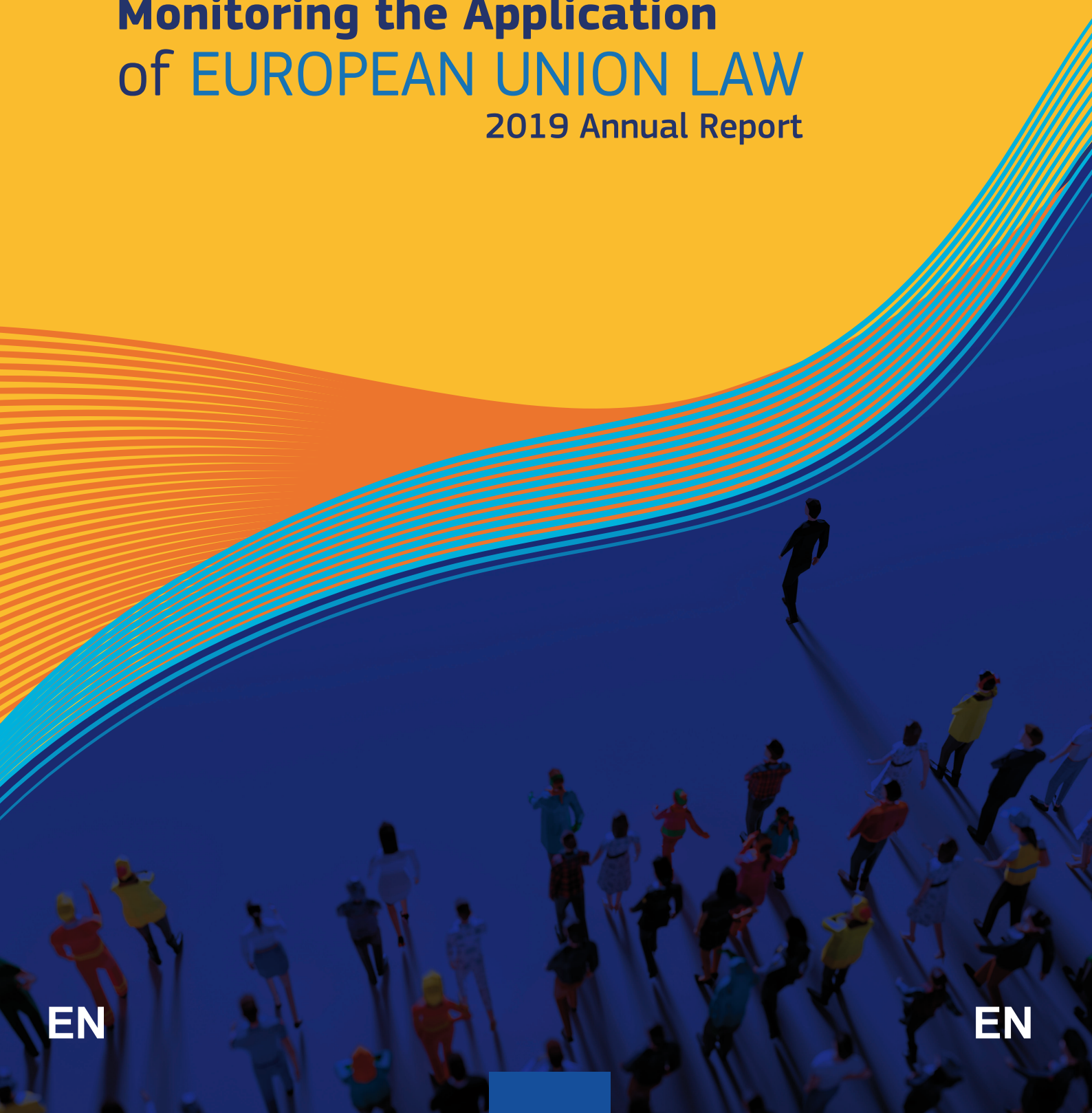




# Monitoring the Application of EUROPEAN UNION LAW

## 2019 Annual Report



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## Foreword

The European Union is founded on the respect of the rule of law. It was no coincidence that the first President of the European Commission, Walter Hallstein, referred to the European Union as a *Community of law* (Rechtsgemeinschaft) – bound by rules that Member States agree upon as co-legislators and subscribe to implement in their national systems. As Guardian of the Treaties, it is the Commission's task to ensure that these rules are upheld to the benefit of our citizens. Whether it concerns clean air, food safety or access to health care abroad, the cooperation of Member States is key to ensure that EU policies become a reality for people in their every day lives.

This annual report provides an account of the Commission's work to ensure the correct application, implementation and enforcement of EU law in 2019.

The year 2019 marked the end of the Juncker Commission and, as of 1 December, the beginning of my team's mandate. In many ways, 2019 has thus been a year of transition. A new team of Commissioners took up their duties, working under new Political Guidelines and steering new initiatives, such as the European Green Deal and the Digital Agenda.

Throughout this transition, the foundations that keep our Union together have not changed. The correct application and enforcement of EU law, including the respect of fundamental rights and the rule of law remains a shared responsibility of Member States and EU institutions. Upholding EU law can never be a one-way street but is based on the sincere cooperation of our Member States – in the interest of the citizens whom we serve. Nurturing this special partnership, the Commission will continue to provide support and issue guidance to Member States to help them implement EU law. We will nevertheless remain vigilant and we will be ready to take determined legal action if EU law is breached. There can be no compromise when it comes to the application and enforcement of EU law to uphold citizens' rights that derive from it.

President of the European Commission

Ursula von der Leyen

## I. A new boost for jobs, growth and investment

The Commission's first priority last year was to stimulate investment to create jobs and strengthen Europe's competitiveness. However, creating the right regulatory environment to support businesses and job creation is undermined if Member States do not implement EU rules correctly and on time.

### *Ensuring fair working conditions across the EU*

The [European Pillar of Social Rights](#), proclaimed in November 2017 by the European Parliament, the Council and the European Commission, expresses the joint political commitment to a number of principles and rights that are essential for fair and well-functioning labour markets and welfare systems in 21st century Europe. One key element is fair working conditions, which includes the prevention of employment relationships that lead to precarious working conditions.



In July 2019, the Commission took action against [Italy](#), as it considered that public sector workers are not sufficiently protected against abusive successive fixed-term contracts and discrimination, as required under EU rules (Council Directive 1999/70/EC).

