



July infringements package: key decisions

Brussels, 2 July 2020

Overview by policy area

In its regular package of infringement decisions, the European Commission pursues legal action against Member States for failing to comply with their obligations under EU law. These decisions, covering various sectors and EU policy areas, aim to ensure the proper application of EU law for the benefit of citizens and businesses.

The key decisions taken by the Commission are presented below and grouped by policy area. The Commission is also closing 97 cases in which the issues with the Member States concerned have been solved without the Commission needing to pursue the procedure further.

On 30 January 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a 'public health emergency of international concern' and, on 11 March, characterised it as a pandemic. While the Commission has made it clear that it will continue to pursue infringement proceedings in cases it deems necessary, it has also acknowledged that the COVID-19 pandemic and the ensuing measures to combat the pandemic have put a serious strain on national administrations. In particular, in certain cases the crisis may also affect the capacity of the Member States' administrations to ensure the implementation of EU law. In light of this, the Commission recently informed the Member States that the time periods for replies to ongoing infringement procedures launched since the beginning of the year have been extended. It has therefore been decided to give Member States the possibility to reply to each letter of formal notice and reasoned opinion submitted in this infringement package within three months instead of the usual two months, with the exception of 13 cases raising urgent issues for which a reply is expected within a shorter deadline.

For more information on the EU infringement procedure, see the full [Q&A](#). For more detail on all decisions taken, consult the [infringement decisions' register](#).

1. Internal Market, Industry, Entrepreneurship and SMEs

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Letters of formal notice

Free movement of goods and freedom of establishment: Commission asks SLOVAKIA to remove restrictions on food retailers and closes case against ROMANIA

The Commission decided today to send a letter of formal notice to **Slovakia** requesting it to remove restrictions in the food retail sector. The Commission considers that the Slovak measures create more advantageous marketing conditions for domestic products and restrict retailers' freedom to decide on their assortment and the layout of their sale surfaces. Such measures are against EU rules on free movement of goods and freedom of establishment, and result in barriers prohibited under [Articles 34 and 49 TFEU](#), and under the Services and e-Commerce Directives. Slovakia now has three months to respond to the arguments raised by the Commission; otherwise, the Commission may decide to issue a reasoned opinion. At the same time, the Commission decided to close the infringement proceedings against **Romania**, concerning its restrictive measures on food products, which favoured domestic products to the detriment of similar imported ones. This was contrary to EU rules on free movement of goods and freedom of establishment. Following the Commission's [Letter of Formal Notice](#) and subsequent dialogue with the Romanian authorities, the rules on food law were amended and the restrictions free movement of goods and freedom of establishment removed.

Reasoned opinions

Free movement of goods: Commission urges GERMANY to remove restrictions on import of coffee

The Commission decided today to send a Reasoned Opinion to **Germany** regarding restrictions on imports of coffee. Under the [German Coffee Tax Law](#), (in German: Kaffeesteuergesetz) retailers established in another Member State selling coffee to Germany must appoint a fiscal representative located in Germany. The representative needs to be approved by the German customs authority, record the mail order deliveries and pay the tax guarantee and due tax. The Commission considers that this requirement prevents retailers from other Member States to freely import coffee into Germany and adds additional burdens that make it more difficult in particular for small or medium-sized companies to enter the German market and sell coffee at a distance. The Commission considers that these requirements are contrary to EU rules on free movement of goods under [Article 34 TFEU](#) and the freedom to provide services under [Article 56 TFEU](#). Germany now has three months to respond to the arguments raised by the Commission; otherwise, the Commission may decide to refer it to the Court of Justice.

Free movement of services: Commission takes further action to ensure a well-functioning Single Market for professionals and services

The Commission decided today to take further steps in the infringement procedure against 10 Member States, namely Belgium, Bulgaria, Croatia, Czechia, Germany, Greece, Ireland, Latvia, Malta and Poland to ensure that their national rules and administrative practices fully comply with EU rules on services and the recognition of professional qualifications. In particular, the Commission decided to refer Czechia and Poland to the Court for not remedying breaches of EU law on professional qualifications. In addition, the Commission is also sending a reasoned opinion to Germany and a letter of formal notice to Greece, Ireland and Latvia for non-compliance with the EU rules on professional qualifications. Letters of formal notice are being sent to Bulgaria and Belgium, and reasoned opinions to Bulgaria, Croatia, Malta and Poland since the Commission considers them in breach of EU rules on services and the legislation on lawyers. The steps taken today address Member States' compliance with EU rules on professionals (Professional Qualifications [Directive 2005/36/EC](#) as amended by [Directive 2013/55/EU](#) and Lawyers Directives 98/5 and 77/249), EU Services Directive (Directive 2006/123/EC) and [Articles 45, 49 and 56](#) of TFEU. Today's decisions are the result of the Commission's systematic check of national legislations and administrative practices and other actions taken by the Commission to ensure a fully functional Single Market for services and professionals. For more information, please refer to the full [press release](#).

Referral to the Court of Justice of the European Union

Trade marks: Commission decides to refer ROMANIA to the Court of Justice for not transposing the Trade Mark Directive

Today, the Commission decided to refer **Romania** to the Court of Justice, with a request for financial sanctions, following the lack of notification of transposition measures of the Trade Mark Directive ([Directive \(EU\) 2015/2436](#)). The Trade Mark Directive constitutes an important step in modernising and further harmonising EU trade mark law. Romania is the only Member State which has not yet notified transposition measures. For more information, please refer to the full [press release](#).

2. Security Union

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Referral to the Court of Justice of the European Union and closures

Security Union: Commission decides to refer SPAIN to the Court for not transposing EU rules on passenger name records

The Commission decided today to refer **Spain** to the Court of Justice of the EU, with a request for financial sanctions, for delay in transposing EU rules on the use of passenger name record data for the prevention, detection, investigation, and prosecution of terrorist offences and serious crime ([Directive \(EU\) 2016/681](#)). The Directive was adopted in April 2016 and Member States agreed to transpose it into national law by 25 May 2018. The infringement procedure against Spain was launched in July 2018 with a letter of formal notice and a reasoned opinion was sent in January 2019. More than two years since the lapse of the Directive's transposition deadline, Spain is the only Member State that has not yet notified the Commission of the adoption of the measures necessary in order to transpose the Directive. In parallel, the Commission decided today to close the infringement procedures against **Czechia** and **Austria**, as these Member States are now considered to have fully transposed the Passenger Name Record Directive. The Directive sets out the rules for the transfer of passenger name record data (i.e. information provided by passengers to airlines when booking and checking in for flights) from airlines to EU countries and for the processing of this data by EU countries exclusively for law enforcement purposes and in full respect of data protection safeguards. A full press release is available [online](#).

Reasoned opinions

EU Drugs policy: AUSTRIA, PORTUGAL, SLOVENIA and FINLAND urged to implement EU rules

Today the Commission decided to address reasoned opinions to **Austria, Portugal, Slovenia and Finland** for failing to notify the Commission of any national measures taken so far to fully transpose [Directive \(EU\) 2017/2103](#). This Directive adds new psychoactive substances to the definition of 'drug' contained in EU law (Council Framework Decision 2004/757/JHA). The Directive is part of the EU's legal framework to combat drug trafficking and limit the supply and consumption of illegal drugs. Including new psychoactive substances in the definition of 'drug' should lead to measures to reduce their availability, protect public health and deter trafficking of these substances across the Union. Member States had until 23 November 2018 to transpose the Directive. Today's reasoned opinions follow the letters of formal notice sent by the Commission in January 2019. Austria, Portugal, Slovenia and Finland now have three months to notify the Commission of the measures taken to ensure the full implementation of the new rules, after which time the Commission may refer the case to the Court of Justice of the EU. The Commission closed infringements against **Hungary** and **the Netherlands**, as well as **Bulgaria, Hungary, Romania, Slovenia** and **Sweden** after considering that these Member States have transposed Directive (EU) 2017/2103 and [Commission Delegated Directive \(EU\) 2019/369](#), respectively.

