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Monitoring the application of European Union law

2020 Annual Report

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| | |
|--|----|
| FOREWORD..... | 2 |
| I. IMPLEMENTING AND ENFORCING EU LAW DURING A PANDEMIC..... | 3 |
| II. EUROPEAN GREEN DEAL..... | 5 |
| Clean Energy and implementing the Paris Agreement on Climate Change..... | 6 |
| Sustainable transport | 8 |
| Fisheries conservation and maritime spatial planning | 8 |
| Sustainable agriculture | 9 |
| Health and food safety..... | 10 |
| III. A EUROPE FIT FOR THE DIGITAL AGE..... | 11 |
| Technology that works for people..... | 11 |
| Digital inclusion for a better EU society..... | 12 |
| Strengthening cybersecurity and protection from cyber threats | 12 |
| An open, democratic and sustainable digital society | 12 |
| Digital transport systems | 13 |
| Transparency of information about businesses..... | 13 |
| IV. AN ECONOMY THAT WORKS FOR PEOPLE..... | 14 |
| Working conditions..... | 14 |
| Health and safety at work | 15 |
| Labour mobility | 15 |
| Social security coordination | 15 |
| Free movement of goods | 16 |
| Anti-money laundering and counter terrorist financing..... | 16 |
| Retail payments..... | 17 |
| Business governance and transparency | 17 |
| Indirect taxation | 17 |
| Direct taxation..... | 18 |
| Competition | 18 |
| Mobility and transport | 19 |
| Internal energy market..... | 20 |
| Energy security | 20 |
| Implementing Euratom rules | 21 |
| V. PROMOTING OUR EUROPEAN WAY OF LIFE | 22 |
| Rule of law and fundamental rights | 22 |
| Free movement of persons..... | 23 |
| Equality and non-discrimination | 23 |
| Racism and xenophobia, including illegal hate speech..... | 24 |
| Consumer rights | 24 |
| Enhancing protection of personal data | 24 |
| Justice cooperation and individual guarantees in criminal law | 24 |
| Security..... | 25 |
| New Pact on Migration and Asylum..... | 25 |



Foreword

The report that you are about to read describes the Commission's work to ensure the proper implementation and application of EU law throughout 2020, a year where Europe and the world were struck hard by the COVID-19 pandemic. As you will see, our efforts continued unabated, and we took action across the board, ranging from the protection of the environment, the free movement of goods and services to ensuring the protection of citizens' rights.

The pandemic also had an impact on our enforcement work: the Commission used its powers as guardian of the Treaties to curb the effects of the initial and natural instincts of self-protection that we see in our Member States. Our efforts were geared towards making sure that national measures were proportionate to the health risks, and that they had no lasting harm on the rights, freedoms and livelihoods of people and businesses across the Union.

The cases described in the report are often not easy – they frequently bring about political and sensitive discussions in the Member States – but we are pursuing them because it is the right thing to do. Citizens' rights across Member States must be protected at all times, wherever they live in the Union.

This is also important for our future work: for example, the full and correct application of the environmental rules that already exist in our Union is key to the success of the European Green Deal, the very centrepiece of our post-pandemic recovery plan.

And in times of crisis, we have to be extra vigilant that the fundamental rights and values that we share do not suddenly become negotiable, or seen as a luxury, to be put aside or restricted when the going gets tough.

Our Union is built on common values and the rule of law. These values are in fact the very cornerstone of our Union and anchored in our Treaties and laws. Europeans are diverse, and this is something to be cherished, not stigmatised. It is our common rules and shared values that unite us.

It is my deep conviction that cooperation between the Commission and the Member States is the best way to ensure that these rules and values are respected at all times. I am pleased to see that this works well most of the time: a timely and proper implementation of the agreed rules does have a powerful and positive impact on people's lives. But, where implementation is lacking, this impact very much depends on the use of enforcement powers by the Commission. We might not agree on every aspect of a certain law, but we have to agree on respecting the law, the judgments of the independent courts that settle our disputes, and we must agree on the primacy of European law.

Infringement procedures remain an option of last resort. If necessary, the Commission cannot and will not hesitate to use this option, to make sure that what is agreed in Brussels and enshrined in law actually finds its way into the lives of ordinary citizens, wherever they live in our Union.

President of the European Commission
Ursula von der Leyen

I. Implementing and enforcing EU law during a pandemic

The European Commission works together with Member States¹ to transpose, apply and implement EU law correctly and on time. The COVID-19 pandemic had a particular impact on this work. It put a serious strain on Member States' administrations, particularly in the first part of the year, and clearly affected their capacity to implement EU law in full and on time.

As a result, the Commission looked for ways to ease the burden on Member States in dealing with infringement procedures. But the Commission also made clear that it would be wrong to suspend its enforcement activity altogether. It has always stressed that the proper application of EU law is paramount, even in times of crisis. In this pandemic, for example, the proper functioning of the single market proved crucial for keeping key supply chains intact, providing shops with food and making sure health services received the medical supplies they needed.

To help the Member States navigate through the COVID-19 pandemic, the Commission issued a number of dedicated guidance documents across the various policy areas, including EU emergency assistance in cross-border healthcare cooperation, health and safety at work, passenger rights, air safety or on a coordinated economic response to the outbreak.



As part of the national responses to the pandemic, many Member States unilaterally introduced export restrictions on medicines, protective equipment and other COVID-19-relevant products, particularly between March and May. Subsequently, some also introduced other restrictions to support domestic producers, for example in the food sector.

Such measures heavily disrupt supply chains and increase shortages of essential products.