During 2019, the Member States, the Commission and social partners continued their cooperation to make EU occupational safety and health legislation future-proof and to ensure proper compliance. A strong focus was on ensuring that Member States have in place binding occupational safety and health rules in their national legislation and that they communicate them to the Commission.

The Commission also regularly updates the [Interpretative Communication on the Working Time Directive](#) in line with important developments in the case-law of the Court of Justice.

### *Enforcing environmental rules*

In 2019, the Commission continued its legal action to combat air pollution, which remains a priority. The Commission also promoted implementation through discussions with the Member States on this important topic – a [clean air dialogue](#) was held in Italy in 2019.

In 2019, the Commission took another three Member States to the Court of Justice over excessive levels of nitrogen dioxide (NO<sub>2</sub>) or sulfur dioxide (SO<sub>2</sub>) in the air ([Italy](#), [Spain](#) and [Bulgaria](#)).

The Court of Justice upheld the action brought by the Commission against [France](#) over nitrogen dioxide (NO<sub>2</sub>) pollution and, in another [ruling](#), the Court provided an important interpretation of the [Ambient Air Quality Directive](#) – national courts have jurisdiction to review the choice of location of air quality measuring stations.

The Commission organises [events on circular economy](#) in Member States that are at risk of not reaching the new waste recycling targets and other requirements of EU waste legislation. In 2019, such events were held in [Athens](#), [Lisbon](#) and [Budapest](#), and top experts offered recommendations on how best to implement the rules that were revised in 2018.



The Commission referred [Italy](#), [Cyprus](#) and [Sweden](#) to the Court of Justice in 2019 for failing to meet their obligations on urban waste water treatment. Under EU legislation, proper waste water collecting systems must be in place, and this water must be adequately treated.

Member States must complete the [Natura 2000 network of protected areas](#) and put in place the necessary conservation measures for all sites. This is key for the conservation of protected habitats and species. In parallel, the Commission took action in 2019 to remedy structural flaws in national laws on nature protection and to stop illegal bird hunting. The Commission is also focused on ensuring that logging and forest management activities are carried out in compliance with nature protection requirements.



The Commission launched infringement procedures against 17 Member States in [March](#), [October](#) and [November](#) to improve the implementation of the EU Environmental Impact Assessment [Directive](#), which was updated in 2014 to reduce administrative burden and improve the level of environmental protection, while making public and private investment decisions more sound, predictable and sustainable.

### *Enforcing agricultural rules*

The common agricultural policy (CAP) is built on a partnership between agriculture and society, and between the EU and its farmers. Its purpose is to support farmers and improve agricultural productivity, to ensure a stable supply of affordable food and to make sure that European Union farmers make a reasonable living. The CAP also addresses environmental challenges, including 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.



Geographical indications protect the name of specific products and promote their unique characteristics, which are linked to their geographical origin as well as traditional know-how and are a key part of maintaining high food quality and standards.

In 2019, the Commission took action to address the incorrect implementation of EU rules on the protection of designations of origin and geographical indications.

[Denmark](#) allowed Danish companies to produce and export white cheese to non-EU countries as 'feta', even though it does not comply with the product specification for this protected designation of origin.

[Bulgaria](#) has maintained its own national register of geographical indications for agricultural products and foodstuffs since 2008, contrary to the exclusive character of the EU-wide registers for quality schemes.

### *Enforcing rules on maritime affairs and fisheries*

The primary goal of the common fisheries policy (CFP) is to ensure that the fishing and aquaculture sectors are environmentally, economically and socially sustainable. The CFP therefore includes measures to restrict the fishing fleet capacity and to impose limits on catches and fishing activities. In this regard, all Member States have agreed to bring commercial fishing down to sustainable levels by 2020. In 2019, a particular focus was placed on verifying compliance with rules on by-catches of sensitive species such as whales, dolphins and other marine mammals.



The Commission launched a series of informal dialogues on issues such as engine power verification systems and control of the EU fleet fishing outside EU waters.

The success of the CFP requires the design and implementation of an effective and coherent system of control and enforcement. For this reason, the Commission's enforcement strategy in 2019 continued to focus on fisheries conservation, control and enforcement by Member States.

The Commission followed up on its infringement procedure against [Denmark](#) over its failure to enforce several important provisions of the [EU Control Regulation](#). The most serious issues concern fisheries for industrial purposes. Proper controls are essential to make sure that catch registration documents are accurate, which is necessary to prevent overfishing.

The CFP also offers specific tools for enforcement, such as control action plans and administrative inquiries. On the basis of verifications and audits carried out by the Commission, the Commission adopted and followed up on a variety of control action plans.

#### *Enforcing rules on regional policy*

The [European Structural and Investment Funds](#) support investments in key growth-generating policy areas across the EU.



In 2019, the Commission continued to ensure that irregular expenditure is withdrawn from co-financing, either by suspending payments or by applying financial corrections in some cases.

On 14 May 2019, the Commission adopted a [Decision](#) laying down the guidelines for determining financial corrections to be made to expenditure financed by the Union if public procurement rules are not followed.

This Decision offers more legal certainty for all actors and a more proportionate approach in the complex area of public procurement, which remains a major source of irregularities and financial corrections for Cohesion Funds.

#### *Fighting fraud against the EU budget*

The means to combat crime affecting the EU budget have significantly improved with the adoption of the [Directive on the protection of the EU's financial interests](#). The Directive will also be the substantive base for the work of the [European Public Prosecutor's Office](#). The Commission is working closely with the Member States to ensure that the Directive is implemented properly. On 19 September 2019 it opened infringement procedures against 14 Member States for late transposition.

In two cases brought to the Court by the Commission against the [United Kingdom](#) and the [Netherlands](#), the Court held that these countries had not complied with their duty of sincere cooperation under the Treaty as they had failed to compensate for the loss of own resources resulting from the wrongful issue of export certificates by the local authorities of their Overseas Countries and Territories (OCT). The Court concluded that the two Member States concerned are liable, vis-à-vis the European Union, for any error committed by the authorities of their OCTs that led to a shortfall of traditional own resources.

## II. A connected digital single market

The digital single market strategy addresses the challenges and opportunities of the digital transformation by reducing market fragmentation, increasing data flows and market fluidity, and adapting existing rules to the digital age. Consumer access has improved through the ban on unjustified [Geo-blocking](#), [portability of content](#), [the end of roaming charges](#), and [WiFi4EU](#). Market framework conditions have been bettered through the [new European Electronic Communications Code](#), the [Directive on Audio-visual and Media Services](#), the [updated copyright legislation](#) and the [Regulation on Platforms](#). Enforcing these rules will be essential over the coming years.

