IP/06/503

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Internal Market: Commission acts to ensure 19 Member States implement EU laws

The European Commission has decided to pursue infringement procedures against 19 Member States for failure to implement in national law one or more of eight different Internal Market Directives. The Commission has decided to refer the following Member States to the European Court of Justice over non-communication of national measures implementing certain Directives: Germany, Greece, France, Malta, Spain and Portugal regarding the Insurance Mediation Directive; Latvia and the Netherlands regarding a Directive on supplementary supervision of financial conglomerates; Spain regarding implementing provisions for the Market Abuse Directive; Sweden regarding a Directive on the recognition of professional qualifications; and Luxembourg regarding a Directive on accounting rules. The Commission has also decided to formally request Belgium, Cyprus, the Czech Republic, Finland, France, Italy, Lithuania, Slovakia, Slovenia, Spain and the United Kingdom to complete their implementation of a Directive on occupational pensions, and Belgium and Italy to complete their implementation of the Prospectus Directive. These requests take the form of "reasoned opinions", the second stage of the infringement procedure laid down in Article 226 of the EC Treaty. If there is no satisfactory reply within two months, the Commission may refer the matter to the European Court of Justice. Finally, the Commission has decided, under Article 228 of the EC Treaty, to send a further "reasoned opinion" to Spain, requesting it to comply immediately with a previous judgment of the Court on its non-implementation of the 2001 Copyright Directive. If Spain does not comply, the Commission can ultimately ask the Court to impose daily fines.

Internal Market and Services Commissioner Charlie McCreevy said: *"Member States' recent progress in implementing single market laws has been impressive, as the results of the latest Internal Market Scoreboard show. However, some Member States still lag behind on certain Directives and are effectively denying citizens and businesses across Europe the full benefit of the single market and of measures their governments have themselves agreed. The Commission will do all it can to help Member States implement laws on time, but will continue to take remedial action where necessary."*

Insurance Mediation: Germany, Greece, France, Malta, Spain and Portugal

The Commission has decided to refer Germany, Greece, France, Malta, Spain and Portugal to the European Court of Justice for not having written Directive 2002/92/EC into their national law. Directive 2002/92/EC should have been transposed by all Member States by 15 January 2005. Germany, Greece and Portugal have informed the Commission that the legislative process is on-going, but not yet finalised. France, Malta and Spain have communicated some national measures but have indicated that further national legislation is needed.

The Insurance Mediation Directive is part of the Financial Services Action Plan and has improved choice and reinforced protection for customers while helping insurance intermediaries such as insurance brokers to market their services across borders. The Directive requires all intermediaries to be registered in their home Member State. To obtain that registration, they have to meet strict requirements. Once registered in their home Member State, insurance intermediaries are free to sell their services anywhere in the EU. The current asymmetric state of implementation distorts the market and prevents insurance intermediaries from providing their services on equal terms within the Internal Market.

Supplementary supervision of financial conglomerates: Latvia and the Netherlands

The Commission has decided to refer Latvia and the Netherlands to the European Court of Justice for non-communication of the measures transposing Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate. This Directive lays down specific measures for the prudential supervision of financial conglomerates, i.e. financial groups with activities in both the banking/investment services and insurance sectors. Once properly implemented by all Member States, the Directive will benefit consumers, depositors and investors in the European Union by stimulating financial market efficiency and increasing competition. The deadline for transposing the Directive expired on 11 August 2004. Latvia has transposed the main legal texts but has not yet adopted the required implementing measures. The Netherlands has still not notified the Commission of any measures transposing the Directive into national law. Both countries were sent a reasoned opinion in July 2005.

Market Abuse Directive: Spain

The Commission has decided to refer to the Court a case of non-transposition against Spain with regard to Directive 2004/72/EC which sets out the implementing provisions for the Market Abuse Directive (2003/6/EC). The transposition of this implementing directive should have been completed by 12 October 2004.

The Market Abuse Directive will reinforce market integrity by tackling insider dealing and market manipulation in the regulated markets of the EU-25. It will do this by contributing to the harmonisation of the rules for market abuse throughout Europe, establishing a strong commitment to transparency and equal treatment of market participants and requiring closer co-operation and a higher degree of exchange of information between national authorities. It can produce its full benefits only once it has been fully and accurately transposed by all Member States.

