



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL HOME AFFAIRS

Director General

Brussels, 21 JAN. 2013  
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NOTE FOR THE ATTENTION OF MR LUIS ROMERO REQUENA,  
DIRECTOR GENERAL OF LEGAL SERVICE

**Subject: Infringement proceedings against Romania for non-communication of national transposition measures to comply with Directive 2006/24/EC (Infringement No 2011/2089)**

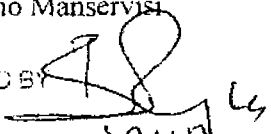
The Constitutional Court of Romania, with its judgement of 8 October 2009, annulled the national legislation transposing Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (the Data Retention Directive).

In view of the fact that Romania had not informed the Commission of any new provisions adopted to comply with Directive 2006/24/EC following the ruling of the Constitutional Court of Romania, and that Romania consequently failed to fulfil its obligations under this Directive, the Commission launched infringement proceedings against Romania by sending a letter of formal notice on 17 June 2011 (ref. SG-Greffe(2011)D/9861), followed by a reasoned opinion on 28 October 2011 (ref. SG-Greffe(2011)D/18406) and a supplementary reasoned opinion on 26 March 2012 (ref. SG-Greffe(2012)D/5264).

On 21 June 2012, Romania notified Act No 82 of 13 June 2012 on the retention of data generated or processed by providers of public electronic communications networks and providers of publicly available communications services, and amending Act No 506/2004 concerning the processing of personal data and the protection of privacy in the electronic communications sector (ref. MNE(2012)52797) that was published in the Official Gazette of Romania, Part I, No 406 of 18 June 2012. The Romanian law entered into force on 21 June 2012, except for the obligation for providers of electronic communication services and providers of public electronic communications networks to retain traffic and location data for a period of six months (Article 3(1) and (2)) which only entered into force on 21 December 2012. By letter of 21 June 2012, Romania declared this law to be the complete transposition of Directive 2006/24/EC.

On the basis of a prima facie analysis, my services concluded that the law notified by Romania amounted to a complete transposition of Directive 2006/24/EC. However, given that the obligation for providers of electronic communication services and providers of public electronic communications networks to retain traffic and location data for a period of six months (Article 3(1) and (2)) only entered into force six months after the entry into force of the law, it had been agreed with your services to leave the infringement proceedings against Romania open in order to monitor if all provisions of the law notified by Romania will obtain legal effect after the transitional period of six months, while not further advancing the infringement proceedings against Romania at that stage.

The remaining parts of the Romanian transposing law entered into force on 21 December 2012 and all provisions of the law notified by Romania obtained legal effect. Against this background, it is proposed to close the infringement proceedings against Romania. I would be grateful for your opinion on this matter within the next ten working days.

DIRECTOR-GENERAL ABSENT  
Stefano Manservigi  
SIGNED BY   
DATE: 17/11/12

Cc: Mr Soren Schønberg, Member of Cabinet of Commissioner Cecilia Malmström  
Ms \_\_\_\_\_, Mr \_\_\_\_\_ Legal Service