¹ On 1 February 2020, the Withdrawal Agreement setting out arrangements for the orderly withdrawal of the United Kingdom from the Union entered into force and the United Kingdom became formally a third country. The Withdrawal Agreement provided for a transition period which started on 1 February 2020 and ended on 31 December 2020. During that transition period, and unless otherwise provided, Union law continued to apply to and in the United Kingdom, including infringement procedures. Any reference to Member States should therefore be understood as including the United Kingdom.

In the first half of 2020 in particular, there was a real risk of a domino effect among Member States who felt compelled to adopt similar protectionist measures.

In some cases, the Commission addressed restrictions imposed in reaction to the pandemic with urgent infringement procedures. And it had frequent meetings with Member States to exchange views on the harmful impact of such restrictions to the free movement of goods, for example in the context of the [Single Market Enforcement Task Force](#). The task force, set up in April 2020, plays an essential facilitating role as a high-level forum where Commission services and Member States work together to assess the state of compliance of national law with single market rules, and where they discuss the most pressing single market barriers and cross-cutting enforcement issues.

The Commission [launched](#) and [further pursued](#) an infringement case against Bulgaria for obliging retailers to offer distinct exposure and sale space for domestic food products, such as milk, fish, fresh meat and eggs, honey, fruits and vegetables, and to purchase 90% of milk and dairy products from domestic producers.

The Commission also contacted and persuaded Member States to avoid adopting, or to repeal, national laws restricting the free movement of COVID-relevant medicines and medical devices in the single market.

Freedom of movement also gives citizens the ability to travel. Over the years, a series of legislative acts have been adopted to ensure a high level of protection for passenger rights in Europe for all modes of transport. Throughout the pandemic, the Commission has consistently made it clear that passenger rights remain valid and that national measures to support the travel industry should not affect these rights.

Similarly, under the [Package Travel Directive](#), organisers of package travel are obliged to refund advance payments within 14 days, if trips are cancelled because of unavoidable and extraordinary circumstances. However, following the COVID-19 outbreak, many travellers did not receive refunds in accordance with the Directive, as several Member States adopted national rules that allowed package travel organisers to postpone reimbursement or to issue mandatory vouchers instead.

After reminding Member States of the rights of travellers under the Package Travel Directive in the [Recommendation](#) of 13 May 2020, the Commission opened infringement proceedings against 11 Member States who had deviated from the Directive.

Most cases were closed because the national measures were amended or had expired.

At the end of 2020, only the cases against [Bulgaria](#), [Croatia](#), [Lithuania](#) and [Slovakia](#) remained open.



II. European Green Deal

'I have been inspired by the passion, conviction and energy of the millions of our young people making their voice heard on our streets and in our hearts. It is our generational duty to deliver for them.'

President von der Leyen in the Political Guidelines

Climate change and environmental degradation are an existential threat to Europe and the world. The European Green Deal is the Commission's plan to make the EU's economy sustainable. We can do this by turning climate and environmental challenges into opportunities, and making the transition just and inclusive for all.

Protecting biodiversity

This is a key goal under the European Green Deal and the European Biodiversity Strategy. Restoring forests, soils and wetlands is also essential for emissions reduction and climate adaptation.



The Commission has pursued further infringement procedures against [Bulgaria](#) and [Germany](#) for failure to protect and manage their Natura 2000 networks and decided to refer [Ireland](#) to the Court of Justice over its failure to take appropriate conservation measures.

The Commission has decided to refer [Slovakia](#) and [Poland](#) to the Court of Justice over their failure to safeguard forest habitats and species. The Commission also pursued further a case against [France](#) concerning illegal bird hunting and capture methods.

Clean air and water

The full implementation of the air quality standards enshrined in EU legislation is important to effectively protect health and to safeguard the natural environment. Large numbers of people are still exposed to harmful substances in their drinking water, and urban wastewater is still not collected or treated in several hundreds of agglomerations.



The Commission decided to refer [France](#) and [Greece](#) to the Court of Justice for poor air quality due to high levels of particulate matter (PM₁₀). The Commission also decided to refer [Bulgaria](#) to the Court of Justice over its failure to comply with a [previous judgement](#) on PM₁₀; Bulgaria may face financial penalties.

The Commission launched an infringement procedure against [France](#) and pursued further a case against [Ireland](#) for failure to fulfil their obligations under EU law with regard to drinking water.

In [May](#) and [October](#), the Commission launched and pursued further infringement cases against several Member States to ensure that urban wastewater is collected and treated.

Access to justice in environmental matters

Access to justice plays a key role in ensuring that the various sectoral environmental rules are properly applied and enforced, and that they meet their objectives. The Commission launched infringement procedures against [Poland](#) and [Bulgaria](#) following decisions by their Supreme Courts denying environmental NGOs the opportunity to legally challenge air pollution plans.

The Commission also took action against [16](#) Member States for restricting access to justice under the Environmental Liability Directive.

Clean Energy and implementing the Paris Agreement on Climate Change

The European Green Deal sets an ambitious action plan for Europe to become the world's first climate-neutral continent by 2050. This contributes to the objective of the [Paris Agreement](#) to keep the global temperature increase to well below 2°C and to efforts to keep it to 1.5°C.

The [EU emissions trading system](#) continues to play a major role in reducing emissions. Throughout 2020, the Commission verified the completeness of national laws transposing the rules for [the next phase](#) of the system, covering 2021-2030.

In the meantime, the Commission finalised the EU-wide assessment of the Member States' integrated national energy and climate plans for 2021-2030. It concluded that the EU is already on track to surpass its current 2030 target for greenhouse emissions cuts (40%). This provides a solid basis for raising the ambition, as outlined in the [climate target plan](#).



