

2007/1181	Infraction constatée	SUÈDE	Service responsable : HOME/A/03	Etat du dossier au 21/10/2013	Jr.Rs.:	Eq.Jr.: Ju	Resp. Int.:	Resp. Ext.:
Services associés : SGEN/X/00; SJUR/X/00				I. FACTS				
DIRECTIVE 2006/24/CE SUR LA CONSERVATION DE DONNÉES GÉNÉRÉES OU TRAITÉES DANS LE CADRE DE LA FOURNITURE DE SERVICES DE COMMUNICATIONS ÉLECTRONIQUES				On 4 February 2010, the European Court of Justice condemned SE in its judgment in Case C-185/09 for not implementing the Data Retention Directive. It ruled that "(e)n n'ayant pas adopté, dans le délai prescrit, les dispositions législatives, réglementaires et administratives nécessaires pour se conformer à la directive 2006/24/CE du Parlement européen et du Conseil, du 15 mars 2006, sur la conservation de données générées ou traitées dans le cadre de la fourniture de services de communications électroniques accessibles au public ou de réseaux publics de communications, et modifiant la directive 2002/58/CE, la Suède a manqué aux obligations qui lui incombent en vertu de cette directive."				
Bases juridiques : Directive:32006L0024				The Swedish parliament decided on 16 March 2011 to defer a vote on adoption of the Government's proposed legislation transposing the Directive for at least a further 12 months. Therefore, the Commission decided on 6 April 2011 to proceed with a second seizure of the Court, under Article 260(2) TFEU. This seizure occurred on 30 May 2011 (case C-270/11). Further to a statement of defence submitted by Sweden to the Court in August 2011, the Legal Service submitted the Commission's reply on 28 October 2011. Sweden submitted its rejoinder to the Court in January 2012