### *Improving connectivity*

High-speed digital communications foster innovation and better services for the economy and for society as a whole. The development of 5G connectivity is a priority for the Commission. The aim is to ensure that 5G radio spectrum is available in the whole of the EU by 2020.

The effective application of rules concerning the Europe-wide [emergency number 112](#) will deliver safe and effective access to emergency services for end users, including for those with disabilities.



In 2019, the Commission launched infringement proceedings against [Czechia](#), [Germany](#), [Greece](#), [Spain](#) and [Croatia](#) because they had failed to ensure equivalent access for users with disabilities, as required by the rules on the 112 emergency number.

Building [high-speed electronic communications infrastructure](#) can be very costly. Therefore, it is important to implement the rules that make deployment cheaper and more efficient, to the benefit of the public.

In 2019, the Court imposed, at the request of the Commission, a daily penalty on [Belgium](#) for having only partially transposed measures to reduce the cost of deploying high-speed electronic communications networks in the Brussels region.



### *Guaranteeing cybersecurity and trust in online transactions*

In an increasingly digitised economy and society, cybersecurity threats are a growing concern. [The Directive on the Security of Network and Information Systems](#) (NIS Directive) improves the Union's overall level of cybersecurity. The Commission launched infringements against [6](#) Member States in 2019 for not having identified operators of essential services under that Directive. At the end of



2019, infringement procedures on the NIS Directive were still ongoing against the following Member States: Belgium, Hungary, Austria, Romania and Slovenia.

### *Better accessibility for people with disabilities*

People with disabilities, especially those with vision or hearing impairments, may have difficulty accessing websites and mobile applications of public bodies. The aim of the [Web Accessibility Directive](#) is to improve access to these information tools for people with disabilities. Throughout 2019, the Commission actively pursued the ongoing infringement procedures against 19 Member States for their failure to implement the Web Accessibility Directive and eventually closed cases against 12 Member States. As a result, 7 cases remained open at the end of 2019, against Belgium, Bulgaria, Germany, Ireland, Hungary, Austria and Slovakia.

### III. A resilient Energy Union with a forward-looking climate change policy

The success of the [European Green Deal](#), a priority area of the Political Guidelines of President von der Leyen, relies on the solid foundations of the [Energy Union](#). The EU has a comprehensive set of energy rules. The ‘[Clean Energy for All Europeans](#)’ package, completed in 2019, is central to developing and delivering the Energy Union and the European Green Deal. It will help to lead the energy transition towards a safe, secure and sustainable energy sector with the consumer at the centre.



The Commission’s role as guardian of the Treaties in ensuring the correct implementation and application of EU energy rules is vital to achieve EU energy policy goals. The enforcement action in 2019 focused on the following main areas: the internal energy market, energy efficiency, renewable energy sources and security of gas supply.

The Commission decided to refer [Czechia](#) and [Slovenia](#) to the Court of Justice for the incorrect transposition and application of certain provisions of the [Energy Performance of Buildings Directive](#). The Commission also decided to refer [Spain](#) to the Court of Justice for failure to comply with the [Energy Efficiency Directive](#) and [Belgium](#) for the incorrect transposition of directives on the [internal market for electricity](#) and [gas](#).

The Commission launched new procedures against 13 Member States, in [January](#), [July](#) and [November](#), for failure to adopt and/or notify transposition measures under the [Indirect Land Use Change Directive](#) and launched infringement procedures against [15](#) Member States for failure to correctly implement the EU rules on [energy efficiency](#).

Moreover, infringement procedures were used to ensure a high level of safety in the nuclear sector and to enforce EU rules on nuclear safety, responsible and safe management of spent fuel and radioactive waste and the radiation protection of workers, patients and the general public.

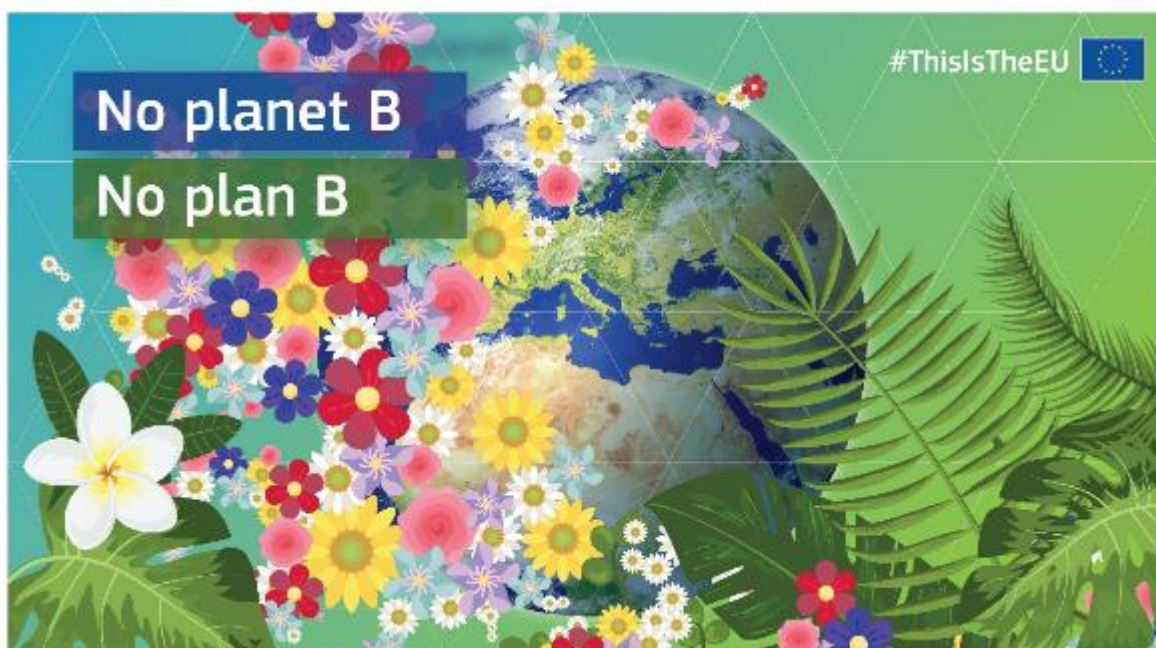
In 2019, the Commission further pursued the infringements against [5](#) Member States and decided to refer [Italy](#) to the Court of Justice for failure to transpose measures under the [Basic Safety Standards Directive](#). The Court of Justice also upheld the Commission's claims in a [judgment](#) against Italy for having breached the requirement under the [Radioactive Waste Directive](#) to notify a final adopted national programme for radioactive waste and spent fuel management.



