

2011/1143	Infraction constatée	RÉP. TCHÈQUE	Service responsable : HOME/A/03
Services associés : SGEN/X/00; SJUR/X/00			
DIRECTIVE 2006/24/CE DU PARLEMENT EUROPÉEN ET DU CONSEIL sur la conservation de données générées ou traitées dans le cadre de la fourniture de services de communications électroniques			

Bases juridiques : Directive:32006L0024	
Stade : Non-communication	Financement communautaire : N
Procédures en relation : dossier père -> ; dossiers fils ->	

Fait Incriminé :
Infringement case 2011/1143 concerning the non-transposition by the Czech Republic of 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

Mise en demeure 258 (ex226) :	Mise en demeure 260 (ex228) :
Décision : Envoi : 25/11/2011:SG(2011)D/21311 Réponse : 25/01/2012:INF(2012)104388	Décision : Envoi : Réponse :
Mise en demeure complémentaire 258 (ex226) :	Mise en demeure complémentaire 260 (ex228) :
Décision : Envoi : Réponse :	Décision : Envoi : Réponse :
Avis motivé 258 (ex226) :	Avis motivé ex228 :
Décision : 22/03/2012:E/2012/1798;C(2012)1882 Envoi : 26/03/2012:SG(2012)D/5244;C(2012)1882 Réponse : 01/11/2012:INF(2012)105795	Décision : Envoi : Réponse :
Avis motivé complémentaire 258 (ex226) :	Saisine 260 (ex228) :
Décision : Envoi : Réponse :	Décision : Dépot décision : Réf.Aff. : D.Arrêt :
Saisine 258 (ex226) :	
Décision : Dépot décision : Réf.Aff. : D.Arrêt :	

Origine habilitation :	Correspondance avec l'état membre (2 dern. évén.):
11/07/1990:PV(1990)1020:MDH 115	02/11/2012:EM - Courrier :MNE(2012)56030 02/11/2012:EM - Courrier :MNE(2012)5602

Historique des décisions (6 dernières décisions) :
22/03/2012:E/2012/1798;C(2012)1882:Avis motivé 258(ex226):

Etat du dossier au 16/01/2013	Jr.Rs.:	Eq.Jr.:	Resp. Int.: SGL	Resp. Ext.:
<p>I. FACTS</p> <p>*The deadline for transposition of the Data Retention Directive (2006/24/EC) was 15 September 2007.</p> <p>*The Czech Republic notified Act No. 247/2008 Coll. of 5 June 2008 amending Act No. 127/2005 Coll. on electronic communications and amending certain related laws (the Electronic Communications Act), which it declared to be the complete transposition of Directive 2006/24/EC.</p> <p>*On 31 March 2011, the Constitutional Court of the Czech Republic annulled certain provisions of the Czech legislation implementing Directive 2006/24/EC.</p> <p>II. CORRESPONDENCE WITH THE MEMBER STATE</p> <p>*On 3 June 2011, the CZECH REPUBLIC informed the Commission that, due to changes in the national legislation, Directive 2006/24/EC was only partially transposed in the CZECH REPUBLIC.</p> <p>*By letter of 20 June 2011 (ref. 23598/11/05100/05000), the CZECH REPUBLIC confirmed that the Constitutional Court of the Czech Republic had annulled Paragraph 3 and Paragraph 4 of Article 97 of Act No. 127/2005 Coll. and Decree No. 485/2005 Coll.</p> <p>*On 24 August 2011, the Commission sent a letter (ref. home.a.3(2011)951579) to the CZECH REPUBLIC requesting a fuller analysis of the effects of the judgement of the Constitutional Court of the Czech Republic and clarifications with regard to the planned procedures and timetable for ensuring that the CZECH REPUBLIC complies with EU law.</p> <p>*By letter of 23 September 2011 (ref. 33038/2011/05100/05000), the CZECH REPUBLIC informed the Commission that the Constitutional Court of the Czech Republic had annulled provisions of Paragraph 3 and Paragraph 4 of Article 97 of Act No. 127/2005 Coll. and Decree No. 485/2005 Coll. relating to the retention of traffic and location data and to the transmission of this data to competent national authorities. The CZECH REPUBLIC informed the Commission that the obligation to retain traffic and location data and to make this data available to competent national authorities ceased its legal effect.</p> <p>* On 25 November 2011, the Commission sent an Article 258 letter of formal notice with reference to Article 260(3) TFEU to the Czech Republic in the framework of the "Mise en Demeure par Habilitation" exercise (ref. SG-Greffe(2011)D/21311).</p> <p>* It appeared from the Czech Republic's reply to this letter on 19 January 2012 that the authorities in the Czech Republic were preparing new measures for complying with Directive 2006/24/EC. However, no draft text of these measures and no detailed timetable for the adoption of these measures were communicated to the Commission. According to the Czech Republic's reply, a draft text was foreseen to be submitted to the Government of the Czech Republic for approval at the end of January 2012 and to be transmitted to the Czech Parliament subsequently. The Czech Republic stated in its reply that these measures were expected to enter into force in October 2012.</p> <p>* Upon request by DG HOME, the Permanent Representation of the Czech Republic informed DG HOME informally on 14 February 2012 that the Government of the Czech Republic had still not approved a draft law for transposing Directive 2006/24/EC.</p> <p>* On 26 March 2012, the Commission sent an Article 258 reasoned opinion with reference to Article 260(3) TFEU to the Czech Republic.</p> <p>* By reply of 25 May 2012, the Czech Republic communicated to the Commission a legislative proposal that had been adopted by the Czech Government in February 2012.</p> <p>* By supplementary reply of 23 August 2012, the Czech Republic communicated to the Commission the Act amending Act No. 127/2005 on electronic communications as adopted on 18 July 2012 (published in the Czech Republic's official journal on 22 August 2012 under No. 273/2012). The Act became effective on 1 October 2012. By letter of 23 August 2012, the Czech Republic also informed the Commission that in addition to the Act, a Decree on retention, transmission and elimination of traffic and location data was being finalised and would take effect on the same day as the Act, i.e. 1 October 2012.</p> <p>* By letter of 1 November 2012, the Czech Republic communicated to the Commission the Decree on retention, transmission and elimination of traffic and location data published in the Czech Republic's official journal under No. 357/2012. The Decree entered into effect on 1 November 2012, with the exception of a number of provisions that entered into effect on 1 January 2013. By letter of 1 November 2012, the Czech Republic also declared the Act No. 273/2012 and the Decree No. 357/2012 to be the complete transposition of Directive 2006/24/EC.</p> <p>III. LATEST STEP</p> <p>On the basis of a prima facie analysis, DG HOME has concluded that the law notified by the Czech Republic amounts to a complete transposition of Directive 2006/24/EC. Against this background, it is proposed to close the infringement proceeding 2011/1143 against the Czech Republic.</p>				

Etat des consultations :	Prop. du service responsable :
MD258(ex226)	Prop. des chefs de cabinet :
MDC258(ex226)	Prop. décision de la Commission :
AM258(ex226)	Position du service juridique :
AMC258(ex226)	
MD260(ex228)	
MDC260(ex228)	
DG -> SJ	
SJ -> DG	
DG -> SG	