



EUROPEAN COMMISSION

MEMO

Brussels, 16 October 2014

October infringements package: main decisions

	DIGITAL AGENDA	ECONOMIC AND MONETARY AFFAIRS AND THE EURO	ENLARGEMENT AND EUROPEAN NEIGHBOURHOOD	ENVIRONMENT	FINANCIAL PROGRAMMING AND BUDGET	HOME AFFAIRS	INDUSTRY & ENTREPRENEURSHIP	INTERNAL MARKET & SERVICES	JUSTICE, FUNDAMENTAL RIGHTS AND CITIZENSHIP	TAXATION & CUSTOMS UNION	TRANSPORT
AT			1								
BE	1									1	
BG				1							
CY								2			
CZ						1					
DE				1			1			1	
EE						1					
EL				1							
ES				2							
HU								1		1	
IT				1				3	2		
LT								2			
LU	1							1			
LV				1							
MT				1							
NL				1	1						
PL				3		1		1			
PT				1				2			
RO				2				1		1	1
SE								2			
SI		1						2			
SK						1					
UK				2	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 **140 decisions**, including **39 reasoned opinions** and **11 referrals** to the European Union's Court of Justice. Below is a summary of the main decisions. For more information on infringements procedure, see [MEMO/12/12](#).

1. Referrals to the Court of Justice

- **Environment: Commission takes THE NETHERLANDS to court over failure to protect animals used for scientific purposes, asks for fines**

The European Commission is referring **The Netherlands** to the European Court of Justice over its failure to enact [EU legislation on the protection of animals used for scientific purposes](#). The EU rules, which should have been enacted into national law by November 2012, aim to minimise the number of animals used in experiments, and require alternatives to be used where possible. The legislation also lays down minimum standards for housing and care of animals, and regulates their use, taking into consideration criteria such as pain, suffering distress and lasting harm caused to the animals. The European Commission is asking the Court to impose penalty payments of EUR 51 156 per day until the law is enacted.

(For more information: [IP/14/1141](#) - J. Hennon - Tel. +32 229 53593 - Mobile +32 498 95 3593)

- **Environment: European Commission takes PORTUGAL back to Court for inadequate waste water treatment, asks for fines**

The European Commission is referring **Portugal** back to the European Court of Justice for poor implementation of the [EU Urban Waste Water Treatment Directive](#). In 2009, the Court ruled that Portugal was failing in its obligation to collect, treat and dispose of urban waste water in an adequate manner. 7 agglomerations across the country with populations of more than 15 000 lacked the necessary collection systems and 15 lacked adequate treatment systems. Five years after the Court's ruling, two agglomerations still fail to comply with EU standards and the situation is likely to persist for several years, which means that the health of citizens is at risk. The Commission is asking for a lump sum fine of EUR 4 458 828 and a daily penalty payment of EUR 20 196 until the obligations are fulfilled.

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- **Commission takes AUSTRIA to Court of Justice over non-compliance with EU-Turkey association agreement**

The European Commission has decided to refer **Austria** to the Court of Justice to ensure that the Austrian establishment and residence legislation fully reflects the rights of workers of Turkish nationality and their families, in line with the EU-Turkey association law based on the Ankara agreement.

The Commission sent a reasoned opinion to Austria on this matter in April 2014. Austria upheld its position, which is why the case is now being referred to the Court of Justice.

(For more information: [IP/14/1143](#) - P. Stano - Tel. +32 229 57484 - Mobile +32 460 75 7484)

- **Taxation: BELGIUM before the EU Court of Justice for discriminatory taxation of collective investment undertakings**

The European Commission has decided to refer **Belgium** to the EU Court of Justice for discriminatory taxation of collective investment undertakings (CIUs) established in other Member States of the EU or of the EEA. This discrimination constitutes a barrier to the free movement of financial services and capital in the single market.

On 26 September 2013 the Commission sent a reasoned opinion to Belgium on the subject of the annual tax on the CIUs in question ([MEMO/13/820](#)), officially asking the Belgian authorities to amend the relevant legislation. As there have been no changes to the legislation, the Commission has decided to bring the matter before the Court of Justice.