With the entry into force of the 'Clean Energy for all Europeans' package, attention will focus on monitoring the Member States' progress in reaching the EU's 2030 targets for renewable energy and energy efficiency. The Commission will also monitor their integrated national energy and climate plans for 2021 to 2030. Enforcing EU energy rules will remain an essential pillar of the Energy Union strategy.

#### *Implementing the Paris Agreement on climate change*

The [Political Guidelines of the von der Leyen Commission](#) call upon Europe to become the world's first climate-neutral continent by 2050. Published in December 2019, the Communication on the [European Green Deal](#) sets out an ambitious action plan in a number of policy areas to achieve this goal. In March 2020, the Commission proposed that the 2050 climate neutrality be enshrined in a [new climate law](#) and later in the year will present a plan to increase, in a responsible way, the current 2030 target for reducing greenhouse gas emissions to at least 50% and towards 55% (from 1990 levels).



Fully implemented and enforced legislation is essential to reach the current 2030 target of at least a 40% reduction (from 1990 levels) and build a solid basis for raising the level of ambition. By October 2019, Member States were meant to have transposed the [Directive to enhance cost-effective emission reductions and low-carbon investments](#) in order to prepare for phase 4 of the EU emission trading system (EU ETS) for 2021-2030. The Commission is currently reviewing the state of transposition and will, where not already under way, take enforcement action as necessary.

For shipping, in 2019 the Commission [published](#), for the first time, comprehensive information on CO<sub>2</sub> emissions from ships calling at ports in the European Economic Area. For aviation, in 2019 the Commission laid down a [framework allowing for implementation in the EU of the rules for monitoring, reporting and verification of emissions from airplanes](#) under [the global market-based measure \(CORSIA\)](#) of the International Civil Aviation Organisation.

For protection of the ozone layer, in 2019 the Commission completed the [evaluation](#) of the implementation and performance of the [Ozone Regulation](#), and in 2020 it will start an impact assessment to examine if and how this Regulation could be further improved. In 2020, the Commission will also start the evaluation and impact assessment of the [F-Gas Regulation](#).



#### IV. A deeper and fairer internal market with a strengthened industrial base

The EU single market remains Europe's most precious asset for citizens and businesses. It provides enormous opportunities for businesses, and a greater choice and better prices for consumers. It enables people to travel, live, work and study wherever they wish. But these benefits cannot be enjoyed if single market rules are not applied or implemented, or if they are undermined by other barriers.

##### *Ensuring undistorted competition*

The Commission's infringement work in the field of competition strengthens the internal market by promoting a level playing field.

In 2019, after having verified the completeness and conformity of the transposing measures of the [Directive on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union](#), the Commission concluded that the Directive was fully and correctly transposed, and closed all the infringement proceedings it had started in this context.

The consistent enforcement of negative State aid decisions is essential for the credibility of the Commission's State aid control. Proceedings that require a Member State to recover irregular State aid are an important part of the Commission's infringement work in the field of competition.

The Commission decided to refer [Greece](#) to the Court of Justice for failing to comply with a 2017 [ruling](#). The Court had condemned Greece for failure to implement a 2014 Commission [Decision](#) requiring it to recover EUR 135.8 million of incompatible State aid from Larco General Mining & Metallurgical Company S.A. More than 5 years after the adoption of the Commission Decision and following the Court's judgment and the Commission's reminder, Greece had still not recovered the incompatible State aid. The Commission has now requested that the Court of Justice impose financial sanctions on Greece for having failed to implement the Court's ruling.

##### *Ensuring free movement of workers*

The EU has developed an extensive body of rules on the free movement of workers, the posting of workers and social security coordination. If these rules are not followed, trust and fairness in the single market are undermined. In particular, concerns have been voiced about mobile workers being vulnerable to abuse or being denied their rights, and about businesses having to operate in an uncertain, unclear or unfair business environment.

The Commission received complaints about Austrian legislation making family benefits and family tax reductions paid for children residing in another Member State dependent on the cost of living of that Member State. This means that many EU citizens who work in Austria and contribute to its social security and tax system in the same way as domestic workers receive fewer benefits simply because their children are living in another Member State. The Commission found that this indexation mechanism is not compatible with EU law. It therefore launched an infringement procedure against [Austria](#).

In 2019, the Commission continued infringements proceedings against [Cyprus](#), [France](#), [Ireland](#), and [Romania](#) for failing to implement on time in their national legislation the obligations deriving from the [Directive on minimum requirements for enhancing worker mobility between Member States by](#)



[improving the acquisition and preservation of supplementary pension rights](#). Following the notification by these Member States and the assessment that they had completely transposed the Directive, the Commission closed the proceedings against them.



On 25 September 2019, the Commission published [a report on the application and implementation of the Enforcement Directive on Posting of Workers in the EU Member States](#).

The Commission also published a [Practical Guide on Posting of Workers](#). To help workers, employers and national authorities understand the rules on posting of workers. It

ensures that workers are aware of their rights and that the rules are correctly and consistently applied by national authorities and employers throughout the EU.

In 2018, the Commission proposed the creation of a [European Labour Authority](#) (ELA) to promote the fair, simple and effective enforcement of EU rules on labour mobility. The European Parliament and the Council reached an [agreement](#) on this proposal in 2019. The Labour Authority's activities started in mid-October 2019 with the first meeting of the ELA Management Board.

### *Ensuring free movement of goods*

The Commission works to ensure that the European single market delivers its full benefits, that EU citizens have a greater choice of products and better prices, and that European businesses – small and large – can expand their customer base and trade products more easily across the EU. For example, in 2019, the Commission took action on restrictions affecting both the retail sale of agricultural and food products, and the placing on the market of lightning conductors.



The Commission referred [Hungary](#) to the Court of Justice because its national rules on the retail sale of agricultural and food products provide that the profit margin on these products must be the same, irrespective of their country of origin. This rule violates EU law on the free movement of goods, as it discourages sales of imported products in comparison to domestic products.

In the pharmaceutical sector, the Commission took action to ensure that Member States comply with EU rules on the free movement of goods.

In 2019, the Commission sent a reasoned opinion to [Germany](#) regarding its rules on fixed prices for prescription medicines, which hampers the sale of products by pharmacies established in other EU Member States.

The Commission's enforcement activities also led to the successful closure of several infringement cases related to free movement of goods in the areas of food supplements, right-hand drive passenger vehicles, sale of imported second-hand ambulances or national accreditation bodies.

#### *Ensuring freedom of establishment and free movement of services*

The [Services Directive](#) requires that national authorities review their existing legislation to ensure that any requirements they impose on market access are justified by a legitimate objective. To support the implementation of that Directive, one-stop shops are set up, namely [points of single contact](#) (PSCs), to make it easier for businesses to establish themselves and expand in other Member States. In 2019, the Commission took action against all 28 Member States to improve the service provided by the PSCs, as required by the Services Directive and the [Professional Qualifications Directive](#). Problems were found related, in particular, to the online availability and quality of information on the requirements and procedures that service providers and professionals have to fulfil if they want to do business abroad. The Commission also drew attention to problems with accessing and completing procedures online through the PSCs.

To create a level playing field for businesses across Europe, the EU has adopted rules on [public procurement](#) that apply in all Member States. These rules govern the way public authorities and certain public utility operators across Europe purchase goods, works and services.



In 2019, the Commission took action against 8 Member States for not awarding hydropower authorisations or concessions in line with EU law. All eight Member States failed to respect the principles of transparency and equal treatment in awarding those authorisations and concessions.

The Commission considered that the procedures followed in [France](#) and [Portugal](#) to award hydropower concessions did not comply with EU rules

on public procurement.

The Commission also took the view that [Austria](#), [Germany](#), [Italy](#), [Poland](#), [Sweden](#) and the [United Kingdom](#), hydropower authorisations were not awarded in accordance with the [Services Directive](#), which requires that when authorisations for a service activity are limited in number because natural resources are scarce, the authorisations must be granted for a limited period following an impartial and transparent selection procedure. These authorisations must not be automatically renewable.

Freedom of establishment requires that the qualifications of professionals, such as doctors or architects, be recognised abroad, enabling them to set up a practice anywhere in the EU. The Commission launched infringement procedures against all [Member States](#) (except Denmark) in 2019 for not bringing their legislation into line with the Professional Qualifications Directive.

#### *Improved information and assistance for citizens and businesses*

The Single Market will only function well if citizens and businesses have good access to information and assistance about their rights under EU law. In 2019, the Commission stepped up efforts to make Single Market rules better known by upgrading the [Your Europe portal](#), in view of its transition to the future [single digital gateway](#) in 2020. [Your Europe Advice](#) also continued to provide tailor-made legal advice to citizens and businesses. The Commission further focused on actions to boost the administrative capacity and legal expertise of [SOLVIT](#) in order to effectively implement the new business-friendly problem-solving procedure, where SOLVIT helps businesses in case mutual recognition of their product is denied. This new procedure started to apply from April 2020. Building on preparatory work done in 2019, the [internal market information system](#) will, as of 2020, support administrative cooperation under the new Consumer Protection Cooperation (CPC) Regulation. This information system will help the [CPC Network](#) of national consumer authorities to protect consumers even better. Finally, the Commission started the process of upgrading the [Single Market Scoreboard](#) to cover more policy areas and to give a fuller picture of the state of the single market.

In the field of justice, the Commission regularly updates the [e-Justice portal](#), which provides a wealth of information and links on laws and practices in all EU countries.

#### *Enforcing the Capital Markets Union, financial services rules and free movement of capital*

The directives adopted in the wake of the financial crisis must be properly implemented to increase the resilience and stability of the financial sector and to improve investor protection. The implementation of some of these directives is also important for completing the Capital Markets Union. The implementation of these directives (for example the [Solvency II Directive](#), the revised [Markets in Financial Instruments Directive](#), the [Occupational Retirement Provisions Directive](#), the [Payment Services Directive](#), the [Insurance Distribution Directive](#)) is also central to the goal of achieving the Capital Markets Union, which will improve access to finance, in particular for innovative companies, start-ups or small and medium-sized enterprises. It also makes capital markets more attractive for retail and institutional investors, and facilitates cross-border investment. In 2019, the Commission launched infringement procedures as 17 Member States had failed to implement the [Occupational Retirement Provisions Directive](#) in their national legislation on time.

The Commission pursued the infringement procedure against [Romania](#) for not aligning its legislation on third-party liability motor insurance with EU rules. Romania's national rules impose strict conditions on insurers in setting their premiums. The Commission considered that these obligations are contrary to the [Solvency II Directive](#), regarding the principle of the freedom of tariffs. The Romanian legislation also obliges insurers to issue, for certain categories of vehicles, a policy valid only on Romanian territory. These provisions were considered contrary to the [Motor Insurance Directive](#), which requires the policies to cover the whole territory of the Union based on a single insurance premium.

On the free movement of capital, the Commission had opened infringement procedures against [5](#) Member States already in 2015, requesting them to terminate intra-EU bilateral investment

treaties between them ('intra-EU BITs') because of their incompatibility with EU law. BITs are agreements establishing the terms and conditions for private investment that apply between two EU Member States.

The Court of Justice in the [Achmea case](#) confirmed that investor-State arbitration clauses in intra-EU BITs are not compatible with EU law. In 2019, the vast majority of EU Member States endorsed the text of a plurilateral agreement to terminate the intra-EU bilateral investment treaties among them. In [May 2020](#), twenty-three Member States signed the [agreement](#) for the termination of such treaties.

Hungary had adopted a law which terminated certain so-called 'usufruct rights' – entailing the right to use a property and to profit from it – held by investors in Hungary. The law deprived in particular foreign investors of their lawfully acquired rights on farmland, and of the value of their investments, without any compensation. The Commission decided to refer [Hungary](#) to the Court of Justice. In 2019, the Court [ruled](#) that by adopting legislation depriving persons of their right of usufruct on farmland, Hungary infringed both the principle of free movement of capital and the right to property guaranteed by the Charter of Fundamental Rights.

#### *Fighting against money-laundering and counter terrorism financing*

The Commission's enforcement activities in this field are focused on ensuring the timely and correct transposition of the [4<sup>th</sup>](#) and the [5<sup>th</sup>](#) Anti-Money Laundering Directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. Both directives promote the highest standards for anti-money laundering and to counter terrorism financing. During 2019, the Commission continued moving forward with infringement cases as several Member States had still failed to implement the 4th Anti-Money Laundering Directive in their national legislation.

The Commission also adopted the [Communication: Towards better implementation of the EU's anti-money laundering and countering the financing of terrorism framework](#), which was accompanied by four reports to support European and national authorities in better addressing money laundering and terrorist financing risks. The Communication and reports stress the need for the full implementation of these two directives while underlining that a number of structural shortcomings in the implementation of the Union's rules on anti-money laundering still need to be addressed.

### *Enforcing rules on taxation and customs*

On indirect taxation, the Commission gave priority in its enforcement efforts to pursuing infringements that distort competition in the internal market, that go against fair taxation or that hamper EU climate objectives.

Following the revelations in the Paradise Papers of widespread evasion in the yacht and aircraft sectors, the Commission continued infringement procedures against [Italy](#) and [Cyprus](#). These Member States had set up tax measures favourable to the pleasure yacht and aircraft industries that run counter to EU law and fair taxation.

[Poland](#) is currently exempting from energy taxes highly polluting industries on the ground that this is covered by the exceptions under the [EU's emission trading scheme](#) (EU ETS). The Commission decided to refer Poland to the Court because its actions are contrary to EU law and to EU climate objectives.

The Commission's enforcement action in 2019 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 information in the field of taxation](#), or the [automatic exchange of financial account information](#).

One of the benefits of the internal market is that citizens and businesses have the freedom to move, operate and invest across national borders. As direct taxation is not harmonised 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 that taxes are paid and to fight tax fraud and tax evasion.

In addition, the Commission focused on ensuring the proper transposition of the Directive on [rules against tax avoidance practices that directly affect the functioning of the internal market](#) and the Directive on [dispute resolution](#).

The Commission took action against [Spain](#) for failing to implement measures on the mandatory automatic exchange of tax information. The Commission also took action against [Austria](#) and [Ireland](#) for failing to transpose the interest limitation rule, as required by the rules against tax avoidance practices that directly affect the functioning of the internal market.

In 2019, the Commission closed infringement procedures against [Czechia](#), [Greece](#), [Poland](#) and Romania on access to anti-money laundering information. The Commission also closed infringement procedures against [Belgium](#), [Czechia](#), [Greece](#), [France](#), [Cyprus](#), [Portugal](#), the [United Kingdom](#) and Latvia on rules against tax avoidance practices that directly affect the functioning of the internal market, since they had completely transposed these rules into their national legislation.

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

In 2019, the Commission launched an enquiry across all Member States, investigating national provisions on the time limitation for notifying a customs debt and the compatibility of these provisions with the UCC, in order to provide more legal certainty for traders.



Following an infringement procedure launched by the Commission, [Bulgaria](#) amended its provisions to comply with EU customs law in relation to sanctions for the non-declaration of cash and in relation to customs duty relief for certain US products.

### *Ensuring a high level of protection for consumers*

The [Directive on better enforcement and modernisation of EU consumer protection rules](#) was adopted in November 2019. It strengthens consumer rights online, tackles dual quality of products and provides for deterrent fines for 'widespread infringements' of consumer rights.

Furthermore, the Commission launched the [#YourEURight](#) campaign to raise the awareness of consumers of their rights.



In July 2019, the Commission issued [guidance on the application of the Unfair Contract Terms Directive](#). It covers the case law of the Court of Justice on, for instance, the transparency of contract terms, the effect of finding contract terms unfair and on requirements for procedures before national courts, such as for the review of unfair contract terms.

By the end of 2019, 13 of the 14 infringement procedures launched for late transposition of the 2015 [Package Travel Directive](#) had been closed. The Commission has started assessing for all Member States whether the national measures correctly transpose this Directive.

The Commission supported the enforcement of EU consumer law by national enforcement authorities under the [Consumer Protection Cooperation \(CPC\) Regulation](#). It assisted these [authorities in addressing](#) misleading practices of major online operators (Facebook, Airbnb and booking.com) to improve the transparency of their offers and the fairness of their terms and conditions. In addition, the Commission assisted Member States in preparing for the application of the revised CPC Regulation from January 2020, including through workshops.

The European framework for alternative dispute resolution (ADR) and online dispute resolution (ODR) was made more effective, including through an improved version of the European ODR platform. The Commission also released its [first implementation report on the ADR/ODR framework](#).

For product safety, the Commission continued to facilitate cooperation among enforcement authorities by financing sampling and testing activities on specific products in connection with the rapid alert system, RAPEX. RAPEX allows for a quick, Europe-wide exchange of information between authorities on products that pose a risk to the health and safety of consumers.

#### *Ensuring a high level of protection of public health*

Monitoring the implementation of the [Tobacco Products Directive](#) in Member States' national laws remained a priority for the Commission in 2019. This Directive aims at putting in the Single Market context efforts to reduce tobacco use, particularly discouraging young people from taking up smoking, and to ensure that the public is fully aware of the harmful effects of tobacco. Tobacco consumption is the single largest avoidable health risk, and the most significant cause of premature death in the EU. In 2019, the Commission carried out conformity checks of the national laws transposing the Directive and organised structured dialogues with the Member States to ensure its better implementation.

In 2019, the Commission closed infringement procedures against Czechia, Croatia, Spain and Sweden, as the Member States took measures to implement the Tobacco Products Directive in their national law.

Ensuring patients' rights to access cross-border healthcare remained a priority for the Commission in 2019. The Commission closely monitored the [Cross-Border Healthcare Directive](#) and carried out structured dialogues with the Member States to ensure better implementation of the Directive.

The Cross-Border Healthcare Directive lays down patients' rights to choose to receive healthcare in another Member State and to claim reimbursement for it when returning back home. The level of reimbursement must be up to the level of the costs that would have been covered by the patient's own Member State if the healthcare had been provided there, without exceeding the actual costs. The Commission launched infringement procedures against [Austria](#) and the [Netherlands](#) because of reduced reimbursement for cross-border health services.

For the [Directive on the sustainable use of pesticides](#) (SUD), the Commission undertook a series of initiatives through the SUD Working Group, through audits, and through the Better Training for Safer Food training in order to facilitate the Directive's implementation.

### *Enforcing rules on mobility and transport*

In 2019, the Commission pursued its monitoring of the implementation of EU transport legislation. Its enforcement work covered, in particular, the rules on completing the single market, developing intelligent transport systems and defining common requirements for safety in all modes of transport.



The Commission also monitored the national implementing measures aimed at creating [a single European rail area](#). In particular, it monitored competition issues, the regulatory oversight and financial architecture of the railway sector, the power of national regulators, the improved framework for investment in rail, and the fair and non-discriminatory access to rail infrastructure and rail-related services.