Under the [Governance Regulation](#), the Commission has [assessed Member States' integrated national energy and climate plans](#) for 2021-2030. These plans lay out national objectives and targets as well as policies and measures to meet the Energy Union objectives, including the Union's 2030 targets for energy and climate.

This was followed by [individual assessments of the national energy and climate plans](#) submitted by Member States, published as part of [2020 Energy Union report](#) in October 2020.

In January 2020, the new [CO₂ standards for cars and vans](#) started to apply. This Regulation sets out the path towards reducing CO₂ emissions from new light-duty vehicles up to 2030, and outlines incentives for the uptake of zero- and low-emission vehicles. Under the [Fuel Quality Directive](#), suppliers were required to reduce lifetime fuel emissions by at least 6% by the end of 2020, against a 2010 baseline. Member States monitor compliance with this target and will report to the Commission by the end of 2021.

In 2020, the Commission's enforcement action focused on implementing the [Clean Energy for all Europeans](#) package, which is central to developing and delivering on the European Green Deal and will help to lead the energy transition towards a safe, secure and sustainable energy sector that puts consumers first.

A key element of the European Green Deal and essential for achieving the EU's energy and climate targets is the principle 'energy efficiency first'. The EU energy efficiency rules ultimately aim to reduce consumption and decrease imports.

The Commission pursued further the infringement procedures against [Croatia](#), [Czechia](#), [Lithuania](#) and [Poland](#) on the transposition and application of the [Directive on energy efficiency](#).

Sustainable transport

The [Directive on deploying alternative fuels infrastructure](#) requires Member States to develop national policy frameworks for developing publicly available refuelling and recharging points for alternative fuel vehicles and vessels. The Directive aims to improve coordination in developing the required infrastructure, and provide the long-term security needed for investment in the technology for these fuels and the vehicles that will use them.

Intelligent transport systems are vital for increasing safety and tackling Europe's growing emissions and congestion problems. They can make transport safer, more efficient and more sustainable, by applying various information and communication technologies to all modes of passenger and freight transport.

The Commission launched an infringement procedure against [Italy](#), [Portugal](#) and the [United Kingdom](#) for the failure to deliver their reports on the implementation of their national policy frameworks on alternative fuels infrastructure. At the end of the year, the cases against Italy and Portugal remained open.

Moreover, the integration of existing technologies can create new services. The Commission launched infringement procedures against [11](#) Member States for their failure to correctly apply provisions adopted to supplement the [Intelligent Transport Systems Directive](#). These provisions relate to aspects such as access to road safety-related traffic data, real-time traffic information, EU-wide multimodal travel information and access to safe and secure parking for trucks.

Safety is also a key component of promoting rail transport as an alternative to more polluting transport modes. The Commission has therefore addressed [rail safety](#) capacity issues by launching an infringement procedure against [Portugal](#) on account of identified shortcomings. These include its supervision of safety management systems run by railway companies and infrastructure managers, the follow-up made on safety recommendations issued by investigating bodies and the organisational capacity of Portugal's national safety authority.

Fisheries conservation and maritime spatial planning

To address the twin challenges of climate change and biodiversity loss, one of the aims of the European Green Deal is to promote and enhance the protection and restoration of natural ecosystems and the sustainable use of resources. At the same time, the main goal of the common fisheries policy is to ensure that the fishing and aquaculture sectors are environmentally, economically and socially sustainable.



This aim should be achieved by bringing fish stocks to healthy levels in all EU seas and maintaining a healthy level where this is achieved. It is therefore important to implement measures to conserve stocks, restrict fishing fleet capacity and impose limits on catches and fishing activities. To ensure the correct and full implementation of these measures, an adequate and effective fisheries control system is vital.

For this reason, the Commission's enforcement strategy in 2020 continued to focus on fisheries conservation, control and enforcement by Member States. It launched a series of dialogues with Member States on issues such as delays in implementing the tool for sending fisheries control data within the EU, engine power verification systems and controls on the EU fleet fishing outside EU waters.

The Commission launched infringement proceedings against [Belgium](#) and the [Netherlands](#) concerning weighing and registration of catches. Proper controls are essential to make sure that catch registration documents are accurate, to prevent overfishing.

The Commission also launched infringement proceedings against [Malta](#), in particular for having failed to install an effective monitoring, control and inspection system in Bluefin tuna farms.

The common fisheries policy also offers specific tools for enforcement, such as control action plans and administrative inquiries. Based on verifications and audits carried out, the Commission adopted and followed up on a variety of control action plans.

Finally, the Commission will closely monitor the transposition of the Maritime Spatial Planning Directive and in particular the Member States' strategy in their national maritime plans. The key issue is to ensure that such planning will help implement the EU strategy on offshore renewable energy, as part of the European Green Deal.

Sustainable agriculture

The EU's [common agricultural policy](#) is a partnership between agriculture and society, and between Europe and its farmers. The [objectives](#) of the common agricultural policy are, amongst others, to support farmers and improve agricultural productivity, ensuring a stable supply of affordable food, and to make sure that European Union farmers make a reasonable living.

The common agricultural policy is also designed to address [environmental challenges](#) such as climate change. It aims at managing natural resources in a sustainable manner, maintaining rural areas and landscapes across the EU, and keeping the rural economy alive by promoting jobs in farming and related sectors. A thorough application of the relevant legal provisions (e.g. [organic farming](#), [greening](#), [forestry](#), support of research and innovation) is of utmost importance for attaining these objectives. The Commission's common agricultural policy reform proposals intend

to further accommodate the ambitions of the Green Deal, through its associated [Farm to Fork](#) and [Biodiversity Strategy](#).