Recognition of professional qualifications: Sweden

The Commission has decided to refer to the Court of Justice the matter of Sweden's non-communication of all the requisite measures for the transposition of Directive 2001/19/EC on the mutual recognition of professional qualifications. In particular, the Directive has not yet been transposed for the profession of surveyor.

This Directive was proposed by the Commission in 1997 and is part of the SLIM initiative, the aim of which is to simplify legislation for the internal market. It considerably facilitates the updating of lists of diplomas, certificates and titles qualifying for automatic recognition. The general system for the recognition of professional qualifications has also been improved.

The deadline for the transposition of Directive 2001/19/EC was 1 January 2003.

Accounting rules: Luxembourg

The Commission has decided to refer Luxembourg to the European Court of Justice over its non-implementation of Directive 2003/51/EC on accounting rules.

Directive 2003/51/EC amends Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings. These Directives define which types of companies have to produce accounts, establish which format should be used for the profit and loss account and the balance sheet and lay down which valuation principles should be applied. The Directives also impose disclosure requirements.

The IAS Regulation, adopted in June 2002, requires all EU companies listed on a regulated market - or those with listed debt instruments - to use IAS from 2005 onwards and allows Member States to extend this requirement to all companies. Where IAS are not applied, the 4th and 7th Company Law Directives (78/660/EEC and 83/349/EEC), also known as the Accounting Directives, will continue be the basis of EU accounting requirements and may therefore remain applicable to up to five million companies in Europe. They needed to be modernised.

Directive 2003/51/EC brought EU accounting requirements into line with modern accounting theory and practice. It allows Member States which do not apply IAS to all companies to move towards similar, high-quality financial reporting. In doing so, all inconsistencies with International Accounting Standards (IAS) have been eliminated.

Institutions providing occupational pensions: Belgium, Cyprus, Czech Republic, Finland, France, Italy, Lithuania, Slovakia, Slovenia, Spain and the United Kingdom

The Commission has decided to send reasoned opinions to Belgium, Cyprus, the Czech Republic, Finland, France, Italy, Lithuania, Slovakia, Slovenia, Spain and the United Kingdom for not having written Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision (IORP Directive) into their national laws, or for having done so only partially. The Directive should have been transposed by all Member States by 23 September 2005. The reasoned opinions follow letters of formal notice sent in December 2005.

The IORP Directive is part of the Financial Services Action plan and completes the internal market as far as institutions providing occupational pensions are concerned. Whilst recognising that Member States' systems for occupational pensions differ widely, the Directive provides harmonised rules for prudential supervision and capital requirements for these institutions. The Directive also lays down rules for the cross-border provision of occupational pensions.

Prospectus Directive: Belgium and Italy

The Commission has decided to pursue infringement procedures against two Member States for failure to implement the Prospectus Directive (2003/71/EC). The Commission will formally ask Belgium and Italy to complete the transposition of this Directive for which the deadline passed on 1 July 2005.

The Directive harmonises the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market. It grants the issuer a single passport, valid throughout the EU, allowing them to make public offers in any of the Member States on the basis of a single approval from their home Member State.

This will make it easier and cheaper for firms to raise capital, thus providing an important boost for the EU economy as a whole. These benefits will not be fully realised without full and accurate implementation of the Directive by all Member States.

2001 Copyright Directive: Spain

The European Commission has decided to send a reasoned opinion to Spain, which has still not yet communicated its national legislation for applying the provisions of the 2001 copyright Directive in spite of the European Court of Justice ruling to do so. However, the Commission has decided to shelve the case against Finland, which has notified its national implementing measures.

This Directive is an essential plank in updating European copyright law. It provides an adequate level of protection for authors and other right-holders in the digital environment and protection for all copyright material including books, films and music. It provides a secure environment for cross-border trade in copyright-protected goods and services and will facilitate the development of electronic commerce of new multimedia products and services.

By adopting the Directive in the Council, the Member States pledged to implement it by 22 December 2002. The European Court of Justice has already ruled against several Member States - including Spain, Finland and France (see IP/01/528) – for failure to implement the Directive. The Commission had thus decided to launch infringement proceedings against these countries on the grounds that they had not complied with Court's rulings (see IP/05/347 and IP/05/921). The Commission has been able to shelve the case against Finland, which has finalised transposition of the Directive, and has postponed its decision against France, where the law transposing the Directive is being adopted, but it has decided to send a reasoned opinion to Spain, which has still given no communication.

The latest information on infringement proceedings concerning all Member States is available at:

http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm