

Financial services: Commission refers Spain to Court for not applying EU prudential rules for banks and investment firms

The European Commission has decided to refer **Spain** to the Court of Justice of the EU for failing to fully implement the Capital Requirements Directive ([Directive 2013/36/EU](#)).

To date, Spain has not fully implemented these EU rules and some provisions are still missing from national law. Those refer mostly to the following aspects: certain powers and discretions of national competent authorities in relation to investment firms; and the imposition of administrative penalties or other measures applicable to institutions found liable of a serious breach in anti-money laundering. Missing provisions also include whistle-blowing mechanisms in case of capital requirements' breaches, rules on the integrity and independence of the members of the management body and the obligation by the Spanish competent authorities to contact the consolidated supervisor in order to obtain information, thereby making supervisory cooperation more difficult. Lastly, corporate governance rules are weaker in Spain given that the obligation to have diverse and skilled management bodies of institutions is not transposed.

Together with the Capital Requirements Regulation ([Regulation \(EU\) No 575/2013](#)), the Directive sets out the prudential requirements for credit institutions and investment firms in the EU, laying down rules on the amount of capital that institutions must have in order to cover potential losses of the risks to which they are exposed. The Directive also formulates rules on the authorisation and supervision of institutions, on supervisory cooperation, on risk management, on corporate governance (including remuneration) and on capital buffers.

Background

Member States had to transpose the Directive into national law by 31 December 2013. In January 2015, the European Commission formally requested Spain to transpose the Directive. In January 2018, a reasoned opinion was issued against Spain. Since then, Spain did not notify the missing measures related to the Directive at stake.

For More Information:

- On the key decisions in the July 2018 infringements package, see full [MEMO/18/4486](#).
- On the general infringements procedure, see [MEMO/12/12](#).

– On the [EU infringements procedure](#).

[Securities markets: Commission refers Slovenia and Spain to the Court of Justice for failing to fully enact EU rules on markets in financial instruments](#)

The European Commission decided today to refer **Slovenia** and **Spain** to the Court of Justice of the EU for failing to fully implement European rules on markets in financial instruments ([MiFID II](#)) as well as its supplementing Directive ([Delegated Directive \(EU\) 2017/593](#)).

These rules are crucial building blocks for the proper functioning of securities markets and are essential for the continued operation of the European single market. If Member States do not transpose the rules, investors are not able to benefit from the enhanced investor protection provided under MiFID II. This includes safeguards of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits. It also makes markets less safe as trading venues and investment firms do not have to operate under the more stringent and transparent operational requirements. National competent authorities of non-transposing Member States are further not able to deliver legally sound authorisations for activities that had not been previously regulated, or that were regulated differently under MiFID I. This includes the operation of trading venues, such as regulated markets, multilateral trading facilities (MTF) and organised trading facilities (OTF) and the registration of MiFID I investment firms as a systematic internaliser.

Not fully transposing these EU rules disrupts the single market as they became applicable on 3 January 2018 and complement the provisions of the [Market for Financial Instruments Regulation \(MIFIR\)](#). Cross-border “passporting” of various investment services and activities might not operate as smoothly as between Member States that have fully transposed the MiFID II rulebook.

Background

In September 2017, the European Commission formally requested several Member States to transpose MiFID II and its Delegated Directive. In January 2018, reasoned opinions were issued against those Member States that had not notified full transposition yet. To date, Slovenia has not notified any

measures related to the Directives at stake and Spain has notified partial transposition only.

For More Information:

- On the key decisions in the July 2018 infringements package, see full [MEMO/18/4486](#).
- On the general infringements procedure, see [MEMO/12/12](#).
- On the [EU infringements procedure](#).

[Commission suspends referral of CROATIA to the Court for failing to amend the law on the privatisation of the energy company INA-Industrija Nafte, d.d. \(INA\)](#)

The European Commission has decided to put on hold the referral of CROATIA to the Court of Justice of the EU, in light of the recent developments in the case.

The Commission had decided to refer Croatia to the Court of Justice on 13 July 2017, for failing to make the 2002 law on the privatisation of Industrija Nafte d.d. ('INA law') compliant with EU rules on the free movement of capital and the freedom of establishment. Since then, Croatian authorities have been discussing with the Commission the amendments necessary to bring the INA law in line with EU rules. They have recently submitted a draft amending the above-mentioned law, which would address the Commission's main concerns, subject to some further adjustments. The Croatian authorities also submitted a timeline for its adoption that would permit a solution before a possible Court judgment. Therefore, the Commission considers that the execution of the referral should be put on hold, pending the adoption of the INA amending law.