Letter of formal notice

Legal Migration: MALTA urged to correctly implement the Long-Term Residence Directive 2003/109/EC

Today, the Commission decided to start an infringement procedure against **Malta**, and has sent a letter of formal notice detailing Malta's failure to fulfil its obligations under the Long-Term Residence Directive ([2003/109/EC](#)). The Directive establishes, in Article 11(1), that long-term residents shall enjoy equal treatment with regard to access to employment, including conditions of employment and working conditions. Maltese legislation requires non-EU nationals who are long-term residents in Malta to have an 'employment licence', which is obtained following an application by the employer addressed to the Employment Licences Unit and has a validity of one year (renewable). Without this license, long-term residents cannot be employed. As Maltese nationals do not need such a license to have access to employment, this inequality of treatment vis-à-vis non-EU nationals who are long-term residents constitutes an infringement of Article 11(1)(a) of the Directive. Malta has three months to submit its response to the letter of formal notice.

3. Financial Stability, Financial Services and Capital Markets Union

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Letters of formal notice

Anti-Money Laundering: Commission urges LUXEMBOURG, SLOVAKIA and SLOVENIA to correctly transpose the 4th Anti-Money Laundering Directive

The Commission has today sent letters of formal notice to Luxembourg, Slovakia and Slovenia for incorrectly transposing the 4th Anti-Money Laundering Directive ([AMLD4](#)). Following an assessment of the notified transposition measures by these Member States, the Commission concluded that several provisions of the Directive have not been correctly transposed into national law. In particular, fundamental aspects of the anti-money laundering framework are concerned, such as the exchange of information among Financial Intelligence Units (Luxembourg), the protection of whistleblowers (Slovakia), and the need to adopt measures preventing convicted people from holding management functions (Slovenia). The fight against money laundering and terrorist financing is key to ensuring financial stability and security in Europe. In recent times, money laundering scandals have revealed the need for stricter rules at EU level. Legislative gaps occurring in one Member State have an impact on the EU as a whole. That is why EU rules should be implemented and supervised efficiently in order to combat crime and protect our financial system. The Commission [published a six-point Action Plan](#) on 7 May to further strengthen the EU's fight against money laundering and terrorist financing. Without a satisfactory response from these Member States within 2 months, the Commission may decide to send a reasoned opinion.

Non-Financial Reporting: Commission urges ESTONIA and BULGARIA to correctly transpose the Non-Financial Reporting Directive

The Commission has today sent a letter of formal notice to **Estonia** and **Bulgaria** for incorrectly transposing the [Accounting Directive](#), as amended by the [Non-Financial Reporting Directive](#) (NFRD). The Accounting Directive (as amended by the NFRD) requires certain large undertakings and groups to disclose, amongst other things, non-financial and diversity information in order to better understand the development, performance, position and impact of the entity's activity. After assessing the notified measures by both Member States, the Commission concluded that some provisions of the Directive have not been correctly transposed into Estonian and Bulgarian law. In particular, both Member States do not explicitly require companies to disclose information required by the Directive, such as information concerning human rights, corruption and bribery matters, and risk management and due diligence processes. Without a satisfactory response from Estonia and Bulgaria within three months, the Commission may decide to proceed with reasoned opinions.

Reasoned opinions

Anti-Money Laundering: Commission calls on CZECHIA, DENMARK and ITALY to fully implement the 4th Anti-Money Laundering Directive

The Commission today sent reasoned opinions to **Czechia**, **Denmark** and **Italy** for failing to fully implement the 4th Anti-Money Laundering Directive ([AMLD4](#)) into national law. Following an assessment of the notified measures by these Member States, the Commission has concluded that several provisions of the AMLD4 have not been fully transposed. The fight against money laundering and terrorist financing is key to ensuring financial stability and security in Europe. In recent times, money laundering scandals have revealed the need for stricter rules at EU level. Legislative gaps occurring in one Member State have an impact on the EU as a whole. That is why EU rules should be implemented and supervised efficiently in order to combat crime and protect our financial system. The Commission published a six-point Action Plan on 7 May to further strengthen the EU's fight against money laundering and terrorist financing. Without a satisfactory response from Czechia, Denmark and Italy within the next three months, the Commission may decide to refer the cases to the Court of Justice of the European Union.

Referral to the Court of Justice of the European Union

Anti-Money Laundering: Commission decides to refer AUSTRIA, BELGIUM and the NETHERLANDS to the Court of Justice of the EU for failing to fully implement EU anti-money laundering rules

The European Commission has today referred **Austria**, **Belgium** and **the Netherlands** to the Court of Justice of the European Union, with a request for financial sanctions, for failing to fully implement the 4th Anti-Money Laundering Directive ([AMLD4](#)) into their national law. Following an assessment of the notified measures by these Member States, the Commission has concluded AMLD4 has not been fully transposed into national law. The incomplete transposition concerns fundamental aspects of the anti-money laundering framework, such as betting and gambling legislation (Austria), mechanisms under which the Financial Intelligence Units exchange documents and information (Belgium), and the information to be provided on the beneficial ownership of corporate and other legal entities (Netherlands). For more information, please refer to the full [press release](#).

4. Mobility and Transport

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Letters of formal notice

Ports: Commission calls on BELGIUM, CYPRUS, the NETHERLANDS and PORTUGAL to comply with notification obligations

The Commission today sent letters of formal notice to Belgium, Cyprus, the Netherlands and Portugal for failing to comply with certain notification obligations under [Regulation \(EU\) 2017/352 \(Port Services Regulation\)](#). The Regulation is intended to level the playing field in the port sector, provide port operators with legal certainty, and create a climate more conducive to efficient public and private investment. It requires Member States to foresee an effective procedure to handle complaints and to ensure the port users and stakeholders are informed as to which authority is in charge. Member States are also required to lay down rules on penalties in case of breaches of the Regulation. None of the four Member States indicated their complaints handling procedure, responsible authority or rules

on penalties by the set deadline of 24 March 2019. These Member States now have three months to reply to the Commission. Otherwise, the Commission may decide to adopt a reasoned opinion.

Commission opens infringement proceedings against GREECE and ITALY for failure to comply with EU rules protecting rights of passengers

Today the European Commission launched infringement proceedings by sending letters of formal notice to **Greece** and **Italy** for being in violation of EU rules protecting rights of passengers. Both Greece and Italy have taken measures that do not comply with EU rules on air passenger rights ([Regulation \(EC\) No 261/2004](#)) and on waterborne travel ([Regulation \(EU\) No 1177/2010](#)). Furthermore, Italy has taken measures that do not comply with EU rules on bus and coach travel ([Regulation \(EU\) No 181/2011](#)) and rail passenger rights ([Regulation \(EC\) No 1371/2007](#)). Due to the coronavirus pandemic, many companies in the transport sector have been faced with unsustainable cash flows and revenue situations. Throughout this crisis, the Commission has consistently made clear that passenger rights remain valid in the current unprecedented context and national measures to support the industry must not lower them. While the European Commission is also assessing the situation in other Member States by requesting further information on the application of the rules, Greece and Italy have adopted legislation allowing carriers to offer vouchers as the only form of reimbursement. Under the EU passenger rights Regulations, however, passengers have the right to choose between reimbursement in money and other forms of refund, such as a voucher. If they are offered vouchers, the passengers have to agree to this solution. Greece and Italy now have two months to reply to the arguments raised by the Commission, otherwise the Commission may decide to send a reasoned opinion.

Letters of formal notice and reasoned opinion

Maritime transport: Commission urges MALTA, BELGIUM and PORTUGAL to comply with EU rules on marine equipment

The Commission today decided to send a reasoned opinion to **Malta**, and letters of formal notice to **Belgium** and **Portugal**, for failing to comply with EU law on marine equipment ([Directive 2014/90/EU](#)). The common EU safety and environmental rules concern equipment, such as life jackets, sewage cleaning systems and radars on board EU-flagged ships. Belgium and Portugal have failed to ensure that marine equipment on board of their vessels always complies with the requirements of the Directive, while Malta and Portugal are not conducting market surveillance on an adequate scale. In addition, Belgium has failed to ensure that its bodies responsible are carrying out appropriate examinations and tests on specimens, or are having them carried out correctly. These Member States now have three months to reply to the Commission. After this deadline, in the case of Portugal and Belgium, the Commission may decide to send a reasoned opinion, whereas in the case of Malta, the Commission may decide to bring the matter before the Court of Justice of the EU.

