



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

Brussels,

SG-Grefe(2010)D/

PERMANENT REPRESENTATION  
OF SWEDEN TO THE  
EUROPEAN UNION  
[address PermRep SE]

LN 260 TFEU

10

**Subject:** Letter of formal notice  
- Infringement No [insert infringement number]

The Secretariat-General should be obliged if you would forward to the Secretary of State for Foreign Affairs the enclosed letter from the Commission.

For the Secretary-General

Encl. C(2010)

SE



## EUROPEAN COMMISSION

Brussels,

[Infringement nr 2007/1181]  
C(2010) ...

Dear Foreign Secretary,

I would draw your Government's attention to the judgment of the Court of Justice, dated 4 February 2010, in Case C-185/09 *Commission v Sweden*, to the effect that:

*"by failing to adopt, within the prescribed period, the provisions necessary to comply Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 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 Kingdom of Sweden has failed to fulfil its obligations under that directive.<sup>1</sup>"*

Under Article 260(1) of the Treaty on the Functioning of the European Union, if the Court of Justice finds that a Member State has failed to fulfil an obligation under the Treaty, the State is required to take the necessary measures to comply with the judgment of the Court of Justice.

By letter of 15 March 2010, the European Commission asked your Government what measures it had taken to comply with the Court of Justice judgment referred to above.

By letter of 6 April 2010, your Permanent Representative to the European Union informed my department that the legislative process of transposing directive 2006/24/EC into Swedish national legislation is ongoing. However, this letter was not accompanied by draft legislation and did not include a precise timetable of the adoption of your legislation.

As the European Commission has received therefore only incomplete information about the measures taken by your Government to comply with the judgment of 4 February 2010, it

---

<sup>1</sup> Case C-185/09, par. 13

Mr Carl Bildt  
Minister for Foreign Affairs  
Gustav Adolfs torg 1  
SE-103 39 Stockholm

takes the view that Sweden has failed to fulfil its obligations under Article 260(1) of the Treaty on the Functioning of the European Union.

The Commission invites your Government, in accordance with Article 260(2) of the Treaty, to submit its observations on the foregoing within two months of receipt of this letter.

After examining these observations, or if no observations have been submitted within the prescribed time-limit, the Commission may refer the case to the Court of Justice as provided for in Article 260(2) of the Treaty on the Functioning of the European Union.

The Commission would also draw your Government's attention to the financial penalties that the Court of Justice may impose, under Article 260(2) of the Treaty on the Functioning of the European Union, on a Member State that fails to comply with its judgment.

Under this same article and on the basis of its Communication of 13 December 2005 on the application of Article 228 of the EC Treaty<sup>2</sup>, when the Commission refers a case to the Court of Justice, it specifies the amount of the lump sum, of the penalty or of both, to be paid by the Member State concerned, which it considers suited to the circumstances.

Yours sincerely,

Cecilia Malmström  
Member of the Commission

---

<sup>2</sup> SEC (2005) 1658 final; OJ C 126, 7.6.2007, p. 15.