

## Newsletter Issue 2/2026

### Upholding the law

#### Infringement procedures update as of March 30<sup>th</sup>

The European Union is constitutionally designed as a Union of Law. According to the Treaties (Treaty on European Union, Treaty on Functioning of the European Union), Member States are obliged to comply with EU legislation adopted by the legislator (European Parliament and Council), and the Commission has the right and the obligation to scrutinise such compliance and where appropriate take legal action.

In recent weeks, the European Commission initiated a series of infringement procedures concerning various water-related issues. These range from the correct transposition of the Drinking Water Directive to matters related to water permits and the implementation of the Waste Framework Directive. The following countries are involved:

Austria,  
Belgium,  
Czech Republic,  
Denmark,  
France,  
Germany,  
Greece,  
Italy,  
Latvia,  
Lithuania,  
Luxembourg,  
Poland,  
Portugal,  
Romania,  
Spain,  
And Sweden,

The Commission is also closing 72 cases where the issues with the Member States concerned have been solved. In these cases, the Commission does not have to pursue the infringement procedure further.

EWA NEWS provides you the key elements of the cases, an overview of the system of infringement procedures and links to environmental cases where the Court imposed financial sanctions.

**Press release from January 30<sup>th</sup>, 2026**

#### Letters of formal notice

#### **Commission calls on Denmark, Italy and Luxembourg to ensure compliance with the Water Framework Directive**

The European Commission decided to open infringement procedures by sending letters of formal notice to **Denmark** (INFR(2025)2209), **Italy** (INFR(2025)2207) and **Luxembourg** (INFR(2025)2216) for failing to correctly transpose the Water Framework Directive ([Directive 2000/60/EC](#)), including the obligation to carry out periodic reviews of water permits. Full implementation of EU water quality standards is key to protecting human health and the environment. The Directive requires Member

States to establish a programme of measures for each river basin district to ensure good status of European water bodies, such as rivers and lakes. Each programme must include measures to control different types of pressures affecting water bodies, such as water abstraction, point source discharges, and diffuse pollution sources. Member States are required to periodically review and update these control measures, including any permits granted, to determine whether they still achieve their objectives and, if necessary, update them. In Denmark, water abstraction permits are not reviewed, although their validity period can be up to 30 years long. This is not in line with the objectives of the Directive. Furthermore, Danish legislation exempts riverbank owners from the requirement to obtain a water abstraction permit for providing river water to their cattle. Finally, 215 water supply plants have no valid abstraction authorisations. In Italy, national legislation does not guarantee the registration of every water abstraction or impoundment permit, such as impounding water by building a dam. In addition, concessions are not subject to any periodic review although the validity periods can be 30 or 40 years. This is not in line with the objectives of the Directive. Luxembourg incorrectly transposed the obligation to periodically review water abstraction permits. In Luxembourg, permits for the abstraction of groundwater granted from 2015 onwards are valid for seven years. However, those that were granted before 2015 remain valid indefinitely and there is no obligation to review them periodically with a view to achieving the objectives of the Directive. There is also no periodic review of permits of unlimited duration for abstraction of surface water and discharge into such waters. The Commission is therefore sending letters of formal notice to Denmark, Italy and Luxembourg, which now have two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### **Commission calls on Spain and Romania to submit their implementation reports under the Habitats and Birds Directives**

The European Commission decided to open infringement procedures by sending letters of formal notice to **Spain** (INFR(2025)2214) and **Romania** (INFR(2025)2215) for failing to comply with their reporting obligations under the Habitats Directive ([Directive 92/43/EEC](#)) and Birds Directive ([Directive 2009/147/EC](#)). The Habitats and Birds Directives require Member States to submit implementation reports to the Commission every six years in an agreed format. The reports required provide an assessment of the conservation status of the habitats and species covered by the Habitats Directive, as well as the wild bird species, based on the status and trends of populations and habitats, as well as the main pressures and threats affecting them. The reports also include information on the conservation measures taken for them and the contribution of the Natura 2000 network to the conservation objectives laid out in the Directives. Spain did not submit the implementation report under the Habitats Directive, and Romania did not submit the report under the Birds Directive, for the 2019-2024 cycle. The deadline for this reporting cycle was 31 July 2025. The Commission is therefore sending letters of formal notice to Spain and Romania, which now have two months to respond and address the shortcoming raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### **Commission calls on Italy to update its national air pollution control programmes to reduce the emissions of certain atmospheric pollutants**