5. Justice

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Letters of formal notice

EU Business Register Tool: Commission calls on BULGARIA, FRANCE and IRELAND to connect their national business registers

The Commission decided today to send letters of formal notice to three Member States: **Bulgaria**, **France** and **Ireland** for failing to connect their national business registers to the EU business register tool. The Commission launched [this tool](#), established under the [Directive \(2012/17/EU\) on interconnection of EU business registers](#) (BRIS) in June 2017. With an increasing number of cross-border businesses, having easy access to information on companies in different Member States is crucial. With linked national business registers, the EU has facilitated cross-border trade and is reducing costly and time-consuming procedures for companies operating cross-border. The deadline to connect their national business register to BRIS was 8 June 2017. After three years from the deadline set in the BRIS Directive, Bulgaria is not connected; Ireland is still testing the connection; and France is only partially connected to BRIS. Not being connected to BRIS means that it is complicated and burdensome for EU citizens, enterprises and entrepreneurs to obtain relevant information on companies, although in accordance with EU law this information must be publicly available. It is also long and complex for business registers in other Member States to cooperate with Bulgarian, Irish and French business registers on administrative proceedings, for example on issues related to branches of

companies opened in other Member States, or on cross-border mergers. Bulgaria, Ireland and France have now three months to respond to the letters of formal notice and take relevant action; otherwise the Commission may decide to send a reasoned opinion.

Commission calls on TEN Member States to comply with EU law on protecting rights of consumers and travellers

Today, the Commission decided to start infringement proceedings by sending a letter of formal notice to **Czechia, Cyprus, Greece, France, Italy, Croatia, Lithuania, Poland, Portugal** and **Slovakia** on the grounds that their national rules infringe EU law on consumers' and travelers' rights. These ten Member States are violating Article 12(4) Directive (EU) 2015/2302, the [Package Travel Directive](#). Due to the coronavirus pandemic, travel arrangements have had to be cancelled. Throughout this crisis, the Commission has consistently made clear that consumer rights remain valid in the current unprecedented context and national measures to support the industry must not lower them. On 13 May 2020, the Commission adopted a specific [Recommendation on vouchers](#) in the current context to support Member States in setting up attractive, reliable and flexible voucher schemes. Nevertheless, in these ten Member States, specific national rules on package travel are still applicable allowing organisers of package travel to issue vouchers, instead of reimbursement in money, for cancelled trips, or to postpone reimbursement far beyond the 14-day period, as set in the Package Travel Directive. Under EU law, passengers have, however, the right to choose between reimbursement in money and other forms of refund, such as a voucher. Therefore, the Commission decided to send letters of formal notice to Czech Republic, Cyprus, Greece, France, Italy, Croatia, Lithuania, Poland, Portugal and Slovakia. The Member States concerned have now two months to reply to the Commission and take the necessary measures to address the shortcomings identified by the Commission. Otherwise, the Commission may decide to send reasoned opinions.

Reasoned opinions

Long-term shareholder engagement: Commission urges SEVEN Member States to notify measures taken to transpose Shareholder Rights Directive

The Commission decided today to send reasoned opinions to seven Member States for failing to communicate partially (**Bulgaria, Greece, Romania, and Spain**) or entirely (**Cyprus, Portugal** and **Slovenia**) on the measures taken to implement the amended Shareholder Rights Directive ([Directive 2017/828/EU](#)). Member States had to transpose part of this Directive into their national law by 10 June 2019 and communicate to the Commission the measures taken in the field covered by its relevant provisions. Long-term engagement of shareholders with the companies they invest in is essential to ensure that companies are well-governed and sustainable in the long term. Under the Directive, institutional investors and asset managers have to publish information on their investment strategies and engagement policies. In addition, the Directive increases transparency of directors' remuneration and enables shareholders to have a "say on pay". It also introduces safeguards with regard to material transactions concluded between related parties (typically the company and its director or controlling shareholder). In July 2019, the Commission sent letters of formal notice to these six Member States for failing to transpose EU rules into national legislation. Bulgaria, Romania, Greece and Spain notified certain measures declaring the transposition of the Directive to be still partial, Cyprus, Portugal and Slovenia have not yet notified any transposition measures. The seven Member States have now three months to respond to the reasoned opinions and take the relevant actions by notifying the full transposition of the Directive into their national laws; otherwise, the cases may be referred to the Court of Justice of the EU.

Fight against fraud: Commission urges ITALY to transpose EU rules on the fight against fraud to the Union's budget by means of criminal law

Today, the Commission decided to send a reasoned opinion to **Italy** following their failure to communicate the measures taken to transpose into their national law the EU rules on the fight against fraud to the Union's budget by means of criminal law ([Directive 2017/1371/EU](#); 'the PIF Directive'). These rules, which were to be transposed by 6 July 2019, increase the level of protection of the EU budget by harmonising the definitions, sanctions and limitation periods of criminal offences affecting the Union's financial interests. Not only is the Directive an essential instrument for the harmonisation of the criminal law of the Member States in the area of crimes against the Union budget, but it is also key for the functioning of the future [European Public Prosecutor's Office \(EPPO\)](#), which will investigate, prosecute and enforce the offences in practice. The Commission opened the infringement procedure by sending a letter of formal notice to Italy in September 2019. Following today's reasoned opinion, Italy

has three months to reply to the arguments raised by the Commission. Otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

6. Environment and fisheries

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Letters of formal notice

Environmental liability: AUSTRIA, BELGIUM, CYPRUS, CZECHIA, DENMARK, FRANCE, GERMANY, GREECE, IRELAND, ITALY, MALTA, THE NETHERLANDS, SPAIN, SLOVAKIA, SLOVENIA and SWEDEN asked to expand the range of parties entitled to request action by national authorities

The Commission is asking **Austria, Belgium, Cyprus, Czechia, Denmark, France, Germany, Greece, Ireland, Italy, Malta, The Netherlands, Spain, Slovakia, Slovenia** and **Sweden** to make sure their national legislation allows all categories of natural and legal persons mentioned in Article 12(1) of the [Environmental Liability Directive](#) (Directive 2004/35/CE) to request the competent authority to take remedial action for environmental damage. The [Environmental Liability Directive](#) envisages that environmental damage can be prevented or remedied by, among others, granting the right to natural and legal persons to request that the competent authority decides about (preventive and) remedial action to be taken by the liable operator. The Directive also ensures that the financial consequences of the remedial action is borne by the economic operator who caused the environmental damage. The Court of Justice has clarified this right to request action in case [C-529/15](#), by saying – in essence – that all categories of natural and legal persons (mentioned in Article 12(1) clauses (a), (b) and (c) of the Directive) having a right or interest in preventing or remedying the damage must be able to request authorities to take such a decision. Following this clarification by the Court, the Commission has verified whether the legislation of all the Member States actually guarantees this. The result of this verification is that these 16 Member States have not fully covered all the abovementioned categories of entitled persons. It is important for the protection of the environment that there are no gaps in the right to request action. Therefore, the Commission decided to send letters of formal notice to these Member States, giving them three months to remedy the situation. Otherwise, the Commission may decide to send a reasoned opinion.

Nature: Commission asks ROMANIA and SPAIN to take the necessary steps to protect and manage their Natura 2000 networks

The Commission is calling on **Romania** and **Spain** to take measures to protect and manage their Natura 2000 networks, thus respecting their obligations under the [Habitats Directive](#) (Council Directive 92/43/EEC). Under the Directive, Member States are required to propose EU Sites of Community Importance (SCIs) which are then added to EU biogeographical lists. Within six years from such listing, Member States must establish conservation objectives and measures to maintain or restore the protected species and habitats to a favourable conservation status, designating the SCIs as Special Areas of Conservation (SACs). These are key requirements to protect biodiversity across the EU. Romania has so far not designated Special Areas of Conservation and, it has generally and persistently failed to set site-specific detailed conservation objectives and measures. In the case of Spain, the Commission is urging the country to complete the designation as Special Area of Conservation (SAC) of all Sites of Community Importance (SCI) in the Alpine, Atlantic and Mediterranean regions, and to adopt site-specific detailed conservation objectives and measures for an outstanding part of these Special Areas of Conservation. The time limit for completing these steps for 1,278 sites in the Alpine, Atlantic and Mediterranean regions in Spain has long expired. Therefore, the Commission issued a letter of formal notice in 2015. To date, Spain has still failed to designate as Special Area of Conservation 345 sites, more than a quarter of the 1,278 Sites of Community Interest. In addition, the Commission is of the view that there has been a general and persistent practice in 12 Autonomous Communities and at central level, of failing to set sufficiently detailed and quantified conservation objectives as well as the necessary conservation measures. Therefore, the Commission has decided to send a letter of formal notice to Romania, giving it three months to remedy the situation, and an additional letter of formal notice to Spain, which also has two months to remedy the situation. Otherwise, the Commission may decide to send a reasoned opinion.

