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## **REPORT FROM THE COMMISSION**

### **Monitoring the application of European Union law**

#### **2021 Annual Report**

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## Foreword

This report comes at a time when European democracy is being challenged, both from outside and from within. Russia's aggression against Ukraine is an attempt to override the rule of law with the right of might. The European Union stands firmly on the side of Ukraine and of democracy over autocracy, because the rule of law is the basis for a fair and peaceful international order.

Ukraine's fight for freedom is also a reminder of the value of our own democracy. Democracy must be nurtured, exercised and renewed every day for it to thrive. This is what the European Commission, under my leadership, has strived for since the start of its mandate.

The Commission has put in place historic measures to strengthen the EU's capacity to promote and protect the rule of law. These measures are based on dialogue with the European Parliament and Member States, alongside civil society. The Commission uses its enforcement powers and resorts to infringement procedures where this is necessary to protect our commonly agreed rules. This year's report shows how over the past year, the Commission has continued to safeguard EU law to ensure that citizens in our Single Market fully benefit from the implementation of key policies.

Democracy is always a work in progress. The Commission is committed to defending the rights of EU citizens, wherever they live in our Union. The rule of law is the glue that binds the European Union together. It is essential for the protection of the values on which the EU is founded: democracy, freedom, equality and respect for human rights. And this is what all 27 Member States have signed up to as part of the EU as sovereign countries, and free peoples.

Sincerely,

Dr. Ursula von der Leyen  
President of the European Commission

## I. The European Green Deal

*'It was Robert Schuman who said: Europe needs a soul, an ideal, and the political will to serve this ideal. [...] And in the gravest planetary crisis of all time, again we chose to go it together with the European Green Deal.'*

– President von der Leyen, in her 2021 State of the Union Address

The world is facing climate and biodiversity emergencies that are an existential threat to our planet. The EU is determined to lead the way in addressing these challenges. The [European Green Deal](#) is the Commission's plan towards zero pollution for air, water and soil, and transforming the EU's economy into a modern, resource-efficient one. There is no time for hesitation: the Commission's enforcement efforts aim for swift implementation and rigorous application of the EU rules that will make the Green Deal a reality.

### *Clean air and water*

Air pollution is among the key factors affecting human health. The full implementation of the [EU's air quality standards](#) is key to effectively protect our well-being and safeguarding the natural environment.

In addition, a large number of people are still exposed to harmful substances in their drinking water, contrary to [EU rules](#). And [urban wastewater](#) is still not properly collected or treated in several hundreds of cities across the EU.

The Commission has launched and pursued further infringement cases against several Member States to ensure an appropriate level of treatment of waste water.

Decisions by the Commission to refer Member States to the EU Court of Justice include:

- [Greece](#) and [Portugal](#) for poor air quality due to high levels of nitrogen dioxide (NO<sub>2</sub>);
- [Slovakia](#) for high concentrations of particulate matter (PM<sub>10</sub>);
- [Romania](#) due to the illegal operation of industrial plants;
- [Ireland](#) and [Italy](#) for breaches with regard to substances in drinking water that could pose a potential health danger;
- [Spain](#) for insufficient protection of waters against nitrates pollution;
- [France](#), [Hungary](#) and [Slovenia](#) over their treatment of waste water.

### *Protecting biodiversity*

Protecting biodiversity and reversing the degradation of ecosystems are key objectives under the European Green Deal and the [European Biodiversity Strategy](#). Restoring forests, soils and wetlands also plays an important role in fighting climate change.

The Commission referred [Bulgaria](#) and [Germany](#) to the Court of Justice over their failure to protect and manage their Natura 2000 protected areas.

[Germany](#) was also referred for not sufficiently protecting flower-rich grasslands.

And [Malta](#) was referred to the Court for authorising the trapping of protected finches.



### *Promoting a circular economy*

The European Green Deal and the [2020 circular economy action plan](#) promote waste reduction and recovery. They aim for full implementation of the EU waste management standards, to reduce adverse effects on human health and the environment. In [November](#) and [December](#) 2021, the Commission took action against six Member States for failing to comply with their obligation – under the [Waste Framework Directive](#) and the [Landfill Directive](#) – to improve treatment of waste before landfilling. In the case of [Romania](#), the Commission decided to refer it back to the Court of Justice for failing to fully comply with an earlier [Court judgment](#).

### *Clean energy*

Decarbonising the EU's energy system is critical to reach the EU's 2030 climate objectives and long-term goal of carbon neutrality by 2050. In 2021, the Commission's enforcement action continued to focus on implementing the [Clean Energy for all Europeans](#) package. These rules aim to lead the energy transition towards a safe, secure and sustainable energy sector that puts consumers first.

Promoting renewable energy is crucial to reaching our climate objectives. The [Renewable Energy Directive](#) sets a renewables target for the EU for 2030 of at least 32%, and includes measures to ensure the cost-efficient and sustainable development of renewables.

The Commission continued infringement cases against [Greece](#) and [Romania](#) for not having fully transposed the amending [Energy Efficiency Directive](#). And it launched infringement procedures against all Member States for failing to fully transpose the Renewable Energy Directive by the deadline of 30 June 2021.

### *Sustainable agriculture*

The objectives of the [EU's common agricultural policy](#) are to support farmers and improve agricultural productivity, feeding Europe's population with safe, affordable and quality food. The policy aims to ensure that European farmers have a fair income. It is also designed to address environmental challenges such as climate change and loss of biodiversity.



In 2021, the European Parliament and the Council agreed on a [reform](#) of the policy to apply from 1 January 2023. This will increase the contribution made by the policy to the ambitions of the European Green Deal, in particular the [farm to fork](#) and [biodiversity](#) strategies.

The Commission continued to ensure a thorough application of the common agricultural policy's rules (e.g. on organic farming, sustainable use of farmland, forestry, support for research and innovation).

In 2021, [new EU rules](#) started to protect European farmers against unfair trading practices by larger buyers in the food supply chain. The Commission opened infringement procedures against [12](#)

[Member States](#) for failing to transpose these rules into national law in time. Eight of them later notified complete transposition of the rules, in 2021.