The European Commission decided to open an infringement procedure by sending a letter of formal notice to **Italy** (INFR(2025)2198) for failing to update its national air pollution control programme under the Directive on the reduction of national emissions of certain atmospheric pollutants (NEC Directive) ([Directive \(EU\) 2016/2284](#)). The NEC Directive sets national emission reduction commitments for several air pollutants to be achieved by each Member State each year between 2020 and 2029, with more ambitious reductions for 2030 onwards. It also requires Member States to adopt national air pollution control programmes (NAPCPs) setting out measures to meet those commitments. The NEC Directive requires Member States to update their NAPCPs at least every four years. These updates show the progress made by Member States in implementing the programme and

how they keep on track to meet their commitments. This contributes to reducing emissions of air pollutants, thus improving air quality. Despite several reminders, Italy has to date not submitted the required updated NAPCP to the Commission. The Commission is therefore sending a letter of formal notice to Italy, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### **Commission calls on Latvia to correctly transpose the Waste Framework Directive**

The European Commission decided to issue a letter of formal notice to **Latvia** (INFR(2025)2205) for failing to correctly transpose the Waste Framework Directive ([Directive 2008/98/EC](#) as amended by [Directive 2018/851/EU](#)), which aims to prevent or reduce the generation of waste. This is crucial for the EU's competitiveness and the transition to a circular economy. The amended Directive sets binding targets for recycling and preparing municipal waste for reuse. It also introduces requirements for Member States to improve their waste management systems and the efficiency of resource use. The deadline for Member States to transpose the amended Directive into their national legislation was 5 July 2020. Latvia has failed to correctly transpose requirements related to waste recovery, the ban on mixing of hazardous waste, the rules for bio-waste, the content of the waste management plans, and the extended producer responsibility scheme. The Commission is therefore sending a letter of formal notice to Latvia, which has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to send a reasoned opinion.

#### **Reasoned opinions**

##### **Commission calls on Czechia to comply with the Landfill Directive and improve its treatment of waste**

Today, the European Commission decided to send a reasoned opinion to **Czechia** (INFR(2022)2017) for failing to correctly apply the Landfill Directive ([Directive 1999/31/EC](#) as amended by [Directive \(EU\) 2018/850](#)) and the Waste Framework Directive ([Directive 2008/98/EC](#) as amended by [Directive \(EU\) 2018/851](#)). The Landfill Directive sets standards for landfills to prevent adverse effects on human health, water, soil and air. Under this Directive, Member States must take measures to ensure that only waste that has been subject to treatment is landfilled. Under the Waste Framework Directive, Member States must recover and dispose of waste in a manner that does not endanger human health and the environment. The Commission sent a letter of formal notice to Czechia in April 2022. However, the identified shortcomings have not yet been remedied. Firstly, Czechia has not transposed correctly the obligation to pre-treat waste before landfilling. Indeed, the Czech legislation allows waste to be landfilled if there is a separate collection system in place, while the Directive requires that only waste that has been subject to treatment is landfilled. Furthermore, recyclables and biodegradable waste reach landfill sites where the disposed waste is not treated with an adequate selection of different fractions of waste; also, the organic fraction of disposed waste is not stabilised before being landfilled. This concerns all 118 landfills of municipal waste currently in operation in Czechia. The Commission notes that excessive reliance on solutions to increase the capacity to treat mixed waste, such as mechanical and biological treatment (MBT) or incineration capacity, would be counterproductive. Czechia has not yet taken all the planned measures to support separate collection of municipal waste, such as increase of landfilling fees and an introduction of the 'pay as you throw' principle. The Commission has also identified several challenges and opportunities in the [2023 Early warning report](#). Therefore, the Commission decided to issue a reasoned opinion to Czechia, which now has two months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

##### **Commission calls on Belgium to take the necessary steps to protect and restore its Natura 2000 sites**

Today, the European Commission decided to send a reasoned opinion to **Belgium** (INFR(2015)2007) for failing to protect habitats and species of EU interest. Under the Habitats Directive ([Directive 92/43/EEC](#)) and Birds Directive ([Directive 2009/147/EC](#)), Member States agreed, as a key requirement under those Directives, to develop a coherent Natura 2000 network by proposing adequate sites of Community importance to the Commission. After a site has been endorsed by the Commission, the Member State has six years to designate it as a special area of conservation (SAC) and to establish the necessary conservation objectives and measures, which should contribute to maintaining or restoring the protected species and habitats to a favourable conservation status. On 27 March 2015, the Commission sent a letter of formal notice to Belgium for failing to designate several sites as SAC in the Brussels capital and Walloon regions, as well as two marine sites under federal responsibility. The Commission also found that Belgium failed to set site-specific conservation objectives for those sites. Since then, Belgium has made significant progress by designating all sites as SAC, setting general conservation objectives and adopting some of the required measures. However, while the Walloon region has set conservation objectives and measures aimed at preventing deterioration, it has not so far set any site-specific objectives and measures aimed at restoring species and habitats. As regards the two Belgian marine SACs (Vlaamse Banken and Vlakte van de Raan), conservation measures concerning fishing activities, notably bottom trawling, are still not adopted. Therefore, the Commission decided to issue a reasoned opinion to Belgium, which now has two months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union

### Referrals to the Court of Justice

#### **Commission decides to refer Romania to the Court of Justice of the European Union over failure to close and rehabilitate landfills**

Today, the European Commission decided to refer **Romania** (INFR(2020)2276) to the Court of Justice of the European Union for failing to comply with its obligations on the landfill of waste under the Treaty of Accession for Romania and the Landfill Directive ([Directive 1999/31/EC](#) as amended by [Directive \(EU\) 2018/850](#)). The transitional derogation granted under the Accession Treaty allowed certain landfills to operate until 16 July 2017, after which all non-compliant landfills were to be closed and rehabilitated. Romania has reported that 92 landfills have been closed and rehabilitated, but 15 sites are still operating, without clear rehabilitation plans. This is why the Commission sent a letter of formal notice to Romania in October 2020 and a reasoned opinion in February 2024. Despite some progress, the Romanian authorities have not fully addressed the concerns, as 9 sites are still not rehabilitated. The Commission considers that efforts by the Romanian authorities have, to date, been insufficient and is therefore referring Romania to the Court of Justice of the European Union. More information is in the [press release](#).

#### **Letter of formal notice post-judgment (Article 260 TFEU)**

#### **Commission calls on Poland to implement the judgment of the Court of Justice of the EU and ensure access to justice as regards forest management plans**

The European Commission decided to send a letter of formal notice to **Poland** (INFR(2018)2208) for failing to comply with the judgment of the Court of Justice of the European Union of 2 March 2023 ([C-432/21](#)). The Court of Justice found that Poland failed to fulfil its obligation under the Habitats Directive ([Directive 92/43/EEC](#)), the [Charter of Fundamental Rights of the European Union](#) and the [Aarhus Convention](#). Poland did not ensure that environmental organisations can challenge before national courts the substantive and procedural shortcomings of forest management plans, which may impact Natura 2000 sites. Access to justice is crucial to ensuring that the public can have a say in environmental governance and environmental decision-making. Almost three years since the

judgment, Poland has still not complied with the ruling. There are no legal avenues for environmental NGOs to challenge forest management plans before national courts. The Commission is therefore sending a letter of formal notice to Poland, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to refer Poland to the Court of Justice with a request to impose financial sanctions.

**Press release from March 11<sup>th</sup>, 2026**

### Letters of formal notice

#### **Commission calls on Greece to update its national air pollution control programme**

The European Commission decided to open an infringement procedure by sending a letter of formal notice to Greece (INFR(2026)2006) for failing to update its national air pollution control programme under the Directive on the reduction of national emissions of certain atmospheric pollutants (NEC Directive) ([Directive \(EU\) 2016/2284](#)). The NEC Directive sets national emission reduction commitments for several air pollutants to be achieved by each Member State each year between 2020 and 2029, with more ambitious reduction commitments from 2030 onwards. It also requires Member States to adopt national air pollution control programmes (NAPCPs) setting out measures to meet those commitments. The NEC Directive requires Member States to update their NAPCPs at least every four years. These updates show the progress made by Member States in implementing the programme and how they keep on track to meet their commitments. This contributes to reducing emissions of air pollutants, thus improving air quality. Despite several reminders, Greece has to date not submitted the required updated NAPCP to the Commission. The Commission is therefore sending a letter of formal notice to Greece, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### **Commission calls on France to ensure compliance with the Water Framework Directive**