Nature and Fisheries: Commission urges FRANCE, SPAIN and SWEDEN to take action to reduce bycatch

The Commission is asking **France, Spain and Sweden** to implement the measures required under the Habitats Directive ([Council Directive 92/43/EEC](#)) and Common Fisheries Policy to avoid unsustainable by-catches of dolphin and porpoise species by fishing vessels. Dolphins and harbour porpoise are strictly protected species according to the Habitats Directive and for which mitigation measures to avoid their by-catch are required in line with the Technical Measures Regulation under the Common Fisheries Policy ([Regulation \(EU\) 2019/1241](#)). Despite well-documented evidence of these species being caught in fishing gear, the problem persists. France, Spain and Sweden have not taken sufficient action to monitor by-catches in their waters and by their fleets, nor made full use of the possibilities that the Common Fisheries Policy provides to comply with their obligation under the Habitats Directive and protect these species. In addition, the three Member States did not take the necessary steps to avoid significant disturbance of marine species in the special areas of conservation designated for their protection. France and Sweden have additionally not correctly transposed the provisions of the Habitats Directive. France has not entirely transposed the obligations related to the establishment of a coherent monitoring scheme of the bycatch and the subsequent taking of conservation measures. Sweden has failed to transpose correctly the obligation on protective measures within Natura 2000 sites to avoid disturbance of marine species. Finally, France and Spain have also failed to ensure effective control and inspection regarding the obligation for fishing vessels to use "pingers" to scare porpoises away from nets as required under the Common Fisheries Policy to prevent such by-catches in the most vulnerable areas. As France, Spain and Sweden have not taken the necessary steps to address these deficiencies, the Commission is sending letters of formal notice to the three countries, which will have three months to address the shortcomings raised. Otherwise, the Commission may decide to send a reasoned opinion.

Animal welfare: FRANCE called to correct its rules on the protection of laboratory animals

The Commission is asking **France** to act regarding shortcomings in its enactment of the Directive on the protection of animals used for scientific purposes ([Directive 2010/63/EU](#)) into domestic law. The Directive was adopted in September 2010, and it was agreed to transpose EU rules into national law by 10 November 2012. The Directive ensures a high level of animal welfare while safeguarding the proper functioning of the internal market. These EU rules also aim to minimise the number of animals used in experiments and requires alternatives to be used, where possible. A number of deficiencies have been identified under French law in relation to the additional requirement regarding the origin of animals used for scientific purposes and the lack of provisions specifying that procedures may be carried out only within the framework of a project. The Commission has decided to a letter of formal notice to France, which has three months to remedy the situation and reply to the points raised by the Commission. Otherwise, the Commission may decide to send a reasoned opinion.

Pollution: CROATIA called to improve the protection against pollution arising from industrial activities

The Commission is asking **Croatia** to correctly enact into national law the EU rules on integrated prevention and control of pollution arising from industrial activities. The Industrial Emissions Directive ([Directive 2010/75/EU](#)) lays down rules which include the prevention or reduction of emissions into air, water and soil and the prevention of waste generation. Croatia has not correctly transposed some articles of the Directive. Among those, definitions of 'installation', 'best available techniques' or 'baseline condition' are wrongly transposed. In addition, special requirements on frequency of site visits, timeliness of inspection, and a clear obligation for the inspection report to describe the relevant findings, are missing from the national legislation. Therefore, the Commission is sending a letter of formal notice to Croatia. The Member State has three months to address the shortcomings identified by the Commission. In the absence of a satisfactory response, the Commission may decide to send a reasoned opinion.

Prevention of major accidents involving dangerous substances: the Commission calls on BULGARIA, HUNGARY and FINLAND to improve their national rules

The European Commission urges **Bulgaria, Hungary and Finland** to bring their national legislation in line with [Directive 2012/18/EU](#) on the control of major-accident hazards involving dangerous substances (the Seveso III Directive). The Directive applies to over 12,000 industrial installations across the European Union and lays down rules to prevent major industrial accidents and minimize their harmful impacts on human health and the environment. Sectors like the chemical and petrochemical industry, and the fuel wholesale and storage sectors are covered by its scope. Different

safety regimes apply, depending on the amount of dangerous substances present, with stricter legal requirements applying to installations handling high amounts. In the case of Hungary, the Commission identified over 40 grievances that relate among others to incorrect transposition of definitions, to lack of commitment from the operators to continuous improvement of the control of major-accident hazards, to cross border cooperation and to less stringent requirements on information to the public. Finland has not correctly transposed the Directive's requirements in relation to content and timing of submission of the establishment's safety report, to non-governmental organisations' rights to get information on the establishments in question and the dangerous substances used, and to the information underpinning the inspections in the establishments. Bulgaria did not introduce in its legislation the notion of 'other establishment', which cascaded into a number of non-compliant provisions; some technical provisions have also been incorrectly reflected into national law. Therefore, the Commission is sending letters of formal notice to the Member States concerned, giving them three months to remedy the situation. Otherwise, the Commission may decide to send a reasoned opinion.

Air Pollution: Commission calls on ITALY and LUXEMBOURG to adopt national air pollution control programmes

The Commission urges **Italy** and **Luxembourg** to adopt their first national air pollution control programmes and to communicate them to the Commission, as required under [Directive \(EU\) 2016/2284](#) on the reduction of national emissions of certain atmospheric pollutants (NEC Directive). The Directive, which sets out national emission reduction commitments, aims at achieving levels of air quality that do not give rise to significant negative impacts on and risks to human health and the environment. Member States must adopt air pollution control programmes in which they set out how they will achieve the agreed reduction of their annual emissions. Member States were required to adopt and submit their first national air pollution control programmes to the Commission by 1 April 2019. Despite several reminders, Italy and Luxembourg have until now failed to meet this obligation. Therefore, the Commission has decided to issue letters of formal notice giving Italy and Luxembourg three months to adopt the programmes. Otherwise, the Commission may decide to send them a reasoned opinion.

Air pollution: Commission urges HUNGARY, DENMARK and MALTA to improve their rules against air pollution

The Commission is asking **Hungary, Denmark** and **Malta** to correctly transpose into national legislation all the requirements of [Directive \(EU\) 2016/2284](#) on the reduction of national emissions of certain atmospheric pollutants (NEC Directive). The NEC Directive sets national emission reduction commitments for Member States for five important air pollutants: nitrogen oxides (NO_x), non-methane volatile organic compounds (NMVOCs), sulphur dioxide (SO₂), ammonia (NH₃) and fine particulate matter (PM_{2.5}). These air pollutants contribute to poor air quality, leading to significant negative impacts on human health, such as respiratory problems, cardiovascular diseases and cancer, and damage ecosystems. In the case of Hungary, the national law is not in line with the EU requirements on the adjustment of annual national emission inventories, flexibilities related to the operation of the power or heat systems, the update of national air pollution control policies in relation to the national air pollution control programme, aspects of transboundary consultations, and the required risk-based approach for the designation of ecosystem monitoring sites. These shortcomings i.a. extend the scope of exemptions from having to respect the emission reduction commitments and put at risk a timely update of the national air pollution control programmes. In the case of Denmark, national law is not in conformity with the EU requirements on foreseeing the possibility of organising transboundary consultations on the National air pollution control programmes. Moreover, the Danish law does not set any penalties for breaches of the Directive. In the case of Malta, the national law is not in conformity with the EU requirements on the mandatory nature of the monitoring requirements, on the active publication of information on the national air pollution control programmes and the emission inventories, and on the basis for calculating and reporting fuel-related emissions. Therefore, the Commission has decided to issue letters of formal notice giving Hungary, Denmark and Malta three months to correct their national legislation in order to remedy the problems. Otherwise, the Commission may decide to send them a reasoned opinion.