(For more information: [IP/14/1144](#) - E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)

- **Telecoms: Commission refers BELGIUM to Court over independence of national regulator**

The European Commission has decided to refer **Belgium** to the European Court of Justice (ECJ) because as it believes that Belgian law does not guarantee the independence of the national telecoms regulator. According to [EU telecoms rules](#), national telecoms authorities responsible for market regulation and dispute settlement between companies must act independently and not take or seek instructions when applying those rules.

(For more information: [IP/14/1145](#) - R. Heath - Tel. +32 229 61716 - Mobile +32 460 75 0221)

- **Justice: Commission refers ITALY to the Court of Justice for insufficient rules on compensation for crime victims**

The European Commission has today decided to refer the Republic of **Italy** to the Court of Justice of the European Union for not adequately implementing EU rules on compensation for victims of crime ([Directive 2004/80/EC](#)). Under EU law, all Member States must ensure that their national compensation scheme guarantees a fair and appropriate compensation to the victims of violent intentional crimes, committed on their territory.

Instead, Italian legislation provides only for compensation to victims of certain violent intentional crimes, such as terrorism or organised crime, but not for all of them. Compensation should be available in national as well as in cross-border situations, regardless of the country of residence of the victim and regardless of in which Member State the crime was committed.

(For more information: [IP/14/1146](#) - J. Salsby Tel. +32 2 297 24 59)

- **Telecoms: Commission refers LUXEMBOURG to Court for persistent delays in analysing relevant telecoms markets**

The European Commission has referred **Luxembourg** to the European Court of Justice (ECJ) because its National Regulatory Authority (NRA), the *Institut Luxembourgeois de Regulation* (ILR), has failed to carry out a timely analysis of the relevant markets for fixed access to the public telephone network (Market 1) and for leased lines (Market 6), in breach of [EU telecoms rules](#).

The consequence of not carrying out timely analysis of the relevant markets is that regulation may be imposed when it is no longer needed, which would lead to negative consequences for investment incentives, for innovation, and for competition in the market.

(For more information: [IP/14/1147](#) - R. Heath - Tel. +32 229 61716 - Mobile +32 460 75 0221)

- **Environment: Commission takes POLAND to Court over failings in end-of-life vehicles legislation**

The European Commission is taking **Poland** to the EU Court of Justice for failing to properly implement EU legislation on [end-of-life vehicles](#) (ELV). The Commission has concerns about Poland's implementation of the collection and recycling system required.

The End-of-Life Vehicles Directive aims to make vehicle dismantling and recycling more environmentally friendly. It sets clear quantified targets for the re-use, recycling and recovery of vehicles and their components, and it also pushes manufacturers to produce new vehicles with a view to their recyclability. The Commission identified a number of shortcomings in Polish legislation in this area in 2009, and opened an infringement procedure. Many of the issues were subsequently resolved, but a reasoned opinion followed in 2012 to cover problems that were still outstanding.

(For more information: [IP/14/1148](#) - J. Hennon - Tel. +32 229 53593 - Mobile +32 498 95 3593)

- **Environment: Commission takes ROMANIA to Court over toxic tailing pond**

The European Commission is taking **Romania** to Court for a failure to comply with [EU legislation on mining waste](#) (i.e. waste resulting from the extraction, treatment and storage of mineral resources and the working of quarries). The case concerns the Boşneag pond, a 102-hectare tailing pond that holds waste extracted from copper and zinc mines in Moldova Noua, Romania, and which is currently in a state of almost complete abandonment. The pond is a major source of pollution, spreading toxic dust that poses significant risks for human health and the environment. Romania had agreed to address the problem, but progress has been insufficient. Owing to the seriousness of the risk in this case, and on the recommendation of Environment Commissioner Janez Potočnik, the Commission is taking Romania to the EU Court of Justice, with a view to ensuring faster remedial work.

(For more information: [IP/14/1149](#) - J. Hennon - Tel. +32 229 53593 - Mobile +32 498 95 3593)

- **Gambling services: Commission refers SWEDEN to Court for lack of compliance with EU law**

The European Commission has today taken two separate decisions to refer **Sweden** to the Court of Justice of the EU in relation to Swedish legislation for [gambling services](#).