Health and food safety

The Commission aims to ensure proper implementation of the extensive legislation in this field and to simplify it where appropriate. It takes a 'One Health' approach to preparedness and prevention, integrating human, animal and environmental health, as well as food and feed safety. Audits remained a key tool in implementing and enforcing the EU's extensive legal framework on food and feed safety, animal health, plant health and animal welfare. Audits are also important for maintaining quality control for pharmaceutical products and medical devices.

Making sure that patients have access to cross-border healthcare remained a priority for the Commission in 2020. Structured dialogues were held with the Member States to ensure a better implementation of the [Cross-Border Healthcare Directive](#).

In 2020, the Commission carried out conformity checks of the national laws transposing the [Tobacco Products Directive](#) and organised structured dialogues with the Member States to ensure its correct implementation. Monitoring the implementation of the Directive in Member States' national laws remained a priority for the Commission. Tobacco consumption is the single largest avoidable health risk, and the most significant cause of premature death in the EU. The Directive aims at facilitating a smooth functioning of the internal market, protecting people's health – particularly young people – and meeting the EU's obligations under the World Health Organization's Framework Convention on Tobacco Control.



III. A Europe fit for the digital age

'I want Europe to strive for more by grasping the opportunities from the digital age within safe and ethical boundaries.'

President von der Leyen in the Political Guidelines

The Commission is determined to make this decade Europe's 'Digital Decade'. Europe must now strengthen its digital sovereignty and set standards, rather than following those of others – with a clear focus on data, technology, and infrastructure.

Technology that works for people

The implementation of the EU's digital strategy focuses on making the development, deployment and uptake of digital technology work for people and business. The COVID-19 pandemic intensified the digital transformation of our society.



A fair and competitive digital economy

The independence of the national regulatory authorities is key to ensuring the effective and impartial application of EU rules on telecommunications. It underpins the regulators' authority and ensures the predictability of their decisions, creating a good investment environment in telecommunications markets.

EU law protects the head of the national regulatory authorities (or the members of the collegiate body fulfilling that function) from arbitrary dismissal.

The Commission launched infringement proceedings against [Poland](#) for dismissing the head of the national regulatory authority for electronic communications in Poland. The Commission considered that shortening the overall length of an ongoing mandate or amending the appointment or dismissal conditions, with the view to an early termination, is likely to affect the regulator's independence.

Cross-border access to goods and services online should be without any barriers or friction for European consumers, regardless of their location, residence, or nationality. The [Geo-blocking Regulation](#) prohibits any unjustified discrimination on the basis of nationality, place of residence or place of establishment of customers shopping online. In 2020, the Commission closed the infringement proceedings against Cyprus and Romania for not having communicated the measures applicable to infringements of the geo-blocking rules. At the end of 2020, only the cases against France and Spain remained open.

Digital inclusion for a better EU society

Visual, aural, physical or intellectual impairments can restrict the use of digital services. Equal access to digital public information and services has become even more critical since the start of the pandemic. The [Web Accessibility Directive](#) aims to make the websites and mobile applications of public sector bodies more accessible to everyone, in particular people with disabilities.

In 2020, the Commission closed the seven remaining infringement cases for delays in transposing the Web Accessibility Directive. It continues to assess the conformity of national transposition measures and the correct application of the Directive.

Strengthening cybersecurity and protection from cyber threats

The digital transformation of our society has expanded the threat landscape, bringing new challenges, which 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.

The [Directive on security of network and information systems](#) is the first wide-ranging piece of EU legislation on cybersecurity, providing for legal measures to help boost the overall level of cybersecurity in the EU.

The Commission further pursued cases against [Belgium](#), [Hungary](#) and [Romania](#) for not having identified or provided sufficient information on operators of essential services under the Directive on security of network and information systems. At the end of 2020, these procedures were still ongoing.

An open, democratic and sustainable digital society

The Audiovisual Media Services Directive (AVMSD) was revised in 2018 to create a regulatory framework fit for the digital age, leading to a safer, fairer and more diverse audiovisual landscape. The deadline for transposing the [revised AVMSD](#) into national legislation expired on 19 September 2020.

For the first time, the Directive extends certain audiovisual rules to video sharing platforms and audiovisual content shared on certain social media services. It also strengthens the promotion of cultural diversity, by introducing clear obligations for on-demand services to have at least a 30% share of European content in their catalogue and to ensure the prominence of this content.

In July 2020, the Commission issued guidelines on video sharing platforms, which will help Member States apply the new rules.

The Commission has launched infringement procedures against 24 Member States for failure to transpose on time the revised AVMSD's rules governing EU-wide coordination of all audiovisual media, both traditional TV broadcasts and on-demand services.

Digital transport systems

The European Register of Road Transport Undertakings makes it possible to exchange information on road transport companies established in the EU and between Member States. It is an essential instrument for ensuring that EU transport legislation is properly enforced.

Implementing a new and enhanced version of register requires Member States to adapt their systems at national level. The deadline for establishing an upgraded connection for national electronic registers expired in January 2019.

The Commission decided to refer [Cyprus](#), the [Netherlands](#) and [Portugal](#) to the Court of Justice for their failure to upgrade their registers of road transport companies and their connection to the revised European Register of Road Transport Undertakings. On the same issue, the Commission pursued further the infringement procedure against [Hungary](#).

In road transport, the [European Electronic Tolling Service](#) ensures tolling services across the entire EU road network are interoperable. It enables road users to easily pay tolls throughout the whole bloc with just a single subscription contract with a service provider and a single on-board unit.

By limiting cash transactions at tolling stations, and eliminating cumbersome procedures for occasional users, the tolling service facilitates daily operations for road users, improves traffic flow and reduces congestion. The Commission decided to launch infringement procedures against [Italy](#) and [Hungary](#) for failing to grant European Electronic Tolling Service providers access to their national toll domains.