Reasoned opinions

Waste: Commission urges ITALY to comply with EU rules on ship recycling

The Commission is urging **Italy** to fully comply with the requirements of the Ship Recycling Regulation ([Regulation \(EU\) 1257/2013](#)), and in particular to take measures to prevent the circumvention of ship

recycling rules and set out the penalties applicable to the infringement of those rules. The Regulation aims to ensure that all large ships sailing under the flag of an EU Member State are recycled in a safe and sustainable way. Old ships can be a profitable source of scrap metal and other materials, saving virgin raw materials and reducing greenhouse gases. However, if not done in a proper manner, ship dismantling could harm human health and the coastal environment. The Regulation aims to prevent, reduce or eliminate these potential detrimental effects on human health and on the environment through the introduction of a number of rules applicable to ship recycling. To this end, Member States must designate the competent authorities and administrations responsible for the application of this Regulation. Member States must also take measures to prevent the circumvention of ship recycling rules and set out the penalties applicable to the infringement of those rules. Italy already received a letter of formal notice to which it replied with a designation of the competent authorities and contact persons, as required by the Regulation. However, as far as the sanctions are concerned the legislation proposed is still at a draft stage. Therefore, the Commission has addressed a reasoned opinion to Italy, which has three months to remedy the situation. Otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

Industrial emissions: Commission urges GREECE to correctly apply EU pollution laws

The Commission is asking **Greece** to correctly apply [Directive 2010/75/EU](#) on industrial emissions. The Directive lays down rules designed to prevent and reduce emissions into air, water and land and to prevent the generation of waste, in order to achieve a high level of protection of the environment. According to the Directive, after a certain period of time a combustion plant must stop functioning, unless the conditions to grant a time-derogation are met. In Greece, three plants have been granted a derogation which allows them to continue to operate for an extra 32,000 hours even though the conditions listed in the Industrial Emissions Directive are not met. Furthermore, in order to achieve this result, Greece modified its legislation in such a way that it no longer complies with the Directive. The Commission is therefore sending a reasoned opinion and may decide to refer the case to the Court of Justice of the EU, if – within three months from the receipt of the reason opinion – Greece does not correct its legislation and bring the regime applicable to the three plants in compliance with the directive.

Animal welfare: Commission urges POLAND to correctly enact measures on the protection of laboratory animals

The Commission is urging **Poland** to ensure compliance with the Laboratory Animals Directive ([Directive 2010/63/EU](#)). The Directive ensures a high level of animal welfare while safeguarding the proper functioning of the internal market. These EU rules also aim to minimise the number of animals used in experiments and require alternatives to be used where possible. Despite some small progress since the Commission sent a letter of formal notice to Poland, the compliance gap is still substantial. Out of 31 identified and demonstrated instances of incorrect transposition, only one has been rectified. Despite acknowledging non-compliance on most of the points raised by the Commission, Poland has failed to undertake any measures aimed at implementing the Laboratory Animals Directive correctly. Among the outstanding grievances are the absence of the requirement of scientific justification for the use of specific species in the procedures or for carrying out procedures outside the establishment. Polish provisions also lack appropriate requirements for personnel, for example that competence in the performance of the required skills must be demonstrated by the staff carrying out procedures on animals, taking care of animals or killing animals before being allowed to work unsupervised. The Commission may decide to refer the case to the Court of Justice of the EU, if Poland fails to act within three months from receipt of the reasoned opinion.

Water: Commission urges BELGIUM to protect its waters from nitrate pollution

The Commission is urging **Belgium** to comply with the EU's Nitrates Directive ([Council Directive 91/676/EEC](#)). The Directive aims to protect Europe's (surface and ground) water against pollution from agricultural sources by requiring the authorities to take measures aimed at avoiding such pollution. A first letter of formal notice was sent in February 2014, addressing shortcomings of the nitrates action programme for the Walloon region in preventing water pollution (the PGDA 3). Despite indications of improving ground water quality and the adoption of new measures since the case was opened in 2013, a second letter of formal notice was sent in November 2019, addressing not only persistent shortcomings of the PGDA 3, but also the implementation of the derogation granted to the Flemish region, where quantities actually applied in many cases considerably exceeded the authorised maxima. Regarding the Walloon region, the reply received to the letter of formal notice referred to ongoing discussions about the modification of the PGDA 3 without addressing properly the shortcomings identified by the Commission (on closed periods, spreading manure on slopes, registration of quantity of fertilisers applied on the land, etc.), nor specifying what the exact timetable for the adoption of the revised PGDA would be. In reply to the letter of formal notice the Flemish authorities committed to review their legislation and to comply with the granted derogation. Although the legislative review seems to have been finalised very recently, the revised text has still to be notified formally to the Commission which will in turn assess whether the review has brought the Flemish legislation fully in line with the derogation. Therefore, the reasoned opinion adopted gives

Belgium three months to take the necessary measures to address the shortcomings identified. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

Nature: the Commission is calling on ROMANIA to combat illegal logging and better protect forests in its Natura 2000 sites

The Commission is urging Romania to properly implement the EU Timber Regulation ([Regulation \(EU\) 995/2010](#)), which forbids producing and placing on the EU market products made from illegally harvested logs. The national authorities have been unable to effectively check the operators and apply appropriate sanctions. Inconsistencies in the national legislation do not allow Romanian authorities to check large amounts of illegally harvested timber. In addition, the Commission has found that the Romanian authorities manage forests, including by authorising logging, without evaluating beforehand the impacts on protected habitats as required under the Habitats Directive and Strategic Environmental Assessment Directives. Furthermore, there are shortcomings in the access of the public to environmental information in the forest management plans. The Commission has also found that protected forest habitats have been lost within protected Natura 2000 sites in breach of the Habitats and Birds Directives. Having thoroughly analysed the arguments put forward by Romania following a letter of formal notice sent in February 2020, the Commission has concluded that the problems on the ground have not been addressed. Therefore, the Commission is now issuing a reasoned opinion. If Romania does not act within one month, the Commission may refer the case to the Court of Justice of the European Union.

Nature: the Commission asks BULGARIA to take the necessary steps to protect and manage its Natura 2000 networks

The Commission is urging **Bulgaria** to respect its obligations under the Habitats Directive ([Council Directive 92/43/EEC](#)) for the conservation of natural habitats and protected species included in the Natura 2000 network. Member States have to designate the EU-listed Sites of Community importance as Special Areas of Conservation. They also have to establish the necessary conservation measures to maintain or restore the protected species and habitats to a favourable status. These steps need to be carried out within six years from the inclusion of these sites in the EU biogeographical lists as Sites of Community importance. These are key requirements to protect biodiversity across the EU. Bulgaria has designated only 22 out of 229 Sites of Community Importance as Special Areas of Conservation for which the six-year deadline expired, and has generally and persistently failed to set site-specific detailed conservation objectives and measures for all of them. The Commission is, therefore, sending a reasoned opinion to Bulgaria following a letter of formal notice in January 2019. Bulgaria has now three months to take the measures correcting the situation. Otherwise, the Commission may decide to refer Bulgaria to the Court of Justice of the EU.

Nature protection: the Commission calls on FRANCE to stop illegal hunting and review capture methods for birds

The Commission urges **France** to act on certain hunting and capture practices of birds. [Directive 2009/147/EC](#) (the Birds Directive) aims to protect all the wild bird species naturally occurring in the European Union. Europe is home to more than 500 wild bird species but at least 32% of the EU's bird species are currently not in a good conservation status and in France, among the 64 species that can be hunted, only 20 are in good conservation status. France has authorised several methods for the capture of birds, such as glue for thrushes, nets and traps for skylark and pigeons, which are not selective and are forbidden by the Directive. Member States may derogate from certain provisions of the Directive but only under strict conditions that are not fulfilled in this case, especially because most of the species captured are not in a good conservation status. The Commission is also concerned about the widespread tolerance and authorisation of hunting of Greylag goose (*Anser anser*) after the beginning of migration to the breeding grounds, a practice which is also prohibited by the Birds Directive. Following a letter of formal notice in July 2019, France has not taken the necessary measures to bring these hunting and capture practices in conformity with EU law. The Commission is therefore issuing a reasoned opinion. France has now three months to address the Commission's concerns. Otherwise, the Commission may decide to bring the case before the Court of Justice of the EU.

Air Quality: the Commission calls on ROMANIA to fully implement EU rules on industrial installations permits

The Commission is asking **Romania** to improve its implementation of EU rules on permits for industrial

installations. Romania allows industrial installations to operate without the necessary permits setting operating conditions in accordance with EU legislation. Industrial activities have a significant impact on their environment. [Directive 2010/75/EC on Industrial Emissions](#) aims to prevent and reduce harmful industrial emissions across the EU while promoting the use of techniques that reduce pollutant emissions and that are energy and resource efficient. While some progress has been made since the Commission sent a letter of formal notice, three installations are still operating without respecting the requirements of the Directive. In addition, two large combustion plants that were initially part of the Romanian transitional national plan but have since been withdrawn, are failing to respect the applicable emission limit values for sulphur dioxide, nitrogen oxide and dust. Therefore, the Commission is now sending a reasoned opinion. Romania has three months to adopt and communicate all the necessary measures to ensure full and correct application of the Directive, failing which the Commission may refer the case to the Court of Justice of the EU.