### *Sustainable fisheries and maritime spatial planning*

The main goal of the EU's common fisheries policy is to ensure environmental, social and economic sustainability for our fishers and coastal communities. All three aspects are interlinked: there cannot be thriving fisheries and aquaculture sectors without healthy fish stocks and adequate conservation of marine biological resources. Enforcing the EU's fisheries rules contributes to the objectives of the European Green Deal to promote and increase the protection of natural ecosystems and the sustainable use of resources.

In 2021, the Commission's enforcement action focused on the full implementation of the [landing obligation](#). This requires catches of certain species of fish to be brought on board fishing vessels, recorded, landed on shore and counted against applicable quotas.

Accurate recording of catches is the basis for effective fisheries management, preventing overfishing and reducing unwanted catches.

The Commission also continued dialogues with Member States to reduce the by-catch of sensitive species, such as dolphins and porpoises, by ensuring the use of acoustic deterrent devices, and to improve reporting on catches of species that are returned to the sea.



The Commission closely monitored the implementation of the [Maritime Spatial Planning Directive](#), especially the obligation to establish maritime spatial plans. These plans aim to meet various ecological, economic and social objectives. In particular, they aim for sustainable ocean and coastal economies and sustainable use of marine resources, including with regard to offshore energy development. The Commission opened infringement proceedings against [Greece](#), [Croatia](#), [Italy](#), [Cyprus](#), and [Romania](#) for not having established such plans.

The Commission initiated infringement proceedings against [Belgium](#), [Ireland](#), [France](#), [Spain](#), and [the Netherlands](#) for not having monitored and enforced the landing obligation.

These cases also concern non-compliance with [EU rules](#) to prevent, deter and eliminate illegal, unreported and unregulated fishing.

The Commission also continued an infringement case against [Malta](#) for failing to comply with Bluefin tuna rules.

Given that fish migrate often long distances and are not constrained by national borders, EU vessels' fishing activities outside of EU waters are based on the same principles and standards as those applicable within EU waters. To enforce these rules for Member States' fleets operating outside EU waters, the Commission launched an infringement procedure against [France](#) and held a series of preventive dialogues with other Member States.



### *Health and food safety*

The legislation in this area intends to make Europe a healthier and safer place. Proper and consistent implementation of EU rules by national authorities is crucial to achieving these objectives.

The Commission takes a 'one health' approach to preparedness and prevention, integrating human, animal and environmental health, as well as food and feed safety. 'One health' recognises that human health is intimately connected to the health of animals and the environment.

Audits remained a key tool in enforcing EU rules on food and feed safety, animal health, plant health and animal welfare. They also proved important in the quality control of pharmaceutical products and medical devices.



Ensuring patients' rights to access cross-border healthcare remained a priority for the Commission in 2021. Therefore, the Commission continued to push for the full implementation of the [Cross-Border Healthcare Directive](#), carrying out dialogues with Member States to improve its application.

Tobacco consumption remains the single largest avoidable health risk, and the most significant cause of premature death in the EU. The [Tobacco Products Directive](#) contributes to reducing tobacco consumption and generates positive outcomes for public health. Its rules ensure that the public is made aware of the harmful effects of tobacco and that characterising flavours are banned for the main product categories. In 2021, the Commission continued its work to fully enforce the Directive: It conducted conformity checks on the national laws transposing the Directive, held dialogues with Member States to strengthen its implementation and published a [report](#) on the application of the Directive.



## II. A Europe fit for the Digital Age

*'We have to double down to shape our digital transformation according to our own rules and values.'*

- President von der Leyen, in her 2021 State of the Union Address

Digital technology is changing people's lives. The COVID-19 pandemic has radically changed the role and perception of digitalisation in our societies and accelerated its pace. Digital technologies are central for working, learning, entertaining, socialising, shopping and accessing everything from health services to culture. Pursuing and enforcing digital policies that empower people and businesses to embrace a human-centred and prosperous digital future has become more relevant than ever before.

### *Technology that works for people*

The COVID-19 crisis has demonstrated the importance of proper functioning of the European emergency number 112, identifying caller location and ensuring equivalent access for disabled end-users. Emergency communications and access to emergency communication services via 112 are just some of the things regulated by the [2020 European Electronic Communications Code](#).

As one of the building blocks of the Digital Single Market, the Code modernises the European regulatory framework for electronic communications, to enhance consumers' choices and rights. It

The Commission launched infringement proceedings against [24 Member States](#) for failure to transpose on time the European Electronic Communications Code. It pursued these proceedings further against [20 Member States](#) later in 2021.



ensures clearer contracts, quality of services and competitive markets.

Central objectives of the Code are promoting connectivity, and investment in / access to very high-capacity networks. The deadline for transposing the rules in the Code into national legislation expired on 21 December 2020.

### *A fair and competitive digital economy*

The [Directive on Copyright in the Digital Single Market](#) and the [Directive on online television and radio programmes](#) modernise the EU's copyright rules to make them fit for the digital age. They allow for more digital uses in core areas of society and facilitate the distribution of radio and television programmes across the EU.

The new rules will benefit creative industries and citizens alike, and ensure more fairness



and clarity when copyrighted content is used online. The Commission adopted guidelines to support consistent application of the new requirement for online content-sharing service providers to seek a licence from rights holders. The deadline for transposing the two directives into national law was 7 June 2021.

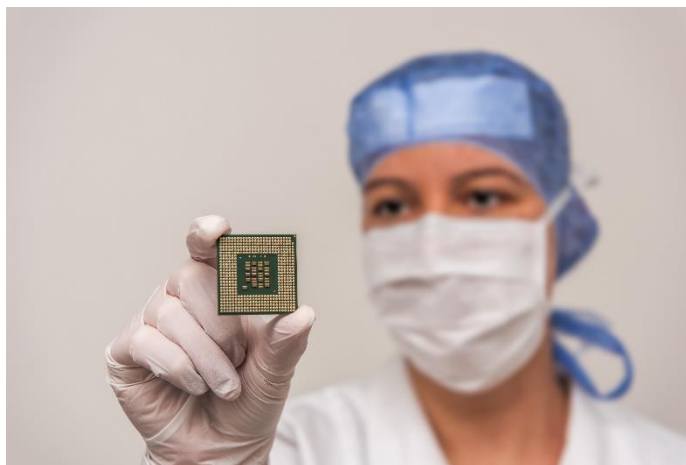
The Commission launched infringement procedures against [23 Member States](#) for failing to notify whether they had completely transposed the Directive on copyright. And it started infringement cases against [21 Member States](#) for incomplete transposition of the Directive on online television and radio programmes.