In the absence of further progress towards the solution of the case in the next months, the stay of the proceeding may be reconsidered.

Background

Croatia took the commitment to align the so-called INA law with EU rules before its accession to the EU. In November 2014, the European Commission decided to take action against Croatia for failure to amend such law. After

assessing the observations of the Croatian authorities in [December 2016](#), the European Commission sent a reasoned opinion to Croatia to formally request the amendment of the INA law, on the ground that it violates the rules of the Treaty on the Functioning of the European Union ([TFEU](#)) on the freedom of establishment (Art. 49 of TFEU) and the free movement of capital (Art. 63 of TFEU). Then, concluding that Croatia had not fully complied with the Commission's reasoned opinion, the Commission decided on 13 July 2017 to refer the matter to the Court of Justice.

For More Information

- On the monitoring the EU law in the area of free movement of capital [Capital movements | European Commission](#).
- On the key decisions in the July 2018 infringements package, see full [MEMO/18/4486](#).
- On the general infringements procedure, see [MEMO/12/12](#).
- On the [EU infringements procedure](#).

[Infringements: Commission refers Greece, Ireland and Romania to the Court of Justice for not implementing anti-money laundering rules](#)

Ireland implemented only a very limited part of the rules and is therefore also referred to the Court of Justice. The Commission proposed that the Court charges a lump sum and daily penalties until the three countries take the necessary action.

Věra **Jourová**, Commissioner for Justice, Consumers and Gender Equality said: *“Money laundering and terrorist financing affect the EU as a whole. We cannot afford to let any EU country be the weakest link. Money laundered in one country can and often will support crime in another country. This is why we require that all Member States take the necessary steps to fight money laundering, and thereby also dry up criminal and terrorist funds. We will continue to follow implementation of these EU rules by Member States very closely and as a matter of priority.”*

The Member States had until 26 June 2017 to transpose the [4th Anti-Money Laundering Directive](#) into their national legislation. These rules reinforce the previously existing rules by:

- strengthening the risk assessment obligation for banks, lawyers, and accountants;
- setting clear transparency requirements about beneficial ownership for companies;
- facilitating cooperation and exchange of information between Financial Intelligence Units from different Member States to identify and follow suspicious transfers of money to prevent and detect money laundering or terrorist financing;
- establishing a coherent policy towards non-EU countries that have deficient anti-money laundering and counter-terrorist financing rules;
- reinforcing the sanctioning powers of competent authorities.

Meanwhile, in the wake of the Panama Papers revelations and the terrorist attacks in Europe, the Commission proposed a 5th Anti-Money Laundering Directive to further step up the fight against money laundering and terrorist financing. These new rules aim at ensuring a high level of safeguards for financial flows from high-risk third countries, enhancing the access of Financial Intelligence Units to information, creating centralised bank account registers, and tackling terrorist financing risks linked to virtual currencies and pre-paid cards. These new rules entered into force on 9 July 2018 following its publication in the EU's Official Journal and Member States will have to transpose the [5th Anti-Money Laundering Directive](#) into national legislation by 10 January 2020.

Next steps

Regarding the 4th Anti-Money Laundering Directive the Commission has opened so far infringement procedures for non-communication of transposition measures against 20 Member States: 3 are currently at the stage of court referrals, 9 at the stage of reasoned opinions, and 8 at the stage of Letters of Formal Notice (see 8 previous reasoned opinions sent in December 2017, an additional 2 in March 2018).

In the meantime, a majority of Member States have adopted the relevant laws. The Commission is now carefully analysing whether these laws completely transpose the provisions of the 4th Anti-Money Laundering Directive before deciding on whether closing or proceeding with further infringements against Member States.

Background

In July 2017 the Commission opened infringement proceedings for non-communication of the transposition measures and sent a letter of formal notice to sixteen Member States, who had either not notified any measures (Bulgaria, Cyprus, Estonia, Greece, Finland, Hungary, Luxembourg, Latvia, Malta, the Netherlands, Poland, Portugal, Romania) or whose measure were not satisfactory (Ireland, Lithuania, Slovakia).