Air quality: the Commission calls on SWEDEN to correct its domestic rules on air quality monitoring

The Commission is calling on **Sweden** to bring its national legislation into line with the Directive on ambient air quality ([2008/50/EC](#)), in particular with the rules on the location of sampling points for the assessment of ambient air quality. A letter of formal notice was issued in January 2019 and the Commission now considers that, despite having amended a number of national provisions, Sweden still fails to put into place a system which allows verifying air quality in line with the requirements of the Directive. Sweden has not put in place requirements in relation to the description of the sites selected for monitoring of air quality, and for the procedure to choose the monitoring sites and to review it, in case the network of sites needs to be changed. Therefore, the Commission has decided today to send a reasoned opinion to Sweden, giving it three months to comply. Otherwise, the Commission may decide to take Sweden to the Court of Justice of the EU.

Environmental Impact Assessment: the Commission is calling on IRELAND to carry out environmental impact assessments for peat extraction.

The Commission is asking **Ireland** to respect its obligations under EU rules on environmental impact assessment (EIA). Under the EIA Directive ([2011/92/EU](#)), Member States are required to carry out an assessment of the environmental impacts of projects likely to have a significant negative impact on the environment. This includes peat extraction projects. Ireland has had numerous problems with the transposition and application of the EIA Directive for this category of projects over the years. The Court found in case C-392/96, *Commission v. Ireland*, that Ireland had failed to correctly transpose the original EIA Directive 85/337/EEC with regard to peat extraction activities. Whilst the legislation was amended and the case closed, the Commission subsequently received complaints that it was still not being applied to peat extraction activities in practice. Given the significant peat extraction that has continued in Ireland since the EIA Directive was required to have been transposed and applied in 1988, the Commission raised these concerns in a letter of formal notice. As Ireland has failed to answer these claims, the Commission is now issuing a reasoned opinion. Ireland has three months to bring itself into compliance, otherwise the Commission may decide to refer the matter to the Court of Justice of the EU.

Water: The Commission is calling on SPAIN to protect its waters from nitrate pollution

The Commission is calling on **Spain** to comply with the Nitrates Directive ([Council Directive 91/676/EEC](#)). The Directive aims to protect Europe's surface and ground water against pollution from agricultural sources by requiring the authorities to take measures to avoid such pollution. The Commission addressed a letter of formal notice to Spain in November 2018. Despite some progress, Spain must still ensure the stability of the Nitrate monitoring network, review and further designate Nitrate Vulnerable Zones (NVZs) in several regions, include all the necessary mandatory elements in the Nitrate Action Programmes in a number of regions, and take additional measures or reinforced actions to achieve the objectives of the Directive in several regions. Finally, Spain also needs to take additional measures as regards eutrophication for the whole country, since the measures established to date have failed to achieve the objectives of the Directive. Therefore, the Commission has issued a reasoned opinion, giving Spain three months to take the necessary measures to address the shortcomings identified. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

Marine environment: Commission asks UNITED KINGDOM to fully meet its reporting

obligations

The Commission is asking the **United Kingdom** to fully meet its reporting obligations under the Marine Strategy Framework Directive (MSFD, [Directive 2008/56/EC](#)). The aim of the Directive is to protect more effectively the marine environment across Europe, which is also the resource base upon which marine-related economic and social activities depend. Member States should achieve good environmental status of EU's marine waters by 2020, and report to the Commission by 15 October 2018, their updates of the initial assessment, of the determination of good environmental status (GES) and of the environmental targets. The Marine Strategy Framework Directive is the first EU legislative instrument related to the protection of all aspects of marine biodiversity (species, habitats and ecosystems). In order to achieve good environmental status, each Member State is required to develop a strategy for its marine waters (or Marine Strategy). In addition, the Marine Strategies must be kept up-to-date and reviewed every 6 years. Although the United Kingdom submitted an updated report to the Commission in October 2019, it appears to be incomplete as it does not cover the waters of Gibraltar. Therefore, the Commission has issued a reasoned opinion and the UK will have three months to complete its report. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

Maritime Affairs and Fisheries: Commission sends reasoned opinion to IRELAND over compliance with point system rules

The Commission decided today to send a reasoned opinion to Ireland over its failure to fulfil its obligations under [Council Regulation \(EC\) No 1224/2009](#) (also "Control Regulation") establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (CFP). Specifically, Ireland has failed to comply with European Union rules on establishing a point system for fisheries-related serious infringements committed by masters and licence holders of vessels flying the flag of Ireland. The Commission considers that Ireland has not established a system that assigns an appropriate number of points to masters of fishing vessels who commit serious violations of the common fisheries policy rules. It has also failed to put into operation the current national legislation implementing the point system for licence holders. Therefore, the Commission has issued a reasoned opinion to Ireland which now has three months to address the failures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

Referrals to the Court of Justice of the European Union

Nature: Commission decides to refer SLOVAKIA to the Court of Justice of the EU over failure to assess the impact of sanitary logging on Natura 2000 sites and failure to take measures for the protection of a bird species

The European Commission has decided to refer **Slovakia** to the Court of Justice of the EU for failing to correctly transpose or implement several articles of the [Habitats](#) and [Birds Directives](#) as far as the Capercaillie (*Tetrao urogallus*), a large forest bird, is concerned. Article 6(3) of the Habitats Directive requires that plans and projects not directly connected with or necessary to the management of a Natura 2000 site but likely to have a significant impact thereon, undergo an appropriate assessment of their effects on the site before their implementation. Slovak forests in Natura 2000 sites are facing high levels of logging, especially sanitary logging in reaction to forest disturbances such as bark beetle infestations or storm damage. However, Slovak legislation has not correctly transposed Art. 6 (3) and still does not ensure that sanitary logging activities, which might have a significant impact on Natura 2000 sites, undergo these assessments. The case also addresses the bad application of Article 6 (2) of the Habitats Directive concerning the need to avoid habitat deterioration and disturbance of a protected species. Slovakia has not taken appropriate steps to decrease logging and avoid the deterioration of the Capercaillie's habitat. As a result its population has decreased by half within the 12 Special Protection Areas (SPA) classified for its protection since Slovakia joined the EU in 2004. In addition, Slovakia has not yet adopted special conservation measures for seven of these areas, as required by Article 4 of the Birds Directive. Today's decision follows a [reasoned opinion](#) sent to the Slovak authorities in January 2019. The Commission is concerned that even after the amendments of the Slovak nature and forest legislation the Habitats Directive is still transposed incorrectly. The Commission has therefore decided to refer Slovakia to the Court of Justice of the EU. More information is available in the [press release](#).

Marine environment: Commission decides to refer BULGARIA to the Court of Justice of the EU over late reporting under the Marine Strategy Framework Directive

The Commission has asked **Bulgaria** to comply with their reporting obligation under the [Marine](#)

[Strategy Framework Directive](#) (MSFD, Directive 2008/56/EC). The aim of the Directive is to protect more effectively the marine environment across Europe. The Directive obliges the Member States to report to the Commission by 15 October 2018, their updates of the initial assessment, of the determination of good environmental status (GES) and of the environmental targets. The aim of the Marine Strategy Framework Directive is to achieve good environmental status of the EU's marine waters by 2020 and to protect the resource base upon which marine-related economic and social activities depend. It is the first EU legislative instrument related to the protection of all aspects of marine biodiversity (species, habitats, ecosystems), as it contains the explicit regulatory objective that "biological diversity is maintained", as the cornerstone for achieving a good environmental status (GES). The Commission has asked Bulgaria to ensure compliance with the reporting obligation under the [Marine Strategy Framework Directive](#) on several occasions: by sending a letter of formal notice to the Bulgarian authorities in March 2019 and a reasoned opinion in October 2019. Given that the non-compliance persists, the Commission has decided to refer the case to the Court of Justice of the EU. More information is available in the [press release](#).