### *Promoting the data economy*

The re-use of data produced by the public sector has vast economic potential. The [Open Data Directive](#) aims to make more of the data resources produced and funded by the public sector available for reuse.

At the same time, it stimulates the development of innovative solutions such as mobility apps. It increases transparency by opening access to publicly-funded research data, and supports new technologies, including artificial intelligence.

The Commission launched infringement procedures against 19 Member States for not having notified complete transposition of the rules in time. By the end of 2021, 14 Member States had completed transposition.



### *Accessibility of websites and mobile applications*

The [Web Accessibility Directive](#) aims to make websites and mobile applications of public sector bodies more accessible to everyone, in particular to persons with disabilities. The Directive requires Member States to report on the results of their monitoring and enforcement activities every three years. In 2021, the Commission published the first ever [reports](#) of Member States to this effect. Over 10.000 websites and 300 mobile apps were tested by the Member States during this period.

### *Strengthening cybersecurity and protection from cyber threats*

The digital transformation of our society has expanded the cyber threat landscape, bringing new challenges that require adapted and innovative responses. The number of cyber-attacks continues to rise, with increasingly sophisticated attacks coming from a wide range of sources both inside and outside the EU. A high level of protection from external cyber threats strengthens the EU's resilience as a global actor.

To adapt EU legislation to changing challenges and threats, the Commission has adopted a new [proposal](#) for a high common level of cybersecurity across the EU. It will replace the existing [Directive on security of network and information systems](#), the first EU-wide legislation on

cybersecurity. In 2021, the Commission closed infringement cases against Belgium, Hungary and Romania as they fulfilled specific obligations under this directive.

### *An open, democratic and sustainable digital society*

The revised [Audiovisual Media Services Directive](#) governs EU-wide coordination of all audiovisual media, both traditional TV broadcasts and on-demand services. Its rules aim to create a regulatory framework fit for the digital age, leading to a safer, fairer and more diverse audiovisual landscape. In 2021, the Commission pursued infringement procedures further against [11 Member States](#) for failure to notify complete transposition of the Directive. At the same time, the Commission closed infringement procedures against nine Member States who had fully transposed the Directive into national law.



The Commission [launched](#) and [pursued further](#) an infringement case against Hungary with regard to national rules that seek to prohibit or limit access to audiovisual content that portrays the 'divergence from self-identity corresponding to sex at birth, sex change or homosexuality' for minors.

The Commission considered that the law violated several EU rules as it puts in place unjustified restrictions that discriminate against people based on their sexual orientation. The law is also considered disproportionate.

The independence of the national telecommunications regulators is key to ensuring the effective and impartial application of [EU rules on telecommunications](#). The Commission continued an ongoing case against [Poland](#) for breaching EU law safeguarding the independence of the Polish national regulatory authority, the Office of Electronic Communications.

EU telecommunication rules also apply to the conditions for using radio spectrum by EU countries. Key elements are the principles of

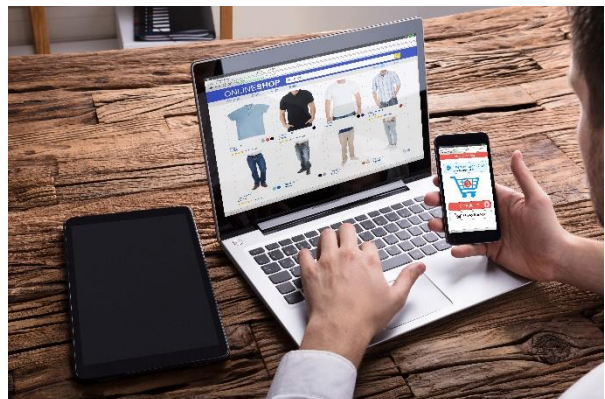
proportionality and non-discrimination. To enforce these rules, the Commission opened and pursued further an infringement case against [Hungary](#) concerning the assignment of radio spectrum rights.

The Commission considered that the decision by the Hungarian Media Council to refuse renewal of a radio station's rights was disproportionate and non-transparent, and that the Hungarian national media law had been applied in a discriminatory way.

### *Protection for consumers and companies*

Purchasing goods, digital content and digital services from any EU country should be easy within the single market, and consumers should be certain about their rights.

The [Digital Content Directive](#) and the [Sale of Goods Directive](#) align key consumer contract law rules across the EU. The rules increase legal certainty for both consumers and traders and ensure a high level of consumer protection. The deadline to transpose the directives into national law expired on 1 July 2021. The Commission launched infringement procedures against 20 Member States for not transposing the directives.





### *Transparent information about and for businesses*

With an increasing number of cross-border businesses, having easy access to information on companies in different Member States is crucial. [EU legislation](#) requires Member States to link their national business registers with the business registers interconnection system (BRIS).

BRIS facilitates cross-border operations and makes procedures less costly and time-consuming for companies. It enables individuals, businesses and entrepreneurs to obtain information on companies. In 2021, the Commission decided to refer [Bulgaria](#) to the Court of Justice for not yet being connected to BRIS, while it closed infringement procedures against Ireland and France who had completed the connection of their business registers to BRIS.

The Commission continued existing infringement procedures against all Member States on the implementation of [Points of Single Contact](#). These are e-government portals that allow service providers to get the information they need and complete administrative procedures online.

Compliance efforts on the application of the [Services Directive](#) are at the heart of digitalisation and e-government and also aim to support the work under the [Single Digital Gateway](#). Progress made by Member States is substantial but uneven.