The European Commission decided to open an infringement procedure by sending a letter of formal notice to **France** (INFR(2026)2201) for failing to correctly transpose the Water Framework Directive ([Directive 2000/60/EC](#)). As underlined in the [Water Resilience Strategy](#), full implementation of EU water quality requirements is key to protecting human health and the environment, and strengthening the EU's competitiveness and resilience. The Directive aims to ensure that water bodies which are heavily modified, for instance, due to hydropower plants, reach a 'good ecological potential' by 2015, or, in case of a derogation, by 2021 or 2027. To achieve this, the Directive requires Member States to define the ecological quality of such rivers and, consequently, determine what measures, if any, need to be undertaken to achieve better quality within the deadlines. These assessments are crucial to ensure the EU's water resilience. However, French law does not transpose all quality factors laid down in the Directive. In particular, French law does not take account of fish populations and river continuity (for instance, solutions to allow migratory fish to overcome dams) when assessing the quality of such rivers. Consequently, French law does not ensure that the quality of such rivers is correctly assessed. The Commission is therefore sending a letter of formal notice to France, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

#### **Commission calls on Lithuania to correctly transpose the Waste Framework Directive**

The European Commission decided to open an infringement procedure by sending a letter of formal notice to **Lithuania** (INFR(2026)2004) for failing to correctly transpose the Waste Framework Directive ([Directive 2008/98/EC](#) as amended by [Directive 2018/851/EU](#)), which aims to prevent or reduce the generation of waste. The amended Directive sets binding targets for recycling and preparing municipal waste for reuse. It also introduces requirements for Member States to improve their waste management systems and the efficiency of resource use. These requirements are crucial for the EU's

competitiveness and the transition to a circular economy. The deadline for Member States to transpose the amended Directive into their national legislation was 5 July 2020. Lithuania failed to correctly transpose several provisions of the amended Directive. This concerns, among others, some requirements linked to the prevention of waste, rules on the calculation of the attainment of the targets, requirements for waste-oils and bio-waste, content of the waste management plans, and the extended producer responsibility scheme. The Commission is therefore sending a letter of formal notice to Lithuania, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

### **Commission calls on Romania to correctly transpose the Seveso III Directive**

The European Commission decided to open an infringement procedure by sending a letter of formal notice to **Romania** (INFR(2026)2003) for failing to correctly transpose the Seveso III Directive ([Directive 2012/18/EU](#)). The Directive applies to more than 12,000 industrial installations in the European Union, such as chemical and petrochemical industry, as well as fuel wholesale and storage sectors. It aims to prevent major accidents (for instance major emission, fire, or explosion) involving dangerous substances, especially chemicals, and to limit their negative impact on human health and the environment. The Commission identified shortcomings in Romania's national rules transposing the Directive. First, while the Directive obliges companies to reassess risks whenever changes could affect accident hazards, Romanian law does not cover situations where the physical form of a dangerous substance changes – even though such a change can significantly alter the risk profile of an installation. Second, the rules on public participation are not correctly transposed into Romanian law, omitting the reference to siting decisions, thus restricting the public's ability to participate in land-use planning processes in areas near installations where dangerous substances are present. Finally, Romanian rules do not provide specific timeframes for informing and consulting the public, while the Directive requires reasonable and effective consultation periods. The Commission is therefore sending a letter of formal notice to Romania, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

### **Commission calls on Portugal and Romania to submit their six-year report under the Invasive Alien Species Regulation**

The European Commission decided to open infringement procedures by sending a letter of formal notice to **Portugal** (INFR(2026)2001) and **Romania** (INFR(2026)2002) for failing to transmit their respective reports due by 1 June 2025 under the Invasive Alien Species Regulation (IAS) ([Regulation \(EU\) 1143/2014](#)). The IAS Regulation establishes EU-wide measures aiming to prevent, minimise and mitigate the adverse impacts of invasive alien species on biodiversity and ecosystem services, as well as related impacts on human health and the economy. Member States must update and transmit to the Commission every six years information on the national surveillance and official control systems, the distribution of invasive alien species of Union concern, action plans addressing priority pathways, and aggregated information on eradication and management measures, among other elements. These reports give a clear picture of the implementation and potential challenges of the Regulation and contribute to the objectives related to the protection of environment, health and economy. Portugal and Romania have, to date, not transmitted the required report. The Commission is therefore sending letters of formal notice to Portugal and Romania, which now have two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

### **Commission calls on Sweden to comply with its obligations under the Ambient Air Quality Directive**

The European Commission decided to open an infringement procedure by sending a letter of formal notice to **Sweden** (INFR(2025)2206) for failing to comply with its obligations under the Ambient Air

