

Ms Ursula Von Der Leyen
President of the European Commission

Brussels, 18 March 2024

Dear Commission President,

We would like to express our deep concern as regards the current approach of the Commission to infringement procedures. As indicated by the Parliament in the oral question for debate on 14 December 2023, the Commission gives priority to what it considers being a systemic shortcoming or an issue of wider principle, excluding individual cases. It focuses its efforts on what it deems to be the most serious infringements of EU law that harm the general interest. Yet, despite repeated requests of clarifications, these key criteria are still vaguely defined and no consistent definition emerges from the practice.

At this moment, the overall Commission's enforcement strategy is grounded on a complete political discretionary assessment in whether to launching or not an infringement procedure.

Beside the clear lack of legal certainty, to make the overall approach on this matter worse is the lack of effectiveness in ending violations of EU law, given the very long timing in handling infringement procedures, as well as the related lack of transparency, with no access to documents and information on the exchanges between the Commission's services with Member States, neither for the public nor for MEPs, as elected citizens' representatives. The status of many very important infringement procedures launched against Member States confirms since a long time that the Commission is failing to respect its stated objective, namely to make sure that Member States comply with EU law as soon as possible, in order not to bear the cost of non-compliance, in terms of lasting or irreversible environmental damages, delaying or narrowing the protection of fundamental rights, burdens on the public and businesses and reduced trust by people and businesses in the Institutions and in the EU at large.

Currently (23 February 2024), there are 1600 infringement procedures open for systemic violations of EU Law by Member States detected by the European Commission, with a large part of them kept for years stalled in the pre-contentious phase with no referral to the CJEU.

Furthermore, recent research even showed a remarkably sharp decline in the number of infringement actions brought by the Commission over the last twenty years.¹ This trend is particularly worrying in the field of environmental law, as also stressed in the recent study by Stichting BirdLife Europe and the European Environmental Bureau. The implementation of cornerstone environmental legislation by Member States is poor, even decades after it entered into force, and enforcement action by the Commission keeps being slow. It often takes years to process a well-founded complaint, sometimes only to then close it without providing reasons, or sometimes lacking entirely. During this time, the environment continues to deteriorate as does the trust in the institutions and the rule of law.²

¹ Kelemen, R. Daniel, and Pavone, Tommaso. 2023. "Where Have the Guardians Gone? Law Enforcement and the Politics of Supranational Forbearance in the European Union." *World Politics* 75 (4): 779-825.

² Laura Hildt, Dr. Raphael Weyland. Stepping up enforcement. Recommendations for a Commission 'Better Compliance' agenda to ensure the application of EU environmental law. April 2022, https://eeb.org/wp-content/uploads/2022/06/EEB-BirdLife_Stepping-up-Enforcement_Recommendations-for-an-EC-Better-Compliance-Agenda_2022-1.pdf

There are plenty of examples.

Numerous complaints demonstrate that the extension of the Port of Valencia could be devastating for Albufera Natura 2000 site, an area of vital importance for biodiversity, whereas no proper environmental impact assessment has been delivered.

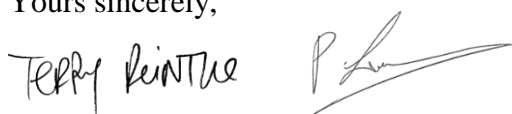
Numerous complaints confirm that Italy is still failing to ensure that ILVA plant in Taranto, Europe's largest steel plant, operates in conformity with EU legislation on industrial emissions, with serious consequences for human health and the environment, with the Commission keeping stalled since 2014 a related infringement procedure (INFR(2013)2177) with no further action taken in nearly a decade.

The same goes for the unique habitats in the Venice lagoon protected by EU law suffering repeated damages arising, not only, from the persistent lack of implementation of those measures proposed in 2009 by the Italian authorities to compensate the impact of the construction of moving dams, which led the Commission back then to close the related infringement case (INFR(2003)4762), but also for the additional construction projects representing an existential threat to the overall outstanding ecological values of the lagoon.

Another big example is the one concerning the massive illegal logging and related deforestation taking place for decades in Romania, with repeated systemic violations of the Habitats Directive (92/43/EEC), Birds Directive (79/409/EEC) and EU Timber Regulation (Regulation (EU) 995/2010), in an overall context lacking of effective legal measures to prevent the illegally harvested timber and apply appropriate sanctions, with severe persistent shortcomings in the access of the public to environmental information in the forest management plans and with hundreds of serious cases of violence against activists, journalists and forest rangers. Since many years, the Commission had found that the competent national authorities managed forests, including by authorising logging, without evaluating beforehand the impacts on protected habitats, leading to ever increasingly lose paramount forest habitats within protected Natura 2000 sites. The Commission only in 2020 decided to launch an infringement procedure against Romania (INFR(2020)2033) and despite the national competent authorities are still failing to establish the necessary legal measures to adequately counter this serious issue and with serious violations of the EU environmental law still taking place, the ongoing infringement procedure is stalled since July 2020.

We call on you, Commission President, to revise the approach currently applied to the Enforcement of EU law and to make sure that in case of your appointment the new Commission will ensure: **a)** thorough, effective and rapid actions to put an end to EU law's violations by Member States; **b)** legal certainty on the key criteria underlying the overall strategy on the enforcement of EU law; **c)** transparency on the handling of infringement procedures; **d)** a joint mechanism between the Commission and the European Parliament in order for MEPs, as citizens' representatives, to get access to all exchanges of documents between the Commission's services and national authorities on the detected EU law's violations by Member States.

Yours sincerely,



Terry Reintke and Philippe Lamberts, Co-Presidents of the Greens/EFA group