### *Digital transport systems*

Digitalisation can make transport safer, more efficient and more sustainable. Information and communication technologies offer new opportunities to all modes of passenger and freight transport. Moreover, the integration of existing technologies can create new services.



For example, for road transport, the [European Electronic Tolling Service](#) ensures tolling services are interoperable across roads in the EU. It makes it possible for road users to easily pay tolls throughout the whole EU with only one subscription contract with one service provider and a single on-board unit.

Eliminating cumbersome procedures for occasional users and facilitating daily operations for road users improves traffic flow and reduces

congestion. To enforce the tolling service's rules, the Commission launched an infringement procedure against [Slovenia](#) and took further steps in a procedure against [Hungary](#).

On aviation safety, [data link services](#) are communications between aircraft and ground that complement the voice communication traditionally used in air traffic control. They improve pilot-controller communication efficiency, thereby increasing air traffic control capacity.

The Commission pursued further infringement procedures against [six Member States](#) for failing to provide and operate data link services for all aircraft operators flying within their airspace. It closed infringement procedures on the same issue against Bulgaria, Lithuania and Finland.



### III. An Economy that Works for People

*'We have all benefited from the principles of our European social market economy – and we must make sure that the next generation can do so, to build their future.'*

- President von der Leyen, in her 2021 State of the Union Address

Living in the EU today means having the right to a safe and decent living, and having the opportunity to succeed. Thanks to the EU's social market economy, the EU has some of the highest standards of living, best working conditions and most effective social protection in the world.

However, there are still too many cases of incorrect or incomplete application of single market or employment rules. The Commission's enforcement policy addresses these shortcomings so that these rules can deliver their intended effects to the full.

#### *Working conditions*

Fair and dignified working conditions are a key element of Europe's social market economy, across economic sectors and Member States. The EU has rules on working time, part-time and fixed-term work, temporary workers and the posting of workers – defining minimum requirements that apply across the EU. In 2021, the Commission has taken a number of decisions to enforce these rules.

On the application of [fixed-term work](#) rules, the Commission launched infringement procedures against [Italy](#) concerning the working conditions of honorary magistrates. It also took action against [Portugal](#) for the employment conditions of fixed-term teachers. The Commission opened an infringement case against [Spain](#) highlighting conformity issues with national rules on [temporary agency work](#). Furthermore, in the sea fisheries sector, the Commission called on [Cyprus](#) to transpose EU rules on the protection of workers into national legislation.

#### *Health and safety at work*

The Commission's enforcement efforts continued to focus on a timely transposition of EU occupational health and safety rules into national legislation. The Commission closed 12 infringement procedures, as Member States transposed [two directives](#) on the protection from exposure to carcinogens or mutagens at work, as well as [updated rules](#). These updated rules concerned the addition of the SARS-CoV-2 virus to the list of agents in the [Biological Agents Directive](#), for which the Commission was able to close four infringement cases.

To ensure the conformity of national measures with the [Directive establishing a fourth list of indicative occupational exposure limit values](#), the Commission launched dialogues with a series of Member States. Five of these were successfully concluded in 2021, with national rules brought into line with EU rules.

The Commission launched infringement procedures against [Denmark](#) and pursued further an existing procedure against [Cyprus](#) for failing to transpose EU rules on protecting workers from exposure to carcinogens or mutagens at work.

Furthermore, following information received in a complaint, the Commission opened an infringement procedure against [Germany](#) for an alleged breach of EU rules to protect workers' safety and health at temporary or mobile construction sites.

### *Labour mobility*

[Free movement of workers](#) is one of the fundamental freedoms on which the EU is founded. The Commission therefore places particular importance on enforcing the rules on this. During 2021, in the context of the COVID-19 pandemic, free movement of workers continued to be put to the test.

The Commission opened an infringement procedure against [Italy](#) for failing to comply with EU law on free movement of workers with regard to foreign language assistants ('Lettori') in universities.

While Italian law provides an acceptable framework for the reconstruction of careers of foreign lecturers, the majority of universities have not implemented it.

As a rule, every Member State must treat the nationals of other Member States the same as their own nationals. For public-sector positions, a generalised exclusion of EU workers from public posts based on their hierarchical level, without carrying out an analysis on a case by case basis, is contrary to EU law.

In 2021, the Commission pursued further an infringement procedure against [Greece](#) for restricting high-level posts in the public administration and a number of public entities to candidates with Greek nationality.

EU rules on [posting workers](#) regulate situations where an employee is sent by his employer to carry out a service in another EU Member State on a temporary basis. Recently [updated rules](#) have introduced significant improvements to the situation of posted workers and a level playing field for service providers. Under the new rules, all the mandatory elements of remuneration applicable to local workers will also be applicable to posted workers. Following infringement proceedings against 14 Member States on the transposition of the updated rules, all of them notified complete transposition in 2021.

The Commission launched infringement procedures against 24 Member States to bring various national provisions into line with the [Enforcement Directive on Posting of Workers](#).

This directive reinforces the practical application of the rules on posting workers by addressing issues related to fighting fraud and the circumvention of rules, access to information, and administrative cooperation between Member States.

### *Social security coordination*

EU legislation coordinates the national social security systems of the Member States to guarantee that the right to the free movement of persons can be exercised effectively. EU rules thereby contribute to an improved standard of living and conditions of employment of persons who move within the EU.

In 2021, the Commission launched an infringement procedure against [Germany](#) for failing to comply with these rules and EU rules on [free movement of workers](#). The German State of Bavaria had introduced a new scheme of family allowances providing for different amounts of family benefits according to the place of residence within the EU of a child concerned. A similar case regarding [Austria](#)'s indexation system for family benefits was already referred to the Court of Justice.

### *Information and assistance for people and businesses*

In 2021, it was more important than ever that individuals and businesses could continue to rely on the opportunities offered by the single market and that Member States and the Commission worked closely together to address barriers to free movement. The consequences of the COVID-19 pandemic, such as border closures, supply chain interruptions and uncoordinated national and regional restrictions, underlined the importance of protecting the functioning of the single market.

The pandemic's impact was particularly harsh in border regions. The EU's online problem-solving service [SOLVIT](#) continued to work seamlessly throughout the pandemic to help business and individuals facing COVID-19-related cross-border difficulties and played an important part in ensuring that the single market remained resilient.

The single market governance tools – such as the [Your Europe portal](#), [Your Europe Advice](#) and [SOLVIT](#) – offer clear information, assistance and problem-solving to both individuals and businesses who have issues related to the single market and free movement. They enable these groups to make full use of their EU rights in the single market.

In addition, evidence from the tools helps the Commission identify and correct existing problems. In 2021, SOLVIT assisted over 2 400 people and businesses by addressing their problem, and Your Europe Advice gave guidance to individuals and businesses about their single market rights on over 27 800 occasions.

### *Better regulation of professions and recognition of qualifications*

The [EU proportionality test directive](#) requires Member States to ensure that any new requirements for regulated professions are necessary and balanced. It aims to avoid burdensome national rules that make it harder for qualified candidates to access or exercise a wide range of professions.

The Commission opened infringement cases against [18 Member States](#) for failing to properly implement the proportionality test directive, to achieve its intended effect for qualified job candidates.

[EU rules on the recognition of professional qualifications](#) make it easier for professionals to provide services around Europe, while guaranteeing improved protection for consumers and citizens. To enforce these rules, the Commission opened procedures against [Romania](#), and followed up on the infringement cases against [Ireland](#), [Cyprus](#) and [Czechia](#), deciding to refer the latter to the Court of Justice. The Commission could close infringement cases against eight Member States as they correctly implemented the [directive](#) that applies across professions.

### *Sound public procurement and fighting delayed payments*

To create a level playing field for businesses across Europe, EU rules set minimum standards for the way public authorities and certain public utility operators purchase goods, works and services. The Commission enforced these common rules, in 2021, by either opening infringement procedures or taking another step in on-going cases, against [eight Member States](#), including the decision to refer [Poland](#) to the Court of Justice.

[EU rules](#) also require that public authorities pay businesses and SMEs on time. However, too often payments in the EU do not respect the deadline agreed. To counter this problem, which has



aggravated during the COVID-19 pandemic, and to prevent losses for businesses, in particular for small and medium-sized businesses (SMEs), the Commission opened infringement cases against [Belgium](#), [Greece](#) and [Italy](#), and continued procedures against [Spain](#) and [Slovakia](#) and for failing to apply the EU rules correctly.

### *Internal energy market*

EU energy market legislation is essential for removing barriers to the cross-border exchange of electricity, ensuring affordable energy prices, securing energy supplies and achieving a clean and fair energy transition.

In particular, the [Electricity Directive](#) lays down key rules relating to the organisation and functioning of the EU's electricity sector, with a view to creating truly integrated, competitive, consumer-centred, flexible, fair and transparent electricity markets in the EU.



The Commission launched infringement procedures against 19 Member States for failing to fully transpose EU rules on the single market for electricity into national law by the transposition deadline of 31 December 2020.

In 2021, the Court, in an infringement case previously referred to it by the Commission regarding Germany's compliance with the Third Energy Internal Market Package of 2009, issued an important [judgement](#) to ensure that national energy regulatory authorities can fulfil all their tasks under EU law, in full independence and without intervention by private parties or the state, under the sole control of the national and EU Courts.

### *Keeping nuclear power safe*

Nuclear energy can play a positive role in meeting climate targets and ensuring energy security, provided that the highest level of nuclear safety and radiation protection are met. The Commission continued to focus on the effective implementation of the Euratom legal framework on nuclear safety, protecting workers, patients and the general public from ionising radiation and making sure that radioactive waste is handled safely.

It launched infringement procedures against [five Member States](#), and pursued existing procedures against four other [Member States](#), requesting the correct or complete transposition of the [Basic Safety Standards Directive](#). Of these, only cases against Greece, Latvia and Malta remain open – all other cases were closed in 2021. The Commission also opened infringement procedures against three [Member States](#) to ensure the correct transposition of the [Euratom Drinking Water Directive](#).

Moreover, the Commission followed up on infringement procedures [against seven Member States](#) regarding the [Radioactive Waste Directive](#), either for incorrectly transposing the directive or failing to adopt an appropriate national programme for the management of radioactive waste.

### *Mobility and transport*

Rail is a sustainable, smart and safe means of transport. Completing the single market in the rail sector brings the full benefits of rail market liberalisation to citizens and businesses. To this end, it is crucial to ensure that the [Single European Railway Area Directive](#) is correctly transposed into national laws. This enables Member States to transpose and implement more recent acts adopted as part of the Fourth Railway Package in a consistent manner.

The Commission launched infringement procedures against [Czechia](#), [Denmark](#), [Lithuania](#) and [Hungary](#), and pursued further proceedings against [Greece](#), [Spain](#), [Luxembourg](#) and [Austria](#) for their failure to correctly transpose certain provisions of the EU rules establishing a Single European Railway

This directive aims to create a more competitive framework by covering regulatory oversight and financial architecture within the railway sector, the power of national regulators, the framework for investment in rail, and fair and non-discriminatory access to rail infrastructure and rail-related services.



The [market pillar of the 4th Railway package](#) establishes the general right for railway undertakings based in one Member State to operate all types of passenger services everywhere in the EU. It is expected to deliver more choice and better quality of rail services for travellers.

The Commission opened infringement procedures against [Bulgaria](#), [Denmark](#), [Germany](#), [Ireland](#), [Luxembourg](#) and [the Netherlands](#), and further pursued proceedings against [Austria](#) for incorrectly transposing EU rules on market opening and infrastructure governance.

On road transport, the Commission called on [France](#) to comply with internal market rules and opened infringement proceedings regarding its national legislation prohibiting daily and weekly rest periods inside light commercial vehicles (e.g. vans), which is in breach of [EU law](#). The Commission called on [Lithuania](#) to duly implement EU rules on the maximum weights and dimensions of certain road vehicles.

On maritime transport, the Commission launched infringement procedures against [Germany](#), [Greece](#) and [Cyprus](#), for incorrect implementation of EU safety and environmental rules on [marine equipment](#).

In other transport areas, the Commission took issue with a diverse array of national measures that hinder the full functioning of the single market. For instance, it decided to refer [Denmark](#) to the Court of Justice, due to a 25-hour limit it imposed on lorries for parking in state-owned rest areas, as this creates barriers to [foreign hauliers carrying out international operations](#).

In a case that relates to the freedom to provide services, the Commission asked [Denmark](#) to ensure that all [cabotage](#) operations [in transport services provided by bus and coach](#) that are temporary in nature are treated as such.

In the port services area, [EU rules](#) intend to level the playing field, provide port operators with legal certainty, and create a climate more conducive to efficient public and private investment. For not having complied with certain notification obligations, the Commission opened infringement cases against [Croatia, Italy and Slovenia](#) and pursued existing proceedings against [Belgium, Cyprus and Portugal](#).



#### *Direct taxation*

The single market guarantees that citizens and businesses have the freedom to move, operate and invest across national borders. However, as national legislation in the field of direct taxation is not aligned across the EU, these freedoms can open avenues for aggressive tax planning and tax avoidance. To prevent inadvertent non-taxation as a result of such practices, Member States, by way of a number of directives, have agreed to cooperate closely and to approximate their rules.

The Commission took action against [Germany](#) and [Czechia](#) for an incomplete transposition of the Directive against tax avoidance practices that directly affect the functioning of the single market.

The Commission launched infringement cases against [Bulgaria](#) and [Cyprus](#), and further pursued cases against [Belgium](#) and [Luxembourg](#), for failing to correctly transpose or implement certain provisions of the directive.

The Commission's enforcement action in 2021 focused on ensuring the effective transposition into Member States' national legislation of [updated rules](#) against tax avoidance and the [Directive on administrative cooperation](#).

The Commission closed infringement procedures against six Member States following their transposition of [rules against tax avoidance practices](#). Similarly, nine Member States introduced adequate transposition measures regarding mandatory automatic exchange of information on reportable cross-border arrangements, while Belgium, Greece, Hungary, Romania and Sweden remedied shortcomings in the transposition of EU rules on tax [dispute resolution mechanisms](#).

#### *Indirect taxation*

The Commission opened infringement procedures against seven Member States for failing to communicate their national measures transposing the new VAT e-commerce rules, and it took the next step in its proceedings against [Cyprus](#).

On indirect taxation, the EU coordinates and aligns law on VAT, excise duties and car taxation. Full application of the rules helps avoid distorting competition on the single market by giving businesses in one country an unfair tax advantage over others.

The Commission placed particular importance on supporting and monitoring Member States' efforts to implement the [new VAT e-commerce rules](#), applicable since 1 July 2021. These rules also create a fairer business environment for EU sellers and simplify the VAT obligations of traders involved in cross-border online sales of goods and services to consumers in the EU.

The Commission's enforcement activities also targeted national fiscal measures that distort competition in the single market. For example, the Commission took action against the incorrect application by [Greece](#) of the VAT exemption on certain postal services supplied by the Greek universal service provider 'ELTA'.

The Commission acted against [Lithuania](#) for excluding certain businesses from the benefit of the VAT scheme for small and medium companies.



The Commission opened an infringement case against [Greece](#) and further pursued proceedings against [Malta](#) for their discriminatory tax treatment regarding second hand vehicles purchased in other EU Member States.

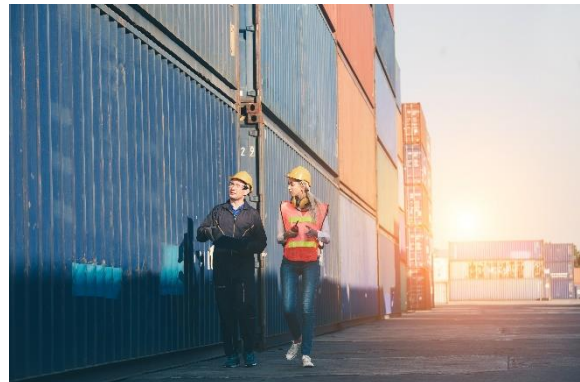
The Commission also followed up on requests from EU citizens and businesses to address serious cross-border obstacles resulting from diverging car-related taxation, for example when purchasing a car in another Member State.

### Customs

The Commission's enforcement action in the field of customs focused on the correct and uniform application of the [Union Customs Code](#), the EU's set of customs rules and procedures for its customs territory.

Another priority was detecting charges between EU countries that have an equivalent effect to customs duties. These are prohibited.

The Commission continued existing dialogues with Member States to remedy possible situations of infringements and opened a new dialogue on implementing the [Import One-Stop Shop](#), an electronic portal that businesses have been able to use since 1 July 2021 to comply with their VAT e-commerce obligations on distance sales of imported goods.



### Competition

The Commission's competition policy ensures that markets work better for consumers, business and society. Companies should compete on equal terms and consumers should benefit from lower prices, greater choice and better quality.

Competition authorities in Member States play an important role in enforcing EU competition rules. The [ECN+ Directive](#) aims to empower national competition authorities to be more effective in doing so. The Commission opened infringement procedures against 22 Member States for failing to communicate complete national transposition measures on time, namely by 4 February 2021.



### *Financial services*

The Commission launched 96 infringement procedures against Member States for failing to adopt the necessary measures to fully transpose the Directives, which further unify the regulatory framework for credit institutions and investment firms.

Financial services are a key pillar of the single market. EU legislation covers all financial intermediaries and capital markets. Credit institutions and investment firms are important actors of the EU financial system. The EU rules ensure that banks and investment firms are even stronger and better supervised, to increase their capacity to support the post-COVID recovery.

There are four directives of particular interest for credit institutions and investment firms, on which the Commission focussed its enforcement efforts in 2021: the [Capital Requirements Directive V](#), the [Bank Recovery and Resolution Directive II](#), the [Covered Bonds Directive](#) and the [Investment Firms Directive](#). Timely and full implementation of these directives is important for completing the single market in financial services and keeping the financial system sufficiently robust to weather the consequences of the pandemic.

### *Money laundering and terrorist financing*

Money laundering and terrorist financing pose a serious threat to the integrity of the EU economy and financial system, and the security of European citizens. These illicit financial flows have continued during the COVID-19 pandemic. EU legislation is designed to prevent the financial market from being misused for these purposes.

In 2021, the Commission focused on enforcing the [4th](#) and the [5th](#) anti-money laundering directives, as well as the rules concerning a [new role for the European Banking Authority](#) in preventing the financial system from being used to launder money or finance terrorism.

For late or incorrect transposition into national law of the EU's rules to fight money laundering and financing of terrorism (Directives [2015/849](#), [2018/843](#) and [2019/2177](#)), the Commission took formal steps in 41 infringement cases, including the closure of 19 cases.

#### IV. Promoting our European Way of Life and European Democracy

*‘Societies that build on democracy and common values stand on stable ground. They have trust in people. This is how new ideas are formed, how change happens, how injustices are overcome.’*

- President von der Leyen, in her 2021 State of the Union Address

The EU is built on common values which are anchored in the EU’s Treaties and laws, and which are safeguarded by the judgments of the Court of Justice. The rule of law is at the heart of those values. Consequently, threats to the rule of law challenge the legal, political and economic basis of the EU. Therefore, protecting the rule of law is one of the priorities of the Commission, which also include promoting equality, tolerance and non-discrimination across the EU.

The Commission also acted in 2021 to protect consumers and ensure the freedom of movement of people, put to the test by the COVID-19 pandemic.

##### *Rule of law and fundamental rights*

The Commission makes use of several [tools](#) to protect and promote the rule of law in the EU. It publishes an [annual rule of law report](#) in which it presents positive and negative developments across the Member States. The report is the cornerstone of the [rule of law mechanism](#), a yearly cycle to promote the rule of law and prevent problems from emerging or deepening.

Since January 2021, the [conditionality regulation](#) has been in force, to protect the EU budget from being affected by breaches of the rule of law.

The Commission may also take action as regards rule of law issues through infringement proceedings.

In 2021, the Commission took action against Hungary for non-compliance with a [ruling](#) by the Court of Justice on the Hungarian law on foreign-funded NGOs. The Court had found the law to be in

breach of EU rules on the free movement of capital and the fundamental rights to protection of personal data and freedom of association, protected by the [EU Charter of Fundamental Rights](#).

##### *European Union citizenship*

In June 2021, the Commission took [further steps](#) in the infringement procedures against Cyprus and Malta regarding their investor citizenship schemes, also known as ‘golden passport’ schemes. The schemes offer citizenship in exchange for pre-determined payments and investments without a

In [March 2021](#), the Commission decided to refer Poland to the Court of Justice due to a new law on the judiciary affecting the independence of the judges. In this case, the Commission requested interim measures to protect judicial independence, which were granted by the Vice-President of the Court on 14 July 2021, [ordering](#) Poland to suspend a number of the law’s provisions.

In another [case](#) concerning the Polish disciplinary regime for judges, in [September 2021](#) the Commission pursued infringement proceedings further in view of Poland’s failure to implement a [judgment](#) by the Court of Justice of 15 July 2021 in that case.

In [December 2021](#), the Commission launched an infringement procedure against Poland concerning the Polish Constitutional Tribunal and its case law that adversely affects fundamental tenets of the EU legal order.

genuine link with the naturalising Member State. The Commission considers that by establishing and operating such schemes, the two Member States fail to fulfil their obligations under the principle of 'sincere cooperation' and the notion of citizenship of the EU, as laid down in the Treaties.

### *Free movement of people*

The Commission continued its work to facilitate free travel by EU citizens around the bloc during the COVID-19 pandemic.

As a cornerstone initiative, the Commission, together with Member States, put in place the [EU Digital COVID Certificate](#). The Commission monitored Member States' implementation of the certificate and the coordinated approach to travel restrictions as a matter of priority.



On 18 October 2021, the Commission [reported](#) on the implementation of the certificate across the EU. By the end of 2021, Member States had issued more than 1 billion certificates.

### *Rights of travellers during the pandemic*

Following the COVID-19 outbreak, many travellers did not receive refunds in accordance with [EU rules on package travel](#). Several Member States adopted national rules that allowed package travel organisers to postpone reimbursement or to issue mandatory vouchers instead. Dialogue with the Commission led to the swift reversal of many of these measures.

To protect the right of travellers to a refund within 14 days if their package holiday is cancelled due to unavoidable and extraordinary circumstances, the Commission further pursued infringement proceedings against four Member States. While it referred [Slovakia](#) to the Court of Justice, it was able to close cases against three Member States as they repealed the infringing national rules.

In February 2021, the Commission adopted a [report](#) on the application of the 2015 [Package Travel Directive](#). The report highlights certain challenges that had emerged before and after the outbreak of the pandemic and informs the planned review of the Directive.

### *Safer transport*

European citizens expect high safety and security standards on all modes of transport. EU policies aim at maintaining and developing these standards and at ensuring their full alignment across the EU.

Safety is a key component of the promotion of maritime transport. Having in mind that human action continues to play a major role in marine accidents, the Commission focussed on enforcing [EU rules on a minimum level of training for seafarers](#). It launched infringement procedures against [the Netherlands](#) and [Poland](#), and further pursued a case against [Spain](#) in this area.



In the air sector, the Commission took another step in the procedures against [Austria, Cyprus and Greece](#) for their failure to designate a 'just-culture' body. Such body shall ensure that individuals [reporting safety-relevant occurrences in civil aviation](#) are not penalised by their employers or national authorities. The Commission also called on [Belgium](#) to duly implement [EU rules](#) in the flight licensing domain. According to these rules, the competent aviation authority must have sufficient personnel to perform its tasks. The staff must also be qualified to perform their allocated tasks and have the necessary knowledge, experience, and training.

### *Equality and non-discrimination*

The Commission strives for a Union of Equality – a Union where all women and men, girls and boys, in all their diversity, are equal.

In March 2021, the Commission presented a [report](#) on the application of the [Racial Equality Directive](#) and the [Employment Equality Directive](#).