In November 2013 the Commission asked Sweden to take action to ensure compliance of its national rules with EU law in the areas of online betting services and online poker services ([IP 13/1101](#)). The Commission does not consider the Swedish reactions to these requests as satisfactory.

Consequently, Sweden is referred to the Court of Justice for imposing restrictions on the organisation and promotion of online betting services in a way which is inconsistent with EU law. The Commission considers that the way that the Swedish exclusive right system for sport betting is organised is inconsistent with the aim of achieving the public policy objectives of preventing problem gambling and criminal activities and lacks the necessary state control. Changes to the Swedish gambling law in order to make it compliant with EU law have long been envisaged but never implemented.

In the second case, the referral to the Court of Justice is based on restrictions on the provision and promotion of online poker games. The Commission is of the opinion that the exclusive right holder is not subject to adequate control by the Swedish authorities and that the restrictive policy in the area of poker games is not consistent as the Swedish authorities tolerate the unauthorised offer and promotion of poker games.

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2. Reasoned opinions

- **Prudential Requirements for Banks and Investment Firms: Commission asks CYPRUS, ITALY, LITHUANIA, POLAND, PORTUGAL and SLOVENIA to apply EU rules**

The European Commission has today requested that **Cyprus, Italy, Lithuania, Poland, Portugal** and **Slovenia** fully implement [Directive 2013/36/EU](#) of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending [Directive 2002/87/EC](#) and repealing [Directives 2006/48/EC](#) and [2006/49/EC](#).

The [prudential requirements for institutions established in the European Union](#) are laid down in Regulation (EU) No [575/2013](#) (also known as the Capital Requirements Regulation or CRR) and in [Directive 2013/36/EU](#) (also known as the Capital Requirements Directive or CRD). The CRR lays down the rules on the amount of capital that institutions must have in order to cover potential losses due to the risks they are exposed to, on liquidity, on leverage and on disclosure. The CRD lays down the rules on the licensing of institutions, on the supervision of institutions, on supervisory cooperation, on risk management, on corporate governance (including remuneration) and on capital buffers.

The deadline for the implementation of the Directive in national law was 31 December 2013. However, Cyprus, Italy, Lithuania, Poland, Portugal and Slovenia have so far not notified implementing measures to the Commission. The Commission's request takes the form of a reasoned opinion, the second stage of the EU infringement procedures. If the measures to fully enact Directive 2013/36/EU are not notified within two months, the Commission may decide to refer Cyprus, Italy, Lithuania, Poland, Portugal and Slovenia to the EU Court of Justice.

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- **Commission urges the CZECH REPUBLIC, ESTONIA, POLAND and SLOVAKIA to provide effective judicial remedy against a visa refusal/annulment/revocation**

The Commission sent today a formal request urging four countries to take the necessary actions to ensure that appeals against a decision to refuse, annul or revoke a visa include access to a judicial body.

The [Visa Code Regulation](#) sets out the procedures and conditions for issuing visas for the purpose of short stays and airport transit. It establishes the obligation for Member States to provide for a right of appeal against a visa refusal/annulment/revocation. In addition, the EU Treaty obliges Member States to provide remedies sufficient to ensure an effective legal protection in the fields covered by Union law and the EU Charter of Fundamental Rights grants individuals the right to an effective remedy before a tribunal, when rights and freedoms under Union law are violated.

Respective national laws in the **Czech Republic, Estonia, Poland** and **Slovakia** only provide for the possibility for an appeal before non-judicial administrative authorities.

The Commission considers however, that third-country nationals derive from the Visa Code the right to a non-arbitrary treatment of their visa application, and that this right is to be protected by a judicial appeal procedure.

That is why the Commission decided today to address a 'reasoned opinion' to the Czech Republic, Estonia, Poland and Slovakia. Authorities from the four member States now have two months to take the necessary measures to comply with the Commission's request. If they fail to do so, the Commission may decide to refer the matter to the European Court of Justice.