Quality Directive ([Directive 2008/50/EC](#)). The Ambient Air Quality Directive sets limit values for several air pollutants to be complied with by Member States, including for particulate matter (PM<sub>10</sub>). PM<sub>10</sub> can cause significant negative health effects, in particular on the respiratory and cardiovascular system. In line with the EU's zero pollution ambition and in situations where concentrations of PM<sub>10</sub> in the air exceed these limit values, the Directive requires Member States to adopt air quality plans to achieve compliance as soon as possible. In the air quality zone 'North Sweden' (zone SW1), the limit values for PM<sub>10</sub> have been exceeded for seven years, in particular in Östersund. The air quality plans adopted in several cities in the North Sweden region do not contain sufficient measures to end the PM<sub>10</sub> exceedances in North Sweden. The Commission is therefore sending a letter of formal notice to Sweden, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

### **Commission calls on Germany to correctly transpose the Drinking Water Directive**

The European Commission decided to open an infringement procedure by sending a letter of formal notice to **Germany** (INFR(2025)2210) for failing to correctly transpose the Drinking Water Directive ([Directive \(EU\) 2020/2184](#)). As underlined in the [Water Resilience Strategy](#), full implementation of EU water quality requirements is key to protecting human health and the environment. The recast Drinking Water Directive aims to protect human health by providing cleaner tap water, updating water quality standards, and tackling pollutants of concern, such as endocrine disruptors and microplastics. The Directive also includes provisions to reduce water leakages when now, on average, 23% of the drinking water in the EU is lost during distribution. Member States were required to transpose the Directive into national law and comply with its provisions by 12 January 2023. Germany has not correctly transposed the Directive regarding certain risk assessment rules and on public access to certain information, including on water monitoring and corrective measures taken. The Commission is therefore sending a letter of formal notice to Germany, which now has two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

### Reasoned opinions

#### **Commission calls on Austria to take the necessary steps to protect and manage its Natura 2000 sites**

Today, the European Commission decided to send a reasoned opinion to **Austria** (INFR(2022)2056) for failing to comply with the Habitats ([Directive 92/43/EEC](#)) and Birds Directives ([Directive 2009/147/EC](#)). Member States must designate special areas of conservation under the Habitats Directive and special protection areas under the Birds Directive. These sites become part of the [Natura 2000](#) network, which is a EU-wide network of protected areas, set up to ensure the protection and conservation of Europe's most valuable biodiversity. The sites must be protected based on conservation objectives and measures that will maintain or restore the protected species and habitats to a favourable conservation status. These conservation objectives and measures are key requirements to manage the Natura 2000 network and to protect biodiversity across the EU. The Commission sent a letter of formal notice to Austria in September 2022. Following this, Austria designated the sites under the Habitats Directive as special areas of conservation and improved some of the conservation objectives and measures for those sites. However, in many cases, these conservation objectives and measures are still not specific enough to meet the requirements of the habitats and species concerned. The situation is similar in some special protection areas under the Birds Directive. If the site conservation objectives are not specific about the habitats and species concerned, the authorities cannot ensure that the impacts of plans and projects in the area are appropriately assessed, before their approval. Therefore, the Commission has decided to issue a reasoned opinion to Austria, which now has two

months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

### **Commission calls on Italy to comply with the Single-Use Plastics Directive and the EU procedural rules on transparency in the internal market**

Today, the European Commission decided to send a reasoned opinion to **Italy** (INFR(2024)2053) for failing to fully and correctly transpose the Single-Use Plastics Directive ([Directive \(EU\) 2019/904](#)) and for breaching the obligations under the Single Market Transparency Directive ([Directive \(EU\) 2015/1535](#)). The Single-Use Plastics Directive aims to prevent and reduce the impact of certain plastic products on the environment and on human health, as well as to promote the transition to a circular economy with innovative and sustainable business models, products and materials, thus also contributing to the efficient functioning of the internal market. Italy has failed to transpose, or to transpose correctly into national law, some provisions of the Single-Use Plastics Directive. The main issues relate to: the introduction of a minimum threshold regarding the definition of 'plastic', an exemption of biodegradable plastic products from certain provisions, and a limitation of producers' responsibility to cover costs of waste collection. Such a restriction of scope risks undermining the Directive's preventive approach and potentially leading to increased releases of persistent plastic fragments and microplastics into the environment. Moreover, a diverging scope of the Directive across Member States would adversely affect the functioning of the Single Market. In addition, Italy did not observe the procedural rules laid down in the Single Market Transparency Directive since it adopted the legislation transposing the Single-Use Plastics Directive before the expiry of the three-month standstill period established in that directive. The Commission issued a letter of formal notice to Italy in May 2024. However, after assessing its reply, the Commission concluded that Italy's transposition of the Directive is still incorrect. Therefore, the Commission has decided to issue a reasoned opinion to Italy, which now has two months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

