

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HOME AFFAIRS

Director General

Brussels, 21 JAN. 2013
home.a.3(2013)65299

NOTE FOR THE ATTENTION OF MR LUIS ROMERO REQUENA,
DIRECTOR GENERAL OF LEGAL SERVICE

Subject: Infringement proceedings against the Czech Republic for non-communication of national transposition measures to comply with Directive 2006/24/EC (Infringement No 2011/1143)

The Constitutional Court of the Czech Republic, with its judgement of 31 March 2011, annulled parts of 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).

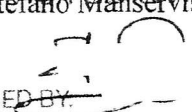
In view of the fact that the Czech Republic had not informed the Commission of any new provisions adopted to comply with Directive 2006/24/EC following the ruling of the Constitutional Court of the Czech Republic, and that the Czech Republic consequently failed to fulfil its obligations under this Directive, the Commission launched infringement proceedings against the Czech Republic by sending a letter of formal notice on 25 November 2011 (ref. SG-Greffe(2011)D/21311), followed by a reasoned opinion on 26 March 2012 (ref. SG-Greffe(2012)D/5244).

By letter 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.

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 as 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.

On the basis of a prima facie analysis, my services have concluded that the law and decree notified by the Czech Republic amount to a complete transposition of Directive 2006/24/EC.

Against this background, it is proposed to close the infringement proceedings against the Czech Republic. We would be grateful for your opinion on this matter within the next ten working days.

DIRECTOR GENERAL ABSENT	
Stefano Manservigi	
SIGNED BY:	
DATE:	17/11/0

Cc: Mr Søren Schønberg. Member of Cabinet of Commissioner Cecilia Malmström
Ms. , Mr Legal Service