The Commission decided to launch infringement procedures against [Denmark](#), [Germany](#), [Ireland](#), the [Netherlands](#) and [Poland](#) for failing to transpose certain provisions of the EU rules on establishing a single European railway area. The procedures against [France](#) and [Spain](#) were pursued further for their failure to fully comply with specific provisions, notably those regarding access to rail-related services and guarantees of independence for the station manager. The Commission also pursued further the infringement procedures launched against [Greece](#) and [Ireland](#) for failing to communicate national measures to transpose EU rules on the [opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure](#).

The European Registers of Road Transport Undertakings ([ERRU](#)) allows for the exchange of information between Member States on road transport undertakings set up within the EU. It is an essential instrument to ensure that the relevant EU legislation is properly enforced. The implementation of a new and enhanced version of the ERRU requires Member States to adapt their national systems. The Commission pursued infringement cases against [Belgium](#), [Cyprus](#), [Czechia](#), [Denmark](#), [Hungary](#), [Malta](#), the [Netherlands](#), [Portugal](#), and the [United Kingdom](#) to upgrade the connection between their national registers on road transport undertakings and the new version of ERRU, as required by the relevant [regulation](#).

Safety and security are of primary concern for any transport system. Creating an environment for safe transport is essential for European citizens. One of the Commission's roles is to respond to these expectations by ensuring that there are satisfactory standards in the whole EU for safety and security in all modes of transport. Europe's railways are among the safest in the world. EU policies aim to maintain high standards and to align safety requirements across the EU.

The Commission launched an infringement procedure against [Spain](#) for its failure to fully transpose [EU legislation on railway safety](#). The Directive requires Member States to establish an independent safety authority and an independent accident and incident investigation body. It also requires Member States to allocate tasks and safety responsibilities coherently. Moreover, Member States are required to define common railway safety principles. The independence of investigation bodies is crucial to ensure effective investigations and prevent future accidents.

Road transport is the most widely used means of travel and a primary cause of accidents. The Commission has been very active in promoting rules, technical standards, and awareness-raising campaigns to decrease the number of fatalities caused by road accidents. The Commission monitored, in particular, the safety requirements for tunnels and decided to pursue [Belgium](#), [Bulgaria](#), [Croatia](#), [Italy](#) and [Spain](#) for not complying with the [Directive on minimum safety measures relating to the infrastructure and operation of tunnels](#)

In maritime transport, the safety of both passenger and merchant ships is of paramount importance. The common EU safety rules concern equipment, such as life jackets, sewage cleaning systems and radars, on board EU-flagged ships.

The Commission launched infringement procedures against [Malta](#) and [Bulgaria](#) for their failure to comply with [EU law on marine equipment](#). Malta and Bulgaria had notably failed to ensure that marine equipment (on board their flagged vessels) was always accompanied by a declaration of conformity and had not conducted market surveillance on an adequate scale.

Aviation is a form of transport requiring dedicated safety rules. EU air safety policy ensures a high level of safety for passengers.

The Commission further pursued the infringement procedure against [Hungary](#) for its failure to comply with EU [rules on technical requirements and administrative procedures related to air operations](#). These rules address in detail air operations with aeroplanes, helicopters, balloons and sailplanes, including ramp inspections of aircraft of operators under the safety oversight of another state. Due to a lack of sufficient personnel, Hungary had failed to verify compliance with the safety requirements applicable to organisations or to types of operations.



## V. A deeper and fairer Economic and Monetary Union

A 'deeper and fairer Economic and Monetary Union' is a fundamental part of the Commission's response to the need to promote growth and jobs. This policy aims at strengthening the EU economy in a way that creates more employment and improves people's living standards.



### *Enforcing Banking Union rules*

Under the Banking Union, the Commission continued to check the Member States' implementation of the [Capital Requirements Directive IV](#), the [Deposit Guarantee Schemes Directive](#), the [Bank Recovery and Resolution Directive](#) and the [Bank Creditor Hierarchy Directive](#). These EU instruments are set up to ensure that banks are stronger and better supervised and that problems can be resolved more easily without using taxpayers' money. In 2019 the Commission adopted a [report](#) assessing the implementation of the Bank Recovery and Resolution Directive.

In 2019, the Commission launched infringement procedures against 12 Member States for failing to adopt the necessary measures to fully transpose the Bank Creditor Hierarchy Directive.



## VI. An area of justice and fundamental rights based on mutual trust

Full respect for the rule of law and the Charter of Fundamental Rights is at the heart of Commission priorities. Specific rights must also be ensured, such as the right of free movement, the protection of personal data, gender equality, non-discrimination, victims' rights and the right to a fair trial in criminal proceedings. These topics are high on the Commission's agenda as they directly affect people's lives.

Under the [European Semester](#) exercise, the Commission continued to encourage Member States to improve the effectiveness of their enforcement capacities. This particularly concerns the independence, quality and efficiency of their national justice systems. To this end, the Commission proposed country-specific recommendations for seven Member States. Through the [EU Justice Scoreboard](#), the Commission monitors the independence, quality, and efficiency of the Member States' justice systems.

### *Upholding rule of law and fundamental rights*

In April 2019, the Commission set out its reflections on [strengthening the rule of law in the EU](#), sparking contributions from over 60 stakeholders contributed. The results were reflected in the July [Communication on Strengthening the rule of law within the Union - A blueprint for action](#), which put forward a new rule of law mechanism. The Commission's Political Guidelines announced a new annual rule of law review cycle and an annual report, which will summarise the situation in each Member State. The Commission also announced that it will pursue a strategic approach to infringement proceedings and build on the case law of the Court of Justice.

On [24 June](#) and [5 November 2019](#), the Court of Justice issued rulings in infringement proceedings initiated by the Commission against Poland, confirming that Polish legislation lowering the retirement age of Supreme Court judges and ordinary court judges is in violation of EU law requirements regarding judicial independence.

On 10 October 2019, the Commission referred [Poland](#) to the Court of Justice in infringement proceedings concerning the new disciplinary regime for judges, as this regime undermines judicial independence by not offering the necessary guarantees to protect Polish judges from political control.

Negotiations on the Commission's [proposal](#) for a regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law are ongoing in the Council. Respect for the rule of law is essential to ensure sound financial management and to protect the Union's budget.

### *Cross-border cooperation in criminal and civil justice*

The Commission continued its efforts to monitor the complete transposition of the Procedural Rights Directives. In 2019, the main focus was on the [Directive on procedural safeguards for children](#) and the [Directive on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings](#).



In 2019, the Commission launched infringement procedures against 7 Member States for not communicating their national transposition measures on the Directive on procedural safeguards for children and against 4 Member States for not doing so for the Directive on legal aid.