In November 2017 (Belgium and Spain) and January 2018 (Austria and France), the Commission opened infringement proceedings for non-communication of the transposition measures as the measures notified by these Member States represented only a partial transposition.

Last December 2017- 8 Member States (Bulgaria, Cyprus, Greece, Luxembourg, Malta, the Netherlands, Poland and Romania) had not yet notified any transposition measure. The Commission therefore sent them a reasoned opinion.

In March 2018 the Commission also sent a reasoned opinion to Slovakia and Ireland who – despite having notified to the Commission a partial transposition – had not yet transposed the main obligations of the 4th Anti-money laundering Directive into their national law.

Following these infringement steps, a majority of Member States have adopted the relevant laws. The Commission is now carefully analysing whether these laws completely implement the provisions of the 4th Anti-Money Laundering Directive before deciding on whether closing these infringements or further proceeding with infringements against Member States.

Today, the Commission has also sent reasoned opinions to **Latvia** and **Spain** and an additional reasoned opinion to **Malta** for failing to transpose the [4th Anti-Money Laundering Directive](#) into national law as the assessment of the transposition laws notified by these countries has showed that the transposition is not complete.

For More Information

- [4th Anti-Money Laundering Directive](#) and [Funds Transfer Regulation](#)
- [The Supranational Risk Assessment Report](#)
- [The Staff Working Document on Financial Intelligence Units](#)
- 5th Anti-Money Laundering [Directive](#) and [factsheet](#)
- On the key decisions in the July 2018 infringements package, see full [MEMO/18/4486](#)
- On the general infringements procedure, see [MEMO/12/12](#)
- On the [EU infringements procedure](#)

[International community strengthens support for Somalia's plans for stability and development](#)

Today, international stakeholders gathered in Brussels for the Somalia Partnership Forum, organised by the European Union together with the Federal Government of Somalia and Sweden. Over 60 delegations took part and agreed on joint commitments in key areas for inclusive politics, peace and security and

economic recovery in Somalia.

High Representative/Vice-President Federica **Mogherini** said: *“The European Union is leading the international partnership to strengthen Somalia’s political, economic and security reform agenda. Today, I announced that the EU will provide additional €200 million to support Somalia’s overall stabilisation to create a better future for its people. I also signed the EU’s contribution of €114.2 million for the African Union Mission to Somalia until the end of this year. The stability and development of the country is also critical for the stability of the broader region and for Europe.”*

The President of Somalia Mohamed **Abdullahi Mohamed** said: *“The Federal Government of Somalia is fully committed to implement the Political Roadmap 2020, Transition plan for security, economic reform and reach out to the whole of Somalia for reconciliation and dialogue. The Somalia Partnership Forum is key for strengthened partnerships with our regional and international partners. We want to work according to the theme of the forum – forward together.”*

Minister for Foreign Affairs Sweden, Margot **Wallström**, said: *“The Somalia Partnership Forum has made a number of strong commitments for inclusive politics. We encourage Somalia to adopt national laws and policies that protect women’s and girls’ human rights and enable them to have a stronger role in society. Somalia has taken very important steps on the pathway for sustainable peace and development. Sweden remains a committed partner and will double our development support to Somalia to approximately \$350 million over the next five years.”*

A [Joint Communiqué](#) was adopted which outlines the key outcomes of the Forum.

Background

Over the period 2015-2018, the EU and its Member States provide €3.7 billion to the country in development and humanitarian aid as well as peacekeeping operations.

The EU is a leading supporter of Somalia in a wide range of areas, in particular on security with 3 Common Security and Defence Policy missions in the country: [EUNAVOR ATALANTA](#), [EUTM Somalia](#), [EUCAP Somalia](#). These missions and operations play a significant role in supporting Somalia’s efforts to become a peaceful, stable and democratic country and to take progressive ownership over its own national security. The EU has consistently supported the [African Union Mission to Somalia \(AMISOM\)](#) which has been operating for 10 years now and with €1.73 billion. The EU is currently increasing its security support to the country, reorienting it to more direct support to the Somali institutions.

The EU has also stepped up its humanitarian contribution, with [€89 million in new funding](#) announced last week.

For More Information

[Joint Communiqué](#)

[Opening remarks by High Representative/Vice-President Federica Mogherini](#)

[Factsheet – EU's comprehensive support to Somalia](#)