On aviation safety, [data link services](#) are communications between aircraft and ground control that complement the voice communication traditionally used in air traffic control. They improve pilot-controller communication efficiency and increase air traffic control capacity. The Commission launched infringement procedures against [11](#) Member States for failing to provide and operate data link services for all operators of aircraft flying within their airspace.

Transparency of information about businesses

Member States have to link their national business registers with the system of interconnection of business registers (BRIS). BRIS facilitates cross-border trade and makes procedures less costly and time-consuming for companies. It enables individuals, businesses and entrepreneurs to obtain information on companies. The Commission opened infringement procedures against [three](#) Member States for having failed to connect their national business registers to BRIS.

IV. An economy that works for people

'Our people and our business can only thrive if the economy works for them. This is what our social market economy is all about.'

President von der Leyen in the Political Guidelines

The EU's unique social market economy allows economies to grow and to reduce poverty and inequality. With Europe on a stable footing, the economy can fully respond to the needs of the EU's citizens. Small and medium-sized enterprises are the backbone of the EU's economy.



Working conditions

A key element of Europe's social market economy is fair working conditions, which includes preventing employment relationships that lead to precarious working conditions.

The Commission further pursued a case against [Italy](#) concerning less favourable treatment and the lack of protection against abusive successive fixed-term employment in the public sector.

The goal was to protect workers such as teachers, healthcare workers, professionals in the arts, music and dance education, staff in some musical production foundations, academic personnel, public sector agricultural workers and voluntary staff in the national fire brigade.

Health and safety at work

A strong focus was put on ensuring that EU occupational health and safety rules were transposed into national legislation by the required deadlines. The Commission took the next steps in the infringement procedures against France and Spain, which had failed to communicate [to the Commission](#) their national measures transposing the [Directive on protection from exposure to carcinogens or mutagens at work](#).

The Commission also closely monitored the transposition of [updated rules](#), which also involved adding the virus SARS-CoV-2 to the list of agents in the [Biological Agents Directive](#).

Labour mobility

As a rule, every Member State must treat the nationals of other Member States the same as their own nationals. They may reserve certain public-sector positions for their own nationals, but this exception needs to be interpreted restrictively.

Specifically, this is possible only for posts involving direct or indirect participation in exercising powers conferred by public law, or for duties designed to safeguard the general interests of the state or of other public authorities. A generalised exclusion of EU workers from public posts is contrary to EU law.

The Commission launched 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.

The [Directive amending the rules on posting of workers in the framework of the provision of services](#) significantly improves the situation of posted workers and the 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.

The Commission launched infringement proceedings against 15 Member States who failed to notify the implementation of this directive in their national legislation on time.

Social security coordination

The EU has developed an extensive body of rules on the free movement of workers, the posting of workers and the coordination of social security. If these rules are not followed, trust and fairness in the single market are undermined.

The Commission decided to refer [Austria](#) to the Court of Justice due to its legislation introducing a mechanism (as of 1 January 2019) indexing the amount of family benefits, child tax credits and family tax credits for EU nationals who work in Austria and have children living abroad.

The Commission considered this mechanism to be discriminatory and against the EU rules on free movement of workers and coordination of social security systems.

Information and assistance for citizens and businesses

The single market governance tools, such as the Your Europe portal, Your Europe Advice and SOLVIT offer clear information, assistance and problem-solving to citizens and businesses with these issues. They empower both individuals and businesses to make full use of their EU rights in the single market.

In 2020:

- the Commission worked to ensure that [Your Europe](#) could become the EU's [single digital gateway](#)
- on over 25 200 occasions, [Your Europe Advice](#) provided guidance to individuals and businesses about their single market rights.
- [SOLVIT](#) helped over 2 600 individuals/businesses. SOLVIT is set to become the default dispute resolution tool for the single market, once the procedure for solving problems with the mutual recognition of goods has been implemented.
- the [Internal Market Information System](#) continued to expand and now includes the Consumer Protection Cooperation Network.
- the Commission further continued its work to upgrade the [Single Market Scoreboard](#).

Free movement of goods

In 2020, the Commission remained vigilant against any measure that hindered the free movement of goods.

As an example, it launched an infringement procedure against [Romania](#) for its restrictive measures favouring domestic food products to the detriment of similar imported ones. The case was closed after the Romanian authorities had amended their food law and lifted the restrictions.

The Commission also asked [France](#) to remove obstacles to parallel imports of veterinary medicinal products by farmers for their own livestock. Farmers are allowed to import veterinary medical products from other Member States, for use on their own livestock. The French measures resulted in very high administrative fees that effectively restricted parallel imports.

Anti-money laundering and counter terrorist financing

In 2020, the Commission adopted an [action plan](#) for a comprehensive EU policy on preventing money laundering and terrorism financing, with a particular focus on enforcing EU criminal law Directives, as a way to protect investments.

The [5th Anti-Money Laundering Directive](#) amended the [4th Anti-Money Laundering Directive](#) and introduced substantial improvements to better prevent the financial system from being used for money laundering and funding terrorist activities.

The Member States had to transpose the 5th Directive by 10 January 2020. In [February](#) and [May](#), the Commission initiated infringement proceedings against 17 Member States for failing to notify complete national transposition measures on time.

Retail payments

In 2020, the Commission adopted a [Retail Payments Strategy for the EU](#). As part of that strategy, the Commission reminded the responsible national authorities of their enforcement obligations under the [Single Euro Payments Area Regulation](#). The Commission closely monitored cases of non-compliance with this regulation.



