxembourg now has two months to take the necessary measures to comply with this reasoned opinion.

(for more information: R. Heath – Tel. +32 229 61716 - Mobile +32 460 75 0221)

- **Farmed fish: Commission requests POLAND to comply with rules on animal health requirements for aquaculture animals**

A formal request by the European Commission was today sent to **Poland** urging full compliance as regards Directive 2012/31 on the health of farmed fish. This Directive aims to upgrade existing legislation applicable to aquaculture animals. In particular, the Directive addresses (i) the exotic disease of Epizootic Ulcerative Syndrome (EUS) which is no longer considered a potential detrimental disease as no outbreaks of EUS have been reported in the Union; (ii) the addition of the fish species Olive flounder (*Paralichthys olivaceus*) in the list of species susceptible to Viral Haemorrhagic Septicaemia as clinical outbreaks of that disease were confirmed in certain regions of Asia.

Poland still has not turned this directive into national law, although it was required to do so by 1 January 2013. Poland has 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 case to the Court of Justice of the European Union.

(for more information: F. Vincent - Tel. +32 2 2987166 - Mobile +32 498 987166)

- **Labour law: Commission asks PORTUGAL to stop discriminatory treatment of teachers with fixed-term contracts at public schools**

The European Commission has requested **Portugal** to review the conditions of employment of teachers employed in public schools on fixed-term contracts.

The European Commission has received numerous complaints indicating that teachers working under fixed-term contracts are treated less favourably than comparable permanent staff. In particular, they are being employed on successive fixed-term contracts over many years, leaving them in precarious employment even though they are essentially doing permanent tasks. National law does not provide effective measures to prevent such abuses. Furthermore, they receive a lower salary than permanent staff with a comparable professional record. The European Commission considers this situation to be contrary to the EU's [Fixed-Term Work Directive](#).

The request takes the form of a 'reasoned opinion' under EU infringement procedures. Portugal now has two months to notify the Commission of the measures taken to ensure compliance with the Directive. Otherwise, the Commission may decide to refer Portugal to the EU's Court of Justice.

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

- **Health and Safety: Commission requests PORTUGAL to fully apply the Directive to the workers of the Public sector**

The European Commission has requested **Portugal** to fully apply the EU Directive that establishes basic rules on protecting workers' health and safety ([89/391/EEC](#)) to the public sector. The Directive requires Member States to put in place measures to eliminate and reduce the risks of work-related diseases and accidents. It obliges employers to carry out risk assessment and keep documentation of it, as well as to create occupational health and safety protective and preventive services in the company and/or establishment. However, Portugal has failed to fulfil these obligations. In addition, the Directive also requires Member States to ensure that employers, workers and workers' representatives implement the rules, but Portuguese legislation does not provide for sanctions against violations of the Directive's provisions regarding the public sector. The request takes the form of a 'reasoned opinion' under EU infringement procedures. Portugal now has two months to notify the Commission of measures taken to fully apply and transpose the Directive. Otherwise, the Commission may decide to refer Portugal to the EU's Court of Justice.

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

- **Environment: Commission asks PORTUGAL to clean up toxic waste in Gondomar**

The European Commission is asking **Portugal** to clean up large quantities of toxic waste dumped in the decommissioned mines of São Pedro da Cova in Gondomar, near Porto. Between 2001 and 2002 some 320 000 tonnes of hazardous waste originally from the former premises of the Oporto National Steel company were dumped in the mines, even though the site was licensed only for 97.5 tonnes of inert waste, rendering the local groundwater unfit for human consumption. Portugal has acknowledged the scale of the problem and adopted a recovery programme, but despite an earlier letter of formal notice and regular dialogue with Portuguese authorities, the Commission is concerned at the slow pace of the clean-up operation, which has not yet begun. A reasoned opinion has therefore been sent. If Portugal fails to act within two months, the case may be referred to the EU Court of Justice.

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

- **Investment funds: Commission requests PORTUGAL to apply EU rules**

The European Commission has requested **Portugal** to fully implement in national law certain EU rules applicable to investment funds, namely [Directive 2009/65/EC](#) on undertakings for collective investment in transferable securities (UCITS) and the implementing [Directive 2010/43/EU](#) on organisational requirements, which had to be implemented in all EU Member States by 30 June 2011. However Portugal has only put part of the required provisions in place. In accordance with the second stage of EU infringement proceedings, the Commission's request takes the form of two reasoned opinions which urge Portugal to implement, within two months of receipt, the missing

articles. The provisions that Portugal failed to implement in its national legal system primarily concern obligations regarding management companies, the depositary, and information to be provided to investors, as well as conflict of interest, conduct of business and risk management. If Portugal fails to act within two months, the Commission may refer the case to the Court of Justice of the European Union. More information: http://ec.europa.eu/internal_market/investment/index_en.htm

(for more information: C. Hughes - Tel. +32 2 2964450 - Mobile +32 498 964450)

- **MARE: Commission requests ROMANIA to ensure the direct electronic exchange of relevant fisheries information with other Member States**

The Commission has sent a Reasoned Opinion to **Romania** for non-compliance with the obligations to ensure the direct electronic exchange of relevant fisheries information with other Member States.

Under the EU Fisheries Control Regulation (EC) No 1224/2009, Member States are bound to set up the necessary infrastructure to operate an electronic data system for exchange of fisheries data. The absence of such a system might hinder vessels of other Member States to land or sell fish in Romania. Likewise, Romanian fishing vessels might be prevented from landing in ports of other Member States. The system should contain information such as vessel monitoring system data, fishing logbook information, landing and other declarations. These requirements are mandatory since 1 January 2010 for all Member States. Full and correct application of EU Fisheries rules is a priority for the Commission and aims to ensure sustainable fisheries practices across the EU.

In the absence of a satisfactory response within two months, the Commission may refer Romania to the Court of Justice of the European Union.

(for more information: O. Drewes - Tel. +32 229 92421 - Mobile +32 498 98 0081)

- **Official controls: Commission asks ROMANIA to amend its control system on imports of salt**

The Commission has today sent a formal request (reasoned opinion) to **Romania** asking them to amend its system of official controls for imports of salt from non-EU countries like Ukraine and Belarus. The control system involves systematic physical controls (100%) and requires a certificate of analysis on radioactivity contamination levels (confirming that radioactivity is within certain limits) as a condition for completing the import procedure of each wagon is, in the absence of a proper risk assessment, contrary to the obligations provided for in Articles 3(1) to (d), Article 3(2), Article 15(1) and Article 16(2) of Regulation (EC) N° 882/2004 on official controls.

Indeed the Commission notes that Romania has not provided evidence of radioactive contamination of the imported salt (no positive results in samples) and that the risk assessment conducted by Romania is not appropriate. The Commission therefore concludes that the systematic physical control of imported salt imported from the same place of origin in Ukraine and Belarus is disproportionate and cannot be justified under Regulation (EC) No 882/2004. Therefore the frequency level of controls needs to be adapted.

Romania has two months to inform the Commission that it has aligned its legislation with Union Law, otherwise the Commission could refer the case to the European Court of Justice.

(for more information: F. Vincent - Tel. +32 2 2987166 - Mobile +32 498 987166)

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

The European Commission is urging **Romania** to enact EU legislation on the protection of [animals used for scientific purposes](#) in its 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 Romania missed the deadline, a letter of formal notice was sent on 30 January 2013. Romania replied that enactment was immanent, but the Commission has not yet received any official notification that legislation has been adopted. The Commission is therefore sending a reasoned opinion and if Romania fails to act within two months, the case may be referred to the EU Court of Justice where financial penalties may be imposed.

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

- **Environment: Commission asks SWEDEN to improve domestic enactment of mining waste legislation**

The European Commission is asking **Sweden** to amend the enactment of the [Mining Waste Directive](#) in its domestic legislation. The Directive in question was to be enacted by May 2008, and while Sweden has adopted new legislation which has resolved a number of issues, the Commission maintains that there are shortcomings in some of the technical provisions. Areas of concern include the reuse or reclamation of mining waste, and the requirement for the post-closure phase to be considered when mines are being designed. A letter of formal notice was sent in September 2011, and as the replies provided by Sweden do not solve all of the issues raised by the Commission, a reasoned opinion has now followed. If Sweden fails to act within two months, the case may be referred to the EU Court of Justice.

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

4. Closure:

- **European Commission closes infringement procedure on forced retirement of HUNGARIAN judges**

The European Commission has today formally closed the legal proceedings launched against **Hungary** on 17 January 2012 over the country's forced early retirement of around 274 judges and public prosecutors ([IP/12/24](#)).

The Commission is now satisfied that Hungary has brought its legislation in line with EU law. The Commission has closely monitored the correct implementation of the new legislation in practice.

(for more information: [IP/13/1112](#) - M. Andreeva - Tel. +32 229 91382 - Mobile +32 498 99 1382)