Noise: Commission decides to refer PORTUGAL and SLOVAKIA to the Court of Justice of the EU for their failure to map noise and draw up noise action plans

The European Commission is calling on **Portugal** and **Slovakia** to comply with the key provisions of [Directive 2002/49/EC](#) on the assessment and management of environmental noise. EU rules on noise require Member States to adopt maps identifying the places with harmful noise within major agglomerations, or around major railway lines, roads and airports. Citizens and authorities shall use these maps to define measures in an action plan to reduce noise which is harmful for health or to prevent it from becoming harmful. Portugal still has not made the strategic noise maps for 5 major roads (out of more than 500 such roads). It has also not yet drawn up the required noise action plans for two agglomerations (out of 6 in total), for 236 major roads (out of 555) and for none of the 55 major railways. Slovakia has failed to draw up the action plans for 445 major road segments (out of 622) and for all 16 major railway segments. Deadlines for mapping noise exposure ended in 2012 and for drawing up noise action plans in 2013. After these, the maps and plans must be revised every five years. Although the Portuguese and Slovak authorities have taken some actions to remedy the situation, the progress is slow. As it is unclear when full compliance can be expected in Portugal and Slovakia, the Commission has decided to refer both cases to the Court of Justice of the EU. More information is available in the [press release](#).

Nature: Commission decides to refer IRELAND to the Court of Justice of the EU over failure to take appropriate conservation measures

The Commission has decided to refer **Ireland** to the Court of Justice of the EU over its failure to designate Special Areas of Conservation, more than five years after the deadline expired. Under the [Habitats Directive](#) (Directive 92/43/EEC), Member States must designate Special Areas of Conservation (SAC), with specific conservation objectives and corresponding conservation measures to maintain or restore a favourable conservation status of the species and habitats present. These steps need to be carried out within six years from the inclusion of these sites in the EU list as Sites of Community Importance (SCI). In the case of Ireland, 154 SCIs (out of 423) have not yet been designated as SACs in the Atlantic biogeographical region, although the relevant deadline expired in December 2014. Site-specific conservation objectives have not been established for 87 sites, and the necessary conservation measures have not been established at any of the 423 sites. As the Irish authorities did not sufficiently address these concerns following a reasoned opinion, the Commission has decided to refer Ireland to the Court of Justice of the EU. More information is available in the [press release](#).

7. Public health

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Letters of formal notice

Food safety: Commission urges BULGARIA to correctly apply EU rules on the marketing of natural mineral water and spring water

Today, the European Commission decided to send a letter of formal notice to **Bulgaria** for failing to comply with EU rules on marketing requirements for natural mineral and spring waters in [Directive 2009/54/EC](#) on natural mineral waters. The Bulgarian legislation does not prohibit the marketing of natural mineral and spring waters under more than one trade description which originate from one and

the same spring as required by Directive 2009/54. Moreover, contrary to that Directive, the Bulgarian legislation does not require the indication of the name of the spring to be placed on the labels of those foodstuffs. Directive 2009/54 was adopted to eliminate differences between Member States' laws governing the natural mineral and spring waters to protect the health of consumers, to prevent consumers from being misled and to ensure fair-trading. Bulgaria now has three months to take the necessary measures to comply with the letter of formal notice, otherwise the Commission may, if appropriate, issue a reasoned opinion.

Food safety: Commission urges ROMANIA to correctly apply EU rules on hygiene rules for food

Today, the European Commission decided to send a letter of formal notice to **Romania** regarding the exclusion of certain supplies of products of animal origin from the scope of [Regulation \(EC\) No 853/2004](#) on hygiene rules of food of animal origin, which are accordingly governed by national law, without complying with the conditions for exclusion from the scope of the EU Regulation. The letter of formal notice also concerns the failure by Romania to comply with certain provisions of the General Food Law Regulation (EC) 178/2002 and of Regulation (EC) No 852/2004 on the hygiene of foodstuffs. Furthermore, the Romanian food hygiene rules apply to goods which are the subject of free movement in the internal market, their observance is compulsory and compliance with them confers a presumption of conformity with the obligations imposed by EU law. The national food hygiene rules should have therefore been notified at the draft stage under [Directive 2015/1535 on technical regulations](#) to allow the Commission to assess their compatibility with EU law. The failure to notify these rules constitutes a breach of the notification obligations set out in Article 5(1) of Directive 2015/1535. Romania now has three months to take the necessary measures to comply with the letter of formal notice, otherwise the Commission may, if appropriate, issue a reasoned opinion.

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Additional letter of formal notice

Food safety: Commission urges CZECHIA to correctly apply EU rules on the performance of official controls

Today, the European Commission decided to send a supplementary letter of formal notice to **Czechia** for failing to comply with EU rules on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (Regulation [Regulation \(EU\) 2017/625](#)). The Czech authorities have decided to carry out a systematic risk assessment and subsequent potential official controls targeting certain foodstuffs coming from another Member State each time such foodstuffs enter Czechia. On that basis, the Czech authorities have established in national legislation the obligation for operators to systematically notify, at least 24 hours in advance, the arrival of such foodstuffs to the place of destination. This is incompatible with the harmonised framework established by EU rules. The Commission considers that the obligation to report the arrival of goods from another Member State must not be systematic. On the contrary, the reporting of the arrival of such goods may be requested by the competent authority only on a risk basis and to the extent strictly necessary for the organisation of the official controls. A letter of formal notice and reasoned opinion were sent by the Commission to Czechia in January and July 2019, respectively, for breaching Article 3(6) of Regulation (EC) No 882/2004. Since Regulation (EC) No 882/2004 was repealed and replaced by Regulation (EU) 2017/625 as of 14 December 2019 and the provisions of Article 3(6) of Regulation (EC) No 882/2004 were maintained in Article 9(7) of Regulation (EU) 2017/625 and Czechia is found to continuously breach those provisions, a supplementary letter of formal notice was sent by the Commission. Czechia has now three months to take the necessary measures to comply with the supplementary letter of formal notice, otherwise the Commission may, if appropriate, issue a reasoned opinion.

8. Digital economy

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Letter of formal notice

The Commission calls on POLAND to comply with EU rules on electronic communications networks and services

The Commission decided today to send a letter of formal notice to **Poland** on the grounds of implementing legal provisions that could affect the independence of the Polish National Regulatory

Authority, the Office of Electronic Communications, which have resulted with an early dismissal of its President. The independence of national regulatory authorities is a key principle of the EU legal framework for electronic communications (Directive [Directive 2002/21/EC](#)). Heads and Members of collegiate bodies of such authorities may only be dismissed if they no longer fulfil the conditions required for the performance of their duties. Any attempt to limit their independence would represent a breach of existing EU rules. The Commission had raised concerns that shortening the overall length of an ongoing mandate or amending the appointment or dismissal conditions with the view to early termination is likely to affect these principles. Poland has three months to reply to the arguments raised by the Commission, otherwise the Commission may send a reasoned opinion.

9. Energy and climate

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Reasoned opinions

Internal energy market: Commission calls on CZECHIA and CROATIA to comply with the EU Third Energy Package

The Commission decided to send a reasoned opinion to **Czechia** and two reasoned opinions to **Croatia** (related to different cases), requesting the correct implementation of the Electricity Directive ([Directive 2009/72/EC](#)) and of the Gas Directive ([Directive 2009/73/EC](#)). The directives are part of the Third Energy Package and contain key provisions for the proper functioning of energy markets. **Czechia** did not correctly transpose certain rules concerning transmission system operators (TSOs) and regarding the powers and independence of the national regulatory authorities. In particular, the national rules are not aligned with the provisions of the Directives concerning the term and conditions for dismissal of the national regulatory authority board, the out-of-court dispute settlement of complaints against a transmission or distribution system operator and the right to complain and to request judicial review as regards certain regulatory authority decisions. The Commission opened an infringement case by sending a letter of formal notice to the Czech authorities in December 2017. In the first Croatian case, the Commission sent a letter of formal notice in July 2017 for failure to correctly transpose a number of provisions of the Third Energy Package and for not ensuring that the transmission system operator (TSO) for the country's gas network received the certification correctly unbundled from production and supply activities, as required by the Gas Directive. In 2018, Croatia adopted a new Gas Market Act and significant amendments to the Electricity Market Act, resolving most of the issues raised. However, the Croatian national regulatory authority has still not concluded the procedure of certification of the gas TSO. In the other case, Croatia had failed to open its gas market for competition, imposed restrictions on import and export of gas and maintained price caps on gas wholesale prices, in violation of the Gas Directive and EU Treaty rules on the free movement of goods. After a letter of formal notice was sent in 2015 and a reasoned opinion was issued in 2016, the new Gas Market Act adopted by Croatia in 2018 addressed most of the issues raised by the Commission. However, it maintains regulated prices on the wholesale market for a transitional period until March 2021. The Commission is of the view that such wholesale price regulation, even if limited in time, still does not comply with EU law. Given these important concerns, the Commission has decided today to issue reasoned opinions. Both countries have three months to reply to the arguments put forward by the Commission. Otherwise, the Commission may decide to refer these cases to the Court of Justice of the EU.