Business governance and transparency

The amendment of the [Shareholder Rights Directive](#) facilitates the exercise of shareholder rights and encourages the long-term engagement of shareholders with companies by setting out duties, transparency measures and ‘comply or explain’ standards. The Commission further pursued the infringement procedures against [seven](#) Member States for their failure to notify transposition measures for the first deadline in the Shareholder Rights Directive, which expired on 10 June 2019. It also launched infringement procedures against eight Member States for failure to notify national measures covered by the second transposition deadline, which expired on 3 September 2020.

Indirect taxation

The Commission continued to pursue infringement cases aimed at removing distortions of competition in the single market, tackling tax evasion and avoidance, and preventing double taxation.

The Commission carried out compliance assessments of new directives relating to rules on value added tax (VAT). These assessments covered [e-commerce](#) as part of the Digital Single Market Strategy, [the cross-border trade between businesses](#), the treatment of [vouchers](#) and [the territorial application of the rules on VAT and excise duties](#).

In the area of car taxation, the Commission decided to refer [Portugal](#) to the Court of Justice for its discriminatory rules on the car registration tax, which affect people who buy used cars from other EU countries.

In the area of excise duties, the Commission referred the [United Kingdom](#) to the Court of Justice for failure to implement the Court’s previous ruling on the incorrect use of marked fuel for propelling private pleasure craft. The Commission also decided to refer [Poland](#) to the Court of Justice because it did not ensure that imported ethyl alcohol used to produce medicines is exempt from excise duties in all cases.

The Commission closed the infringement procedures against Cyprus and Malta concerning the incorrect application of the VAT rules to the lease and purchase of yachts. The incorrect application was revealed by the ‘Paradise Papers’. In the meantime, Cyprus and Malta have taken steps to comply with EU law.

Direct taxation

One of the benefits of the single market is that citizens and businesses have the freedom to move, operate and invest across national borders. As direct taxation is not aligned across the EU, this freedom can mean that some taxpayers can avoid or evade tax in their country of residence. Tax authorities in the EU have therefore agreed to cooperate more closely to ensure taxes are paid and to fight tax fraud and evasion.

On direct taxation, the Commission's enforcement action in 2020 focused on ensuring that Member States transposed important amendments to the [Directive on administrative cooperation](#) into national law. These amendments concern areas such as:

- access to [anti-money laundering information](#)
- mandatory automatic exchange of [country-by-country reports between Member States](#)
- automatic exchange of [financial account information](#)
- mandatory automatic exchange of information on [reportable cross-border arrangements](#).

In addition, the Commission focused on ensuring the proper transposition of the Directive on [rules against tax avoidance](#) that directly affects the single market as regards [hybrid mismatches with third countries](#). And it monitored the proper transposition of the Directive on tax [dispute resolution mechanisms](#).

The Commission took action against Belgium for failing to communicate national measures on tax dispute resolution mechanisms. The Commission also took action against Germany, Greece, Spain, Latvia, Romania, and Portugal regarding the exit tax rule, since they did not completely transpose these rules into their national legislation.

The Commission further took action against [Portugal](#), [Luxemburg](#) and [Belgium](#) for failing to implement measures against tax avoidance practices that directly affect the functioning of the single market.

Customs

The Commission's enforcement strategy focused on the correct and uniform application of the Union Customs Code and on detecting charges with equivalent effect to customs duties, even within the EU.

In 2020, the Commission continued its broad enquiry across all Member States, investigating the national provisions on the deadlines for notifying a customs debt and their compatibility with the Union Customs Code, to secure legal certainty for traders in this regard. The Commission also opened a dialogue with Member States on penalties for failure to declare cash and customs valuations.

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.

Consistently enforcing negative state aid decisions is essential to the credibility of the Commission's state aid control. In this respect, it is essential that Member States comply with Court judgments ordering them to recover incompatible state aid following a Commission decision.

The Court of Justice condemned [Italy](#) to pay a lump sum and daily penalties for failing to comply with its [earlier judgment](#) finding that Italy had not fulfilled its obligation to fully recover state aid illegally granted to the hotel industry in Sardinia.

Mobility and transport

Completing the single market in the rail sector and bringing the full benefits of rail market liberalisation to citizens and businesses continues to be one of the main focus areas of the Commission's monitoring and enforcement policy in transport. To this end, it is crucial to ensure that the [Single European Railway Area Directive](#) is correctly transposed into national law. This will enable the Member States to consistently transpose and implement more recent acts adopted as part of the Fourth Railway Package.

The Commission opened infringement procedures against [Croatia](#), [Slovenia](#), [Spain](#), [Greece](#), [Austria](#) and [Luxembourg](#) for failing to correctly transpose some of the EU rules establishing a Single European Railway Area. This directive aims to create a more competitive framework by covering regulatory oversight and financial architecture in 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.

Simultaneously, the Commission continued to address specific obstacles to accessing the market, as demonstrated by its action urging [Germany](#) to amend its requirements for freight wagon breaking equipment. These requirements are not compliant with [EU law](#) and hamper [rail interoperability](#) efforts.



In other transport areas, the Commission took issue with a diverse array of national measures that hinder the full functioning of the single market:

- it took further steps in the infringement procedure against [Denmark](#), enjoining it to revoke the 25-hour limit it imposed on lorries for parking in state-owned rest areas. This limit creates barriers to [foreign hauliers carrying out international operations](#).
- it also pursued further the infringement procedure against [Malta](#) and launched new infringement procedures against [Belgium and Portugal](#) for the incorrect implementation of the EU safety and environmental rules on [marine equipment, such as life jackets, sewage cleaning systems and radars on board EU-flagged ships](#).
- it opened an infringement procedure against [Sweden](#) for unduly limiting the definition of 'combined transport operations' in a way that makes it more difficult for certain operators to transfer freight from road to rail or waterborne transport for a part of the journey. This prevents them from cutting harmful emissions and reducing other negative impacts of road transport.