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- **Commission asks SPAIN, LATVIA, POLAND and ROMANIA to enact EU rules on waste electrical and electronic equipment**

European Commission is urging **Spain, Latvia, Poland and Romania** to send details about how EU legislation on waste electrical and electronic equipment (WEEE) is being enacted in their domestic law, an obligation due to be fulfilled by 14 February 2014. The new [WEEE Directive](#) replaces and updates older rules on waste electrical and electronic equipment. It seeks to prevent or reduce adverse impacts of the generation and management of WEEE on human health and the environment as well as to improve efficiency and overall impacts of resource use. After missing the original deadline, Spain, Latvia, Poland and Romania were sent letters of formal notice on 31 March 2014. The Commission is now sending reasoned opinions, and if the Member States in question fail to act within two months, the cases may be referred to the EU Court of Justice

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- **Regulatory standards for alternative investment fund managers: Commission urges LITHUANIA, PORTUGAL, ROMANIA and SLOVENIA to notify full implementation of the rules**

Today, the European Commission has sent formal requests to **Lithuania, Portugal, Romania and Slovenia** for notification regarding full enactment of the [Alternative Investment Fund Managers Directive \(2011/61/EU\)](#). This Directive lays down comprehensive and effective regulatory and supervisory rules for managers of alternative investment schemes that are addressed to professional investors. The harmonised European standards for alternative investment fund managers (AIFM) have the objective of enhancing the transparency of the activities of AIFM and the funds they manage towards investors and public authorities.

However, to date, the above Member States have not fully turned this Directive into national law, despite being required to do so by 22 July 2013. Today's requests take the form of reasoned opinions – the second stage of the infringement procedure. These countries have two months to inform the Commission of the measures taken to fully enact [Directive 2011/61/EU](#). Failure to notify adequate measures could lead to the Commission referring the cases to the EU Court of Justice.

(For more information: C. Hughes - Tel. +32 229 64450 - Mobile +32 498 96 4450)

- **Copyright: Commission asks CYPRUS and LUXEMBOURG to apply EU rules**

The European Commission has today requested that **Cyprus and Luxembourg** fully implement [Directive 2011/77/EU](#) of the European Parliament and of the Council of 27 September 2011 amending [Directive 2006/116/EC](#) on the [term of protection of copyright](#) and certain related rights. The Directive extends the term of protection for performers and sound recordings from 50 to 70 years and contains accompanying measures, e.g. the "use it or lose it" clauses which now have to be included in the contracts linking performers to their record companies. The deadline for the implementation of the Directive in national law was 1 November 2013. However, Luxembourg and Cyprus have so far not notified implementing measures to the Commission. The Commission's request takes the form of a

reasoned opinion, the second stage of the EU infringement procedures. If the measures to fully enact Directive 2011/77/EU are not notified within two months, the Commission may decide to refer Luxembourg and Cyprus to the EU Court of Justice.

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- **Environment: Commission asks GREECE and SPAIN to protect citizens from air pollution**

Greece and **Spain** are failing to protect citizens from fine dust (PM10) pollution. PM10 particles can cause asthma, cardiovascular problems, lung cancer and premature death. The particles originate in emissions from industry, traffic and domestic heating. Under [EU law](#), Member States have to limit citizens' exposure to these particles. In Spain, citizens in the agglomerations defined as "Zonas Rurales" of Andalucía, Central Asturias, Gijón, Barcelona, and Vallès-Baix Llobregat have been continuously or almost continuously exposed to unhealthy levels of PM10 since 2005 until at least 2012. In Greece, citizens in Thessaloniki have also been exposed to these particles since at least 2005, according to the latest reports for 2012. The Commission is of the view that measures should have been in place since 2005 to protect citizens' health, and is asking both Member States to take forward-looking, speedy and effective action to keep the period of non-compliance as short as possible. Today's action, technically a reasoned opinion for Greece following a letter of formal notice sent in November 2013 and a supplementary reasoned opinion following a supplementary letter of formal notice for Spain, gives the Member States two months to act. If either Member State fails to act, the Commission may take their case to the EU Court of Justice.

