

LTT POUR RV DE MIDI	Date: 13/04/2011	Author: HOME-A3
1. SUBJECT		
Data Retention Directive: state of play with <u>Romania</u> .		
2. LTT		
<ul style="list-style-type: none"> - The implementation deadline was 15 September 2007 (except for internet related data which was 15 March 2009). Romania transposed the Directive in 2008, but its legislation was annulled by its constitutional court in October 2009. - The Commission regrets Romania's ongoing delay in transposing and intends to continue to enforce the Data Retention Directive where necessary by means of infringement procedures - Unless Romania notifies the Commission of a proposal to transpose the Directive as soon as possible, the Commission will be obliged to commence infringement proceedings against it on the basis of non-compliance under Article 258 of the Treaty on the Functioning of the European Union. 		
3. BACKGROUND		
<p><u>DRD : Implementation status</u></p> <p>There are currently five countries that have not transposed the Data Retention Directive:</p> <ul style="list-style-type: none"> - Austria and Sweden have yet to adopt any transposing legislation; - In Romania, Germany and more recently the Czech Republic, national laws transposing the Directive were declared unconstitutional by their respective Constitutional Courts. The three countries are currently considering how to re-transpose legislation. <p>In November 2008 Romania notified the Commission of its transposition measures. On 8 October 2009, the Constitutional Court annulled the law that transposed the Data Retention Directive. The Court accepted that interference with fundamental rights may be permitted where it respects certain rules, and provides adequate and sufficient safeguards to protect against potential arbitrary state action. However, drawing on case law of the European Court of Human Rights, the Court found the transposing law to be ambiguous in its scope and purpose with insufficient safeguards, and held that a 'continuous legal obligation' to retain all traffic data for six months was incompatible with the rights to privacy and freedom of expression in Article 8 of the European Convention on Human Rights.</p> <p>On 21 Jan 2011 DG HOME met with Romanian authorities to discuss the situation. The Commission has yet to receive details of the substance or timing of a legislative proposal for transposing the Directive.</p>		