Sustainable biofuels: Commission requests CROATIA to transpose the EU rules on indirect land use change

Today, the Commission decided to send a reasoned opinion to **Croatia** for failure to fully transpose the EU rules reinforcing the sustainability of biofuels ([Directive \(EU\) 2015/1513](#)), in particular with respect to the contribution of biofuels to the renewable energy targets. This Directive aims to reduce the risk of indirect land use change linked to biofuel production. Indirect land use change occurs when agricultural land used for growing crops for food or feed purposes starts to be utilised for growing crops for biofuel production instead. As a result, the pressure to use other (unused) land to grow crops for food and feed purposes increases, with implications for greenhouse gas emissions. The Directive also prepares the transition towards advanced biofuels produced from materials such as waste and residues. In September 2015, Member States agreed to transpose EU legislation and communicate national implementing measures to the Commission by 10 September 2017. Croatia now has three months to reply to the concerns raised by the Commission. Otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

Energy efficiency: Commission urges BELGIUM, CROATIA, CZECHIA, LITHUANIA and POLAND to comply with EU rules for energy efficiency

Today the Commission decided to send reasoned opinions to **Croatia, Czechia, Lithuania and Poland** and an additional letter of formal notice to **Belgium**, requesting the correct transposition of EU energy efficiency rules ([Directive 2012/27/EU](#)) into national law and their proper implementation. This Directive establishes a common framework of measures for the promotion of energy efficiency within the EU in order to ensure the achievement of the Union's energy efficiency targets and pave the way for further improvements in this area. The Directive also aims to help remove barriers and overcome market failures that impede efficiency in the supply and use of energy. Shortcomings have been identified concerning energy audits, energy savings calculation rules and metering, and billing provisions. The Member States concerned have three months to reply to the arguments put forward by the Commission. Otherwise, the Commission may decide to refer the cases to the Court of Justice of the EU.

Energy performance of buildings: Commission calls on MALTA to comply with its obligations under the EU legislation on energy-efficient buildings

The Commission has today decided to send a reasoned opinion to **Malta** for failure to report on cost-optimal levels of minimum energy performance requirements, as required under the Energy Performance of Buildings Directive ([Directive 2010/31/EU](#)). In May 2010, Member States agreed to set minimum energy performance requirements for buildings, with a view to achieve the best combination between investments and savings, also known as 'cost-optimal levels'. Calculating these levels is key for Member States to fully exploit the energy efficiency and renewable energy potential of the national buildings stock and to avoid citizens spending more money than necessary on efficiency improvements to their housing and offices. Malta now has three months to comply with its legal obligations. Otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

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Letters of formal notice

Basic safety standards: Commission calls on BULGARIA, LATVIA and FINLAND to transpose EU radiation protection legislation

The Commission has decided to send letters of formal notice to **Bulgaria** and **Latvia** and a reasoned opinion to **Finland** requesting the complete transposition of the revised Basic Safety Standards Directive ([Council Directive 2013/59/Euratom](#)) into their national legislation. Member States were required to transpose the Directive by 6 February 2018, but the Commission considers that the abovementioned countries have failed to do so in a complete manner. The Directive, which modernises and consolidates EU radiation protection legislation, lays down basic safety standards to protect members of the public, workers and patients against the dangers arising from exposure to ionising radiation. It also includes emergency preparedness and response provisions that were strengthened following the Fukushima nuclear accident. The Member States concerned have three months to reply to the arguments raised by the Commission. Otherwise, the Commission may decide to send reasoned opinions to Bulgaria and Latvia and to refer Finland to the Court of Justice of the EU.

Radioactive waste: Commission calls on SIX Member States to adopt a national programme for radioactive waste management compliant with EU rules and calls on ROMANIA to enact correctly EU law in this field

Today, the Commission has decided to send reasoned opinions to **Bulgaria, Denmark, Greece, Lithuania, Poland and Romania** for failing to adopt a national programme for radioactive waste management compliant with the requirements of the Spent Fuel and Radioactive Waste Directive ([Council Directive 2011/70/Euratom](#)), and has also sent another reasoned opinion to Romania for failing to transpose correctly certain requirements of the same Directive. Radioactive waste is generated from the production of electricity in nuclear power plants or from the non-power-related use of radioactive materials for medical, research, industrial and agricultural purposes. This means that all Member States generate radioactive waste. The Directive establishes a Community framework for ensuring the responsible and safe management of spent fuel and radioactive waste to ensure a high level of safety and avoid imposing undue burdens on future generations. In particular, it requires Member States to draw up and implement national programmes for the management of all spent fuel and radioactive waste generated on their territory, from generation to disposal. The aim is to protect workers and the general public from the dangers arising from ionising radiation. Member States were required to transpose the Directive by 23 August 2013 and to notify their national programmes for the

first time to the Commission by 23 August 2015. The Member States concerned have three months to act. Otherwise, the Commission may decide to refer these cases to the Court of Justice of the EU.

10. Economic and financial affairs

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Letters of formal notice

Euro counterfeiting: Commission calls on FIVE Member States to correctly apply EU rules on protecting currencies against counterfeiting

The Commission has decided to send letters of formal notice to **Croatia, Luxembourg, Malta, Slovakia** and **Slovenia** for incorrectly applying EU rules relating to the protection of the euro and other currencies against counterfeiting. These rules, laid down in [Directive 2014/62/EU](#), are essential for reinforcing the EU framework for fighting against counterfeit notes and coins. Luxembourg has not correctly transposed the Directive's provision related to the establishment of jurisdiction for certain cases. This means that the national transposing legislation has not been sufficiently clear in criminalising certain offences under the Directive. Croatia has not correctly transposed the Directive's provisions related to the criminalisation of the use of legal means or facilities for manufacturing counterfeit currency, and cases of banknotes and coins that are not yet issued but are designated for circulation as legal tender. This means that the national transposing legislation has not been sufficiently clear in criminalising the use of facilities or materials contrary to the rights or the conditions under which the competent authorities may use them to issue notes or coins. Malta and Slovakia have not correctly transposed the Directive's provisions related to the establishment of jurisdiction for certain cases. They have also not correctly transposed the Directive's provisions related to the obligation of national authorities to transmit counterfeit euro notes and coins for analysis by the National Analysis Centre during criminal proceedings. The Directive provides that the transmission of samples should be obligatory at the latest at the time of the final national Court decision in order to help detect and identify further counterfeit notes and coins. Slovenia has, amongst others, not correctly transposed the Directive's provisions related to the criminalisation of the import, export, transport or receiving of counterfeit money. It also does not provide that effective investigative tools, such as those used in organised crime or other serious crime cases, are available for the investigation and prosecution of certain offences provided for under the Directive. These Member States now have three months to reply to the letter of formal notice. In the absence of a satisfactory response, the Commission may decide to send a reasoned opinion.

11. Taxation and Customs Union

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Letter of formal notice

Taxation: Commission requests BELGIUM to correctly transpose the Anti-Tax Avoidance Directive (ATAD)

The Commission has today sent a letter of formal notice to **Belgium** requesting it to correctly transpose EU measures against tax avoidance practices (the Anti-Tax Avoidance Directive [Council Directive \(EU\) 2016/1164](#) or ATAD). Its correct transposition should reflect the following three elements: first, Belgium made use of the possibility to exempt from the interest limitation rules in ATAD borrowing costs incurred on loans used to fund long-term public infrastructure projects. However, the definition of these infrastructure projects in Belgian law does not correspond to the definition in ATAD. Second, Belgium excludes from the interest limitation rules certain types of entities, which do not qualify as “financial undertakings” under ATAD. Finally, contrary to ATAD, Belgian law does not eliminate double taxation arising from the application of controlled foreign company (CFC) rules and does not allow a taxpayer to deduct from its tax liability the tax paid by a controlled foreign company in the state of tax residence. If Belgium does not act within the next three months, the Commission may send a reasoned opinion to the Belgian authorities.

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