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- **Budget: Commission requests THE NETHERLANDS and UK to compensate for losses to the EU budget**

The European Commission has formally requested **The Netherlands** and **United Kingdom** to compensate for the loss of EU traditional own resources (customs duties) to the EU budget. These arose because of customs certificates issued by their overseas countries and territories in breach of Decision 91/482/EEC and of [Decision 2001/822/EC](#).

The Netherlands' and UK authorities have a period of two months to reply in the light of which the Commission may refer the matter to the EU Court of Justice.

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

European Commission is asking **Bulgaria** to upgrade its contribution to [Natura 2000](#), Europe's network of protected natural areas. Under the [Birds Directive](#), Member States need to designate the most suitable sites as special protection areas (SPAs) for the conservation of bird species found on their territory. Bulgaria originally designated a sufficient number of SPAs (114), but six of the designated areas were well below the size required under the Important Bird Areas (IBA) inventory used by the Commission and the EU Court of Justice as a reference to assess whether Member States are complying with their obligation to designate SPAs. The Commission opened infringement proceedings in 2008, and although many of the SPAs now match the IBAs, problems remain at Kaliakra (for which there is already a case pending before the Court) and in the Rila area, where 17 species listed in the legislation currently lack adequate protection. The Commission is therefore sending a reasoned opinion. If Bulgaria fails to act within two months, the case may be referred to the EU Court of Justice.

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- **Toy safety: Commission asks GERMANY to fully implement EU toy legislation**

The protection of children is a key concern. This is why European toy safety rules are among the strictest in the world. However, **Germany** is currently not applying agreed EU rules on limit values for levels of arsenic, mercury and antimony in toys. The Commission has therefore requested Germany to urgently update its laws to comply with EU toy legislation. Germany does not want to enact the EU laws on limits for certain substances in toys as it claims that they give less protection than the current German laws. However the Commission considers that EU's [Toy Safety Directive](#) offers better protection as it is based on the latest scientific developments and incorporates a modern and coherent approach to manage the chemical risks to which children could be exposed through toys. In a ruling in May 2014 the General Court of the EU agreed with the Commission's approach but to date Germany has still not brought its rules into line with EU law in this area. The Commission has therefore issued a reasoned opinion asking Germany to change its laws. If the relevant German legislation is not brought into compliance with the Toy Safety Directive within two months, the Commission may refer the matter to the EU Court of Justice.

(For more information: M. Sagredo – Tel. +32 229 68589 – Mobile +32 498 98 1631)

- **Taxation: Commission asks GERMANY to stop discriminatory taxation of legacies to foreign charities**

The Commission has requested that **Germany** amend its discriminatory inheritance tax legislation, with regard to legacies to charities in other Member States or EEA States because it is in breach of EU rules on [free movement of capital](#).

The German legislation treats legacies to charities established in other EU/EEA States less favourably than legacies to certain charities established in Germany. Domestic charities are granted an exemption from inheritance tax. However, similar charities established in other EU/EEA States may only enjoy this tax exemption if their State of residence grants an equivalent or reciprocal exemption to comparable German charities. As a result, legacies to foreign charities are frequently more heavily taxed than legacies to German charities. The Commission considers that this is discriminatory and constitutes an unjustified restriction on the free movement of capital. The request sent to Germany takes the form of a Reasoned Opinion. If Germany does not comply within two months, the Commission may refer it to the Court of Justice of the European Union.

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

- **Environment: Commission urges GERMANY to correctly apply EU nature protection requirements in relation to a coal power plant in Hamburg/Moorburg**

The European Commission is urging **Germany** to correctly apply the requirements of the [Habitats Directive](#) in relation to the authorisation of a coal power plant in Hamburg/Moorburg. The project in question risks having a negative impact on a number of protected fish species including salmon [DE: 'Lachs'], European river lamprey [DE: 'Flussneunauge'] and sea lamprey [DE: 'Meerneunauge'], which pass the power plant when migrating from the North Sea to some 30 Natura 2000 sites [DE: 'FFH-Gebiete'] on the Elbe, upstream of Hamburg. The species are harmed by the water abstraction process used to cool the power plant. When authorising the plant, Germany failed to carry out an appropriate assessment as required by the Directive, and notably failed to assess alternative cooling processes which could avoid the killing of the species concerned. The project was authorised on condition that an additional fish ladder should be built by a weir

in Geesthacht, 30 km from the Hamburg power plant. The fish ladder, however, will not prevent the death of the protected species at the point of the water abstraction in Hamburg. Whilst the Commission does not intend to prevent the operation of the power plant, nature protection requirements must be respected in full. A reasoned opinion is therefore being sent. If Germany fails to comply with EU law in this area within two months, the Commission may refer the case to the EU Court of Justice.