In one case, the Commission launched an infringement procedure against [Hungary](#) to ensure compliance with the rights to freedom of expression and non-discrimination in the implementation



of the [Unfair Commercial Practices Directive](#). The case centred around a book for children that presents LGBTIQ people, in which the publisher was obliged to include a disclaimer that this depicted forms of 'behaviour deviating from traditional gender roles'. The Commission considered this contrary to EU law, including the [EU Charter of Fundamental Rights](#).

The Commission also launched an infringement procedure against [Poland](#) for violating the principle of sincere cooperation under the Treaties, due to its failure to fully and

appropriately respond to the Commission's inquiry regarding the nature and impact of the 'LGBTI-ideology free zones' resolutions adopted by several Polish regions and municipalities.

### *Combating racism and xenophobia, including hate speech*

The Commission continued to fight racism and xenophobia through its enforcement work in 2021. The [Framework Decision on combating racism and xenophobia by means of criminal law](#) aims to ensure that serious manifestations of racism and xenophobia, such as public incitement to violence or hatred, and hate crimes, are punishable by effective, proportionate and dissuasive criminal penalties throughout the EU.

The Commission opened infringement cases against 11 Member States for not fully and accurately transposing the Framework Decision.



### *Improving the protection of personal data*

Data protection is a fundamental right enshrined in the EU Charter of Fundamental Rights. The Commission continued monitoring the implementation of data protection legislation in Member States.

The Commission followed up on a [judgement](#) by the Court of Justice of 25 February 2021 that imposed financial penalties on [Spain](#) for failure to transpose the law enforcement directive for data protection.

It assessed the compliance of national legislation with the [General Data Protection Regulation \(GDPR\)](#) and the [Data Protection Law Enforcement Directive](#), pursuing infringement procedures where necessary. National data protection authorities monitor and supervise the application of the data protection rules in the Member States, and exercise their powers independently. In 2021, the Commission opened an infringement

proceeding against [Belgium](#) to ensure the Belgian Data Protection Authority is fully independent. The Commission closed infringement proceedings against Germany and Slovenia once they had transposed the law enforcement directive.

### *Justice cooperation and individual guarantees in criminal law*

On cooperation by Member States in criminal justice, the Commission continued monitoring national compliance with [EU rules on the European arrest warrant](#), launching infringement procedures against 15 Member States.

To enforce EU law on the [exchange of information on criminal records](#) throughout the EU, the Commission opened [five infringement cases](#) for incorrect application of the requirements of the European Criminal Records Information System.

The Commission's monitoring of the implementation of the [Directive on the fight against fraud to the EU's financial interests](#) continued. On the basis of an implementation report adopted in September 2021, it opened infringement proceedings against eight Member States for non-conformity of national transposition measures with that directive.

The Commission also continued to monitor the transposition of the [procedural rights directives](#). It pursued infringement proceedings against 18 Member States for partial or incorrect transposition of the [Directive on the right to have a lawyer](#). Infringement proceedings for non-compliant transposition were also started against [Belgium](#), [Portugal](#), [Latvia](#) and [Sweden](#) regarding [the right to interpretation and translation](#), and against [Bulgaria](#), [Ireland](#), [Latvia](#) and [Portugal](#) on [the right to information](#) in criminal proceedings. The Commission also opened infringement cases against [Estonia](#), [Finland](#) and [Poland](#) for failing to fully transpose [EU rules on strengthening the presumption of innocence](#).

### *Security*

Security is not only the basis for personal safety, it also protects fundamental rights. It acts as a foundation for confidence and dynamism in our economy, our society and our democracy. The [EU Security Union Strategy](#) aims to increase the resilience of our societies against organised crime, terrorism and radicalisation; as well as addressing the risks to security in the digital age.

EU rules to fight terrorism criminalise conduct such as training and travelling for terrorism, as well as terrorist financing. The Commission opened 22 infringement cases for incorrect transposition of the [Directive on combating terrorism](#).

The Commission also launched infringement procedures against seven Member States for incorrect transposition of the [Directive on attacks against information systems](#).

On the EU's set of rules on firearms, the Commission was able to close 34 infringement cases as Member States completed their transposition into national legislation. However, it decided to refer [Luxembourg](#) to the Court of Justice for not having transposed the [Firearms Directive](#).

In the area of drugs, all Member States completed transposition of [EU rules](#) on the inclusion of new psychoactive substances in the definition of 'drug'; infringement procedures could therefore be closed. The Commission pursued further its infringement

case against [Hungary](#) for failure to follow the [EU position](#) (binding on Member States) on the international scheduling of cannabis and related substances at the UN Commission on Narcotic Drugs.

### *New Pact on Migration and Asylum*

The Commission's migration policy covers all aspects of migration, including border management, visa policy, irregular migration, asylum and legal migration. Consistent and effective implementation in full respect of individuals' fundamental rights is critical to the success of the policy. In 2021, the Commission continued its work on the implementation of the [new Pact on Migration and Asylum](#).

The Commission opened infringement procedures against [Lithuania](#) and [Slovenia](#), and took the next step in the case against [Malta](#), for incorrect transposition of the [Long-Term Residence Directive](#). The Commission also started infringement procedures against [Bulgaria](#) and [Germany](#) for failure to use the new format for residence permit cards for non-EU nationals, as established by [EU rules](#).

To enforce the EU's asylum rules, the Commission referred [Hungary](#) to the Court of Justice for its failure to comply with an earlier [judgement](#). Hungary had not addressed several aspects of it, such as ensuring effective access to the asylum procedure and clarifying the conditions of the right to remain on the territory, in the event of an appeal in the asylum procedure.

In another case, the Commission decided to refer [Hungary](#) to the Court of Justice for unlawfully restricting access to the asylum procedure, in breach of the [Asylum Procedures Directive](#).



The Court of Justice [ruled](#) in favour of the Commission in a case against [Hungary](#) on the procedures for granting international protection. The Court found that by criminalising activities in support of asylum applications, Hungarian legislation breached [EU rules](#). Hungarian rules were also found to unlawfully limit the right to asylum, in breach of [EU law](#).