European citizens expect high safety and security standards on all modes of transport. EU policies aim to maintain and develop these standards and ensure they are fully aligned across the EU.

In the road sector, the Commission pursued its initiatives to ensure quality infrastructure as a contribution to decreasing the number of road accidents. It further pursued cases against [Spain](#), [Greece](#), [Italy](#), [Croatia](#) and [Bulgaria](#) for failing to implement the full set of required measures to ensure the highest safety infrastructure and operational standards in certain [road tunnels](#).

In the air sector, also on a safety-related note, the Commission launched or further pursued cases against [11](#) Member States for failing to designate a body to ensure that people [reporting safety-relevant occurrences in civil aviation](#) are not penalised by their employers or national authorities.

Internal energy market

A sustainable energy system based on renewable energy sources and increasing energy efficiency requires a well-functioning internal energy market that is open to competition and empowers consumers. An integrated gas market is the cornerstone of the EU's Energy Union. The amended [Gas Directive](#) makes it clear that the core principles of EU energy legislation – namely third-party access, tariff regulation, ownership unbundling and transparency – will apply to all gas pipelines to and from non-EU countries up to the EU's border. This will ensure that all major pipelines entering EU territory comply with EU rules, are operated under the same degree of transparency, are accessible to other operators and are operated efficiently.

The Commission launched infringement procedures against 13 Member States for failing to adopt and/or notify transposition measures under the Directive.

Energy security

EU rules on energy also ensure security of electricity and gas supply based on solidarity between Member States. To ensure the correct implementation of EU rules on secure gas supplies, the Commission launched 27 infringements under the [Regulation on the security of gas supply](#), in particular with respect to notification obligations and the application of the solidarity mechanism between Member States.

Implementing Euratom rules

On nuclear energy, work continued in 2020 to ensure the effective transposition and implementation of the Euratom legal framework on protecting workers, patients and the general public from radiation and the safe handling of radioactive waste.

The Commission launched nine infringement procedures and further pursued cases against [Finland](#) and [Sweden](#) for incomplete transposition of the [Basic Safety Standards Directive](#).

It further pursued the infringement procedures on the [Radioactive Waste Directive](#) against [Romania](#) and the [United Kingdom](#) for incorrect transposition of the Directive. It also further pursued the on-going infringement procedures against [six](#) Member States and opened four new cases for failure to adopt a national programme for radioactive waste.

V. Promoting our European Way of Life

'There can be no compromise when it comes to defending our core values. Threats to the rule of law challenge the legal, political and economic basis of how our Union works.'

President von der Leyen in the Political Guidelines

A Europe that protects must also stand up for justice and for the EU's core values. Threats to the rule of law challenge the legal, political and economic basis of our Union. This Commission's vision for a Union of equality, tolerance and social fairness is built upon the rule of law. Strong borders, modernisation of the EU's asylum system and cooperation with partner countries are important to achieve a fresh start on migration.

Rule of law and fundamental rights

In September, the Commission published its [first annual report on the rule of law](#). The [rule of law mechanism](#) is designed to be a yearly cycle to promote the rule of law and prevent problems emerging or deepening. Where they do occur and they contravene EU law, the Commission may have to resort to the instruments available in the [rule of law toolbox](#), including infringement procedures.

In December, the Commission also adopted a new [strategy](#) to make sure that the Charter of Fundamental Rights is fully applied in the EU. This strategy complements the [European Democracy Action Plan](#) and the rule of law report, and illustrates the Commission's comprehensive approach to promoting and protecting fundamental rights and values in the EU.



In January 2020, in the context of a [pending case](#) regarding the disciplinary regime for Polish judges, the Commission asked the Court of Justice to impose interim measures on Poland, ordering it to suspend the activity of the Disciplinary Chamber of the Supreme Court in disciplinary proceedings against judges. The continued activity of this Chamber undermines the independence of the Polish judiciary and created a risk of irreparable damage to the EU legal order and the value of the rule of law. The Court of Justice [granted](#) the Commission's request.

In April 2020, the Commission started an infringement procedure against [Poland](#) because it considered that the Polish law on the judiciary undermines the independence of Polish judges and is incompatible with the primacy of EU law. The new law prevents Polish courts from directly applying certain provisions of EU law that protect judicial independence. It also prevents Polish courts from referring preliminary rulings on these questions to the Court of Justice. In December 2020, the Commission [extended](#) that procedure because it considered that Poland also violates EU law by allowing the Disciplinary Chamber of the Supreme Court to decide on further matters which directly affect judges, such as decisions removing judges' immunity from criminal investigation.

European Union citizenship

The Commission opened infringement proceedings against [Cyprus](#) and [Malta](#) regarding their investor citizenship schemes, also referred to as ‘golden passport’ schemes. The Commission considered that systematically granting nationality – and thereby EU citizenship – in exchange for a pre-determined payment or investment and without a genuine link with the Member States concerned is incompatible with the principle of ‘sincere cooperation’. The Commission also considered that those schemes undermine the status of EU citizenship.

Free movement of persons

The Commission launched two infringement proceedings against the United Kingdom for failure to comply with the [EU rules on free movement of people](#). The [United Kingdom](#) limits the scope of beneficiaries of EU free movement law in the United Kingdom. It also limits the possibilities for EU citizens and their family members to appeal administrative decisions that restrict free movement rights. In addition, the Commission also pursued a case against the [United Kingdom](#) for not complying with EU rules on comprehensive medical insurance for EU citizens.



Equality and non-discrimination

A key part of the broader equality agenda, the [EU Gender Equality Strategy](#) contains policy objectives and actions to make significant progress towards a gender-equal Europe by 2025, with equal opportunities for both genders.