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- **Taxation: Commission requests that HUNGARY end restriction on car leasing services provided from other Member States**

The European Commission has requested that **Hungary** amend its legislation, which restricts car leasing services from other Member States in breach of EU single market rules. When assessing the registration tax for cars leased from another Member State, national authorities should calculate it in proportion to the duration of use of that car in their territory (C-451/99, Cura Anlagen).

However, the Hungarian car registration tax only applies such pro-rata assessment to foreign leasing companies that own at least 100 cars. Foreign leasing companies with fewer cars are, under certain conditions, levied the totality of the registration tax on their cars leased in Hungary. The European Commission considers such a condition to be a disproportionate restriction on the freedom to provide services, a fundamental freedom guaranteed by Article 56 of the [Treaty on the Functioning of the European Union](#) (TFEU).

The request takes the form of a Reasoned Opinion. If the legislation is not brought into conformity with EU law within two months, the Commission may refer Hungary to the Court of Justice of the European Union.

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

- **Environment: European Commission urges ITALY to address severe pollution issues at Europe's biggest steel plant**

The European Commission is taking further steps against **Italy** in an effort to reduce the environmental impact of the ILVA steel plant in Taranto (hereafter "ILVA"), Europe's largest iron and steel works.

Italy is failing to ensure that ILVA operates in conformity with EU legislation on [industrial emissions](#), with potentially serious consequences for human health and the environment. The Commission has previously sent Italy two letters of formal notice, in September 2013 and April 2014, urging the Italian authorities to take measures in order to bring the operation of the ILVA plant into compliance with the [Industrial Emissions Directive](#) and other applicable EU environmental law (see [IP/13/866](#)).

Although some shortcomings have been addressed, a number of breaches of the [Industrial Emissions Directive](#) remain. Today's action, a reasoned opinion, concerns deficiencies such as lack of compliance with the conditions set out in the permits, inadequate management of by-products and wastes, and insufficient protection and monitoring of soil and groundwater. The Commission is giving Italy two months to reply.

(For more information: [IP/14/1151](#) - J. Hennon - Tel. +32 229 53593 - Mobile +32 498 95 3593)

- **Commission warns ITALY on insufficient protection for package travellers**

The European Commission has today sent **Italy** a reasoned opinion for a lack of protection for EU consumers booking package travel holidays. Under the EU rules on package travel,

operators must have insolvency protection, in order to guarantee that consumers will receive a refund of their payments and will be brought back home in case the organiser of the holiday goes bankrupt.

The National Guarantee Fund created by Italy to apply the insolvency protection has inadequate resources, and there is no reliable system for an ad hoc increase in its funding. As a consequence, the reimbursement of travellers may take several years and is uncertain even in the case of a bankruptcy of a medium-sized tour operator.

In July 2013 the European Commission proposed new, updated [rules for package travel](#). The legislative proposal is currently being discussed by the Council of Ministers and the European Parliament.

(For more information: J. Salsby - Tel. +32 2 297 24 59)

- **Public procurement: Commission requests ITALY to respect EU rules on public contracts**

The European Commission has today requested **Italy** to respect [EU rules on the award of public contracts](#). The municipalities of Varese and Casciago have not organised competitive tendering procedures for the award of waste management services to a privatised company. In addition, Italy passed legislation allowing contracts awarded without competitive tendering procedures to companies with private participation to remain in force until their natural end-date. Under EU law, the award of public contracts to companies must be done following open, transparent and competitive tendering procedures. The Commission is concerned that this situation prevents companies across Europe from having a chance to enter the market and provide the best value-for-money service, also in the interests of users and tax-payers. As Italy has not yet corrected the situation, the Commission requests Italy, in the form of a reasoned opinion – the second stage of the infringement procedure, to take action to fully comply with EU rules. If no measures to put an end to the violation of EU law are notified by the Italian authorities within two months, the Commission may decide to refer the matter to the EU Court of Justice.