### **Commission calls on Portugal to ensure periodic review of water permits**

Today, the European Commission decided to send a reasoned opinion to **Portugal** (INFR(2025)2042) for failing to correctly transpose the Water Framework Directive ([Directive 2000/60/EC](#)), with regard to the obligation to carry out periodic reviews of water permits. As underlined in the [Water Resilience Strategy](#), full implementation of EU water quality requirements is key to protecting human health and the environment, and strengthening the EU's competitiveness and resilience. The Directive requires Member States to establish a programme of measures for each river basin district to ensure good status of European water bodies, such as rivers and lakes. Each programme must include measures to control different types of pressures affecting water bodies, such as water abstraction and diffuse pollution sources. Member States are required to periodically review these control measures, including any permits granted, to determine whether they still achieve their objectives and, if necessary, update them. In Portugal, national law does not correctly transpose the obligation to periodically review the control measures established concerning water abstractions and impoundments and any other significant adverse impacts on the status of water. The Commission sent a letter of formal notice to Portugal in May 2025. In its reply to the letter of formal notice, Portugal provided some explanations, the assessment of which confirmed that under Portuguese law there is no obligation for the authorities to periodically review the control measures. Therefore, the Commission has decided to issue a reasoned opinion to Portugal, which now has two months to respond and take the necessary measures. Otherwise, the Commission may decide to refer the case to the Court of Justice of the European Union.

## **GENERAL INFORMATION ABOUT INFRINGEMENT PROCEDURES**

**Legal basis – the European Union as a Union of Law**

According to the Treaties (Treaty on European Union, Treaty on Functioning of the European Union), Member States are obliged to comply with EU legislation adopted by the legislator (European Parliament and Council), and the Commission has the right and the obligation to scrutinise such compliance and where appropriate take legal action.

**Opening of an infringement procedure: formal contacts between the Commission and the Member State concerned**

If the Commission considers that there may be an infringement of EU law which warrants the opening of an infringement procedure, it addresses a "letter of formal notice" to the Member State concerned, requesting it to submit its observations by a specified date.

The Member State has to adopt a position on the points of fact and of law on which the Commission bases its decision to open the infringement procedure.

**Issuing a Reasoned Opinion**

In the light of the reply or absence of a reply from the Member State concerned, the Commission may decide to address a "Reasoned Opinion" to the Member State, clearly and definitively setting out the reasons why it considers there to have been an infringement of EU law and calling on the Member State to comply with EU law within a specified period (normally two months).

The purpose of those formal contacts is to determine whether there is indeed an infringement of EU law and, if so, to resolve the case at this stage without having to take it to the Court of Justice of the European Union.

In the light of the reply, the Commission may also decide not to proceed with the infringement procedure, for example where the Member State provides credible assurances as to its intention to amend its legislation or administrative practice.

**Referral to the Court of Justice of the European Union**

If the Member State fails to comply with the Reasoned Opinion, the Commission may decide to bring the case before the Court of Justice of the European Union. If the Court finds in its judgment that a Member State has failed to take the measures needed to conform.

**Second referral to the Court of Justice of the European Union**

If a Member State fails to comply with a judgment given against it, the Commission has the possibility to apply for a second court ruling ordering that State to pay a lump-sum fine or a penalty (Article 260 TFEU).

When referring an EU country to the court for the second time, the Commission proposes that the court impose financial penalties, which can be either a lump sum and/or a daily payment.

Calculation of penalties:

The penalties are calculated taking into account:

- the importance of the rules breached and the impact of the infringement on general and particular interests
- the period the EU law has not been applied
- the country's ability to pay, ensuring that the fines have a deterrent effect

The Commission proposes an amount on the basis of these factors, but the Court decides on the final amount to be paid by the country.

The calculation method as well as all the principles related to financial sanctions are set out in a Commission Communication:

Communication on financial sanctions in infringement proceedings 2022

Annual update of data used to calculate financial sanctions 2024

Full text of these Communications at

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023XC0104\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023XC0104(01))

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C\\_202401123](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202401123)