The Commission continued infringement procedures against 16 Member States and launched infringement procedures against 9 Member States which had not communicated all the national measures necessary to transpose the [Victims' Rights Directive](#). The Commission also continued its infringement procedures against 2 Member States in relation to mutual recognition instruments for [transfers of prisoners](#), [probation measures](#), [supervision measures](#) and [cross-border enforcement of financial penalties](#).

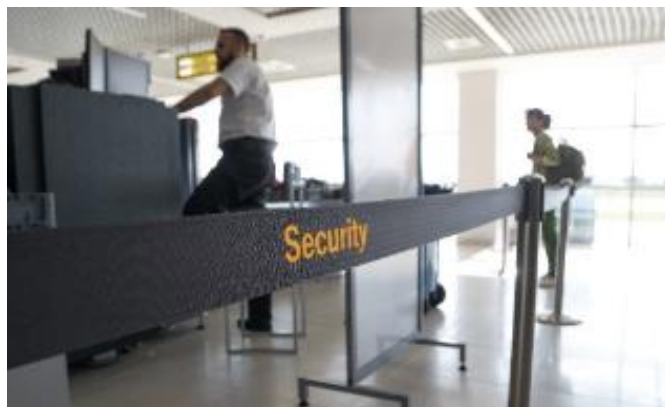
### *Improving the protection of personal data*

Following the entry into application of the [General Data Protection Regulation](#) (GDPR) in May 2018, the Commission focused on implementing the new data protection rules in 2019 through a multi-faceted approach. In particular, it engaged in bilateral dialogues with national authorities on the compliance of national legislation with the GDPR, worked closely with the data protection authorities cooperating within the [European Data Protection Board](#), and exchanged with stakeholders notably through a dedicated multi-stakeholder group. The Commission also continued to financially support national data protection authorities through grants, and conducted awareness-raising campaigns for citizens and businesses. The Commission also carried out a stock-taking exercise of the first year of implementation of the GDPR, the results of which were presented in a [communication](#) issued in July 2019.

Member States were required to transpose the [Data Protection Law Enforcement Directive](#) by May 2018, and the Commission has begun assessing the compliance of the national transposition legislation notified by the Member States with this Directive. In 2019 the Commission closed several of the 19 infringement procedures launched in 2018 for non-communication of the transposing measures, while it launched an infringement procedure against [Germany](#) and took [Spain](#) and [Greece](#) to Court (in the meantime Greece has notified the Directive's full transposition). At the end of 2019, infringement procedures were pending against four Member States.

### *Enforcing rules on security*

In 2019, enforcement work continued under the [European agenda on security](#) and the development of the Security Union. The implementation of EU rules in this area is key to ensuring a high level of security throughout the EU. The regular progress reports on the Security Union reflect the ongoing efforts to ensure full and correct implementation of the rules.



Furthermore, the Commission monitored the implementation of the [Directive on the inclusion of new psychoactive substances in the definition of 'drug'](#) and of the [first delegated directive](#) adopted under the latter. The Commission also continued infringement procedures for the failure to notify national transposition measures for two key directives on security and on the fight against serious crime: the [Passenger Name Records Directive](#) and the [Directive on Combatting Terrorism](#). The Commission further pursued cases against [Spain](#), the [Netherlands](#) and [Finland](#) on the Passenger Name Records Directive. On the Combatting Terrorism Directive, the Commission further pursued infringement cases against [Greece](#) and [Luxembourg](#).

The Commission also launched infringement procedures to safeguard the Union's exclusive external competence for security under the EU rules in this area.

Infringement procedures were launched against [Bulgaria](#), [Hungary](#), [Austria](#) and [Romania](#) for having signed a multilateral international agreement on the exchange of DNA, fingerprints and vehicle registration data, which contain provisions in violation of the EU's exclusive external competence by virtue of the [Prüm Decisions](#). These decisions provide for a mandatory automatic exchange and comparison of DNA data between national databases to combat terrorism and cross-border crime.

## VII. Towards a new policy on migration

The Commission's migration policy seeks to equip the EU with the tools to better manage migration in the medium and long term. It covers the full range of relevant issues, including border management, visa policy, irregular migration, asylum and legal migration. Consistent, humane and effective implementation is critical to the success of the policy.



In 2019, the Commission continued to monitor Member State implementation of EU migration and asylum law, in particular the [Asylum Procedures Directive](#), the [Reception Conditions Directive](#), the [Qualification Directive](#) and the [Return Directive](#). These Directives establish rules on processing asylum claims, guarantee a dignified standard of living for asylum seekers in the EU, lay down rules for recognising third-country nationals as refugees and set common standards and procedures under which non-EU nationals staying illegally may be removed from the territories of EU countries.

The Commission referred [Hungary](#) to the Court of Justice for legislation which effectively criminalises activities intended to assist persons initiating applications for asylum in Hungary. The law is considered incompatible with the right of asylum applicants to access counselling or legal advice offered in particular by non-governmental organisations. It prevents anyone who is subject to a criminal procedure for having provided such assistance from approaching the transit zones at Hungary's borders, where asylum seekers are held. The Commission concluded that the Hungarian legislation does not comply with the [Asylum Procedures Directive](#) and the [Reception Conditions Directive](#).

On legal migration, the Commission's priority is to ensure that there are genuine legal pathways to the EU, namely by improving the EU's ability to attract and retain highly-skilled workers as well as students and researchers. It is therefore important to ensure that the directives on legal migration are implemented fully and correctly. They establish common conditions for the admission and residence of non-EU nationals, simplify and harmonise migration procedures and provide rights to equal treatment as EU nationals in a number of areas.

In 2019, the Commission further pursued the pending infringements for failure to notify national measures to implement the [Students and Researchers Directive](#), for which five Member States ([Belgium](#), [Greece](#), [France](#), [Slovenia](#) and [Sweden](#)) still had cases open at the end of the year.

An infringement procedure was launched against [Sweden](#) for its incorrect implementation of several directives on legal migration as regards the processing of applications for permits, and for restrictions to equal treatment of certain categories of non-EU nationals.

The correct application of Union rules on Schengen borders and visas was also a priority for the Commission in 2019.

The Commission further pursued an infringement case against [Estonia](#) because its 'Go-Swift' queue management system is considered incompatible with the [Schengen Borders Code](#). It also took further steps in the infringement procedure against [Czechia](#) on the right to appeal against a decision refusing, revoking or annulling a [Schengen visa](#).