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- **Public procurement: Commission requests ITALY to respect EU rules on motorway contracts**

The European Commission has today requested **Italy** to respect [EU rules on public procurement](#). Italy has granted an extension of 18 years to the company which is currently the concessionaire in charge of building and managing the Motorway A12 Livorno-Civitavecchia. The concession contract has been extended without a prior call for tenders, impeding the participation of potentially interested undertakings from other Member States. According to EU law, the extension of a concession is equivalent to a new concession, which can be awarded only after a competitive tendering procedure. The European Commission, therefore, considers that Italy has failed to fulfil its obligations under EU public procurement rules, especially [Directive 2004/18/EC](#). The Commission's request takes the form of a reasoned opinion, the second stage of the infringement procedure. If no measures to put an end to the violation of EU law are notified by the Italian authorities within two months, the Commission may decide to refer the matter to the EU Court of Justice.

(For more information: C. Hughes - Tel. +32 229 64450 - Mobile +32 498 96 4450)

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

European Commission is urging **Poland** 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 Poland missed the deadline, a letter of formal notice was sent on 31 January 2013. As it has received no notification that legislation has been adopted, the Commission is therefore sending a reasoned opinion. If Poland fails to act within two months, the case may be referred to the EU Court of Justice.

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- **Taxation: Commission asks ROMANIA to stop the discriminatory tax treatment of foreign legal entities**

The Commission has requested **Romania** to amend its rules on the taxation of interest income because they restrict the free provision of services and the free movement of capital in the EU single market. Currently, resident legal entities can deduct the business expenses related to generating interest income. This results only their net income being taxed. However, legal entities established in another EU/EEA State and without a permanent establishment in Romania cannot benefit from such a deduction, and are taxed more heavily on their gross interest income obtained directly from Romania.

The Commission sees no valid justification for this different tax treatment, and considers it to be discriminatory and a restriction on the free movement of services. It therefore has asked Romania to amend its rules to bring them into line with EU law. The request is in the form of a Reasoned Opinion. 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: E. Traynor - Tel. +32 229 21548 - Mobile +32 498 98 3871)

- **Rail transport: Commission asks ROMANIA to fully transpose EU legislation on rail safety**

The Commission has asked **Romania** to bring all its national rules in line with [Directive 2004/49/EC](#) on railway safety. This request concerns the independence of the safety authority and the investigating body. EU legislation aims at developing a common approach to railway safety so that all EU rail networks demonstrate consistent high safety levels and EU citizens travel safely on them. The establishment of safety requirements on the rail system includes safe management of infrastructure and traffic operation, roles and responsibilities of railway undertakings and infrastructure managers as well as their interaction. In addition, a common safety regulatory framework, regulation, management, supervision of safety and independent investigations of accidents have to be assured. The legislation should have been in place since April 2006. The Commission opened infringement proceedings against Romania on the matter in February 2013. A reasoned opinion (the second stage in EU infringement proceedings) is now being sent. Romania has two months to reply to the Commission. If Romania fails to react satisfactorily, the Commission may refer the matter to the European Court of Justice.

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

- **Economy and Finance: Commission calls on SLOVENIA to implement budgetary framework rules**

The Commission has today decided to send a formal request to **Slovenia** to implement Council Directive [2011/85/EU](#) on requirements for budgetary frameworks of the EU Member States. The deadline for doing so was 31 December 2013. The aim of this legislation - which is part of the so-called "Six-Pack" to improve economic governance in the EU - is to ensure that countries strengthen their domestic budgetary frameworks and implicitly the robustness of their fiscal policy. ('Budgetary framework' refers to the set of arrangements, procedures, rules and institutions that underlie the conduct of budgetary policies of general government.) The scope of the Directive includes measures such as the timely publication of reliable and detailed fiscal data (which is crucial for budgetary surveillance), introducing national numerical fiscal rules, reinforcing the medium-term budgetary planning or enhancing the reliability and transparency of macroeconomic and budgetary forecasts. The request takes the form of a 'reasoned opinion' under EU infringement procedures.