On gender equality in social security, the Commission launched an infringement procedure against [Bulgaria](#). The case concerns a pension law that indirectly discriminates against women in calculating the contribution period required to be entitled to a pension.

Racism and xenophobia, including illegal hate speech

In September, the Commission adopted an ambitious [EU-anti racism action plan](#). The effective criminalisation of hate speech and hate crime is one of its priorities. The Commission also took concrete steps towards ensuring the correct and complete transposition of the [Framework Decision on combating racism and xenophobia by means of criminal law](#), which aims to ensure that serious manifestations of racism and xenophobia are punishable by effective, proportionate and dissuasive criminal penalties throughout the EU.

In October 2020, the Commission launched infringement proceedings against [Estonia](#) and [Romania](#), as their national laws do not fully and accurately transpose the Framework Decision.

Consumer rights

The [Consumer Protection Cooperation Regulation](#) entered into application in January 2020, strengthening the enforcement of consumer law across the EU. This new enforcement framework proved highly effective in 2020 during the COVID-19 pandemic in fighting online scams. It contributed to the removal or blocking of hundreds of millions of misleading coronavirus-related ads and listings by 11 [world-level platforms](#).

Enhancing protection of personal data

The COVID-19 pandemic highlighted the importance of having in place an efficient data protection regime to foster trust and provide innovative digital solutions. In April 2020, the Commission issued guidance on contact tracing apps, which set out key data protection principles.

In 2020, the Commission issued an [evaluation report](#) on the first two years of applying the [General Data Protection Regulation](#). It concluded that the regulation, an essential component of the human-centric approach to technology and the digital transition, has to a large extent met its objectives, but that further progress is needed in implementing and enforcing it.

The Commission pursued infringement proceedings against [Slovenia](#) and [Germany](#) for having failed to transpose the [Data Protection Law Enforcement Directive](#); at the end of the year, it decided to refer Slovenia to the Court of Justice.

Justice cooperation and individual guarantees in criminal law

On cooperation in criminal justice, the Commission continued monitoring Member States' compliance with the [Framework Decision on the European arrest warrant](#). In 2020, the Commission launched infringement procedures against seven Member States. The Commission's monitoring has also continued with regard to the [Directive on the fight against fraud to the Union's financial interests by means of criminal law](#). The timely implementation of this directive is necessary for the proper functioning of the European Public Prosecutor's Office. By the end of 2020, infringement proceedings were pending against three Member States for late transposition of the Directive. The Commission also continued to monitor the transposition of the [procedural rights directives](#).

The Commission pursued further the infringement cases against [Bulgaria](#), [Croatia](#), [Cyprus](#) and [Romania](#) for partial non-transposition of the Directive on presumption of innocence and against Greece and Cyprus for failing to transpose the Directive on procedural safeguards for children.

Security

In 2020, enforcement work was taken forward as part of the new [EU Security Union Strategy](#) for 2020 to 2025, focusing on priority areas where the EU can bring value to help Member States increase security for all living in Europe.

The Commission continued its monitoring activities regarding the implementation of the [Directive on the use of passenger name record data](#) – to prevent, detect, investigate and prosecute terrorist offences and serious crime.

In parallel, the Commission took further steps in the infringement procedure against [Slovenia](#) for failing to fully transpose the directive, while closing cases against 13 Member States.

In total, 53 infringement procedures were launched for failing to meet transposition deadlines for three directives on firearms:

- [Directive amending the Firearms Directive](#)
- Directive establishing technical specifications for the [marking of firearms and their essential components](#)
- Directive laying down technical specifications for [alarm and signal weapons](#).



The Commission also continued infringement procedures for failure to notify national transposition measures for two pieces of legislation on drugs and police cooperation.

It further pursued cases against [Austria](#), [Finland](#), [Portugal](#), [Slovenia](#) and [Ireland](#) for failing to fully transpose [Directive on the inclusion of new psychoactive substances in the definition of ‘drug’](#) and against [Ireland](#) for failing to fully transpose the [first delegated directive](#) adopted under the latter. On the other hand, 13 infringement procedures on both directives were closed against 11 Member States.

In addition, the Commission pursued infringement procedures against [Belgium](#) and [Greece](#) for failing to fully transpose the [Framework Decision on accreditation of forensic service providers](#).

New Pact on Migration and Asylum

In 2020, the Commission proposed a [new Pact on Migration and Asylum](#), covering all of the different elements needed for a comprehensive European approach to migration. It sets out improved and faster procedures throughout the asylum and migration system and strikes a balance between the principles of solidarity and fair sharing of responsibility. It also places a strong emphasis on protecting fundamental rights.

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 the fundamental rights of individuals is critical to the success of

the policy. In 2020, the Commission continued to monitor the implementation of EU migration and asylum law by Member States.

The Commission also started an infringement procedure against [Hungary](#), as it considered that a Hungarian law that restricts access to the asylum procedure is contrary to the Asylum Procedures Directive. This law precludes persons who are on Hungary's territory, including at the border, from applying for international protection there.

The Commission also opened an infringement procedure against [Malta](#), as it considered that the 'employment licence' required for non-EU nationals who are long-term residents, but not for Maltese nationals, constitutes an unequal treatment in breach of the [Long-Term Residence Directive](#).

It further pursued an infringement procedure against [Sweden](#) for not fully applying equal treatment regarding social security to non-EU nationals covered by the [Students and Researchers Directive](#), compared with its own nationals.



The Commission further pursued an infringement case against [Estonia](#) because of the additional obligations it imposes on travellers crossing the external EU land border, which the Commission considered incompatible with the [Schengen Borders Code](#).