If Slovenia does not notify national measures to implement the Directive within two months of receipt of the reasoned opinion, the Commission may refer Slovenia to the Court of Justice and request financial penalties.

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- **Environment: Commission urges UNITED KINGDOM to protect harbour porpoises**

European Commission is asking the **United Kingdom** to designate protected areas for harbour porpoise, a marine mammal regularly found in UK waters. The EU legislation on the conservation of natural habitats and of wild fauna and flora ([Habitats Directive](#)) requires Member States to propose a list of protection sites for a number of species that are native to their territory, ensuring their protection from interventions which could seriously compromise their ecological character. Despite a large number of harbour porpoise in its waters, the UK has so far proposed only one small site in Northern Ireland, exposing some of the identified sites to the risk of offshore wind farm development. The Commission has repeatedly urged the UK to fulfil its key obligations for this species, but no further designations of sites have been proposed. Today's action, a reasoned opinion, follows a letter of formal notice sent to the UK government in June 2013. If the UK fails to reply within two months, the Commission may refer the case to the EU Court of Justice.

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- **Environment: Commission asks the UNITED KINGDOM to reduce emissions from Aberthaw power plant**

The European Commission is urging the **UK** to comply with EU requirements on industrial emissions, which aim to prevent, reduce and as far as possible eliminate pollution arising from industrial activities. The infringement concerns coal-fired Aberthaw power station in Wales, which is exceeding the emission limits for nitrogen oxides (NO_x). Nitrogen oxides released into the environment from burning fuels, have serious consequences for human health and the environment, causing respiratory illnesses, acidifying soil and surface water, and damaging vegetation. In line with the European legislation on emissions from large combustion plants ([LCP Directive](#)) Member States were required to reduce emissions by 1 January 2008 either individually, by complying with the emission limits set out in the Directive or by including these plants in national plans for the reduction of emissions. Having met neither of these requirements, Aberthaw power plant currently operates on the basis of NO_x emission limit of 1200 mg/Nm³, as opposed to the legally applicable 500 mg/Nm³. The Commission first raised its concerns in a letter of formal notice in June 2013. As the plant continues to exceed the permissible emission limit for NO_x applicable

since 1 January 2008, the Commission is sending a reasoned opinion, giving the UK two months to act. If it fails to do so, the case may be referred to the EU Court of Justice.

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3. Letters of Formal Notice

- **Free movement of capital: Commission opens infringement procedure against HUNGARY on rights of cross-border investors to use agricultural land**

The European Commission has today decided to formally request **Hungary** to submit its observations on its legislation terminating certain contractual rights of investors to use agricultural land.

In the Commission's view, Hungarian legislation has restricted the rights of cross-border investors in a way that may violate EU law on free movement of capital and freedom of establishment. Any restriction to these basic Treaty freedoms must be duly justified and comply with the principle of proportionality. Even though Member States are permitted to set their own rules governing the system of property ownership, this must be done within the limits of the EU law.

The Commission's request takes the form of a letter of formal notice, the first stage of infringement procedures under Article 258 of the Treaty on the Functioning of the European Union. Hungary has two months to respond.

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- **Environment: Commission urges MALTA to refrain from finch trapping**

The European Commission is asking the Maltese government to reconsider its decision to resume traditional finch trapping. This practice is prohibited under EU legislation on the conservation of wild birds. The case concerns **Malta's** decision to apply a derogation to the [EU Birds Directive](#), the cornerstone of EU nature and biodiversity policy, allowing the live capture (commonly known as trapping) of seven species of wild finches as from 2014. Member States may derogate from the requirement of strict protection only in the absence of other satisfactory conservation solutions and if the conditions for using such derogations are met. As no such justification exists in this case, the Commission has decided to send a letter of formal notice, urging Malta to comply with the relevant EU rules and to respond within one month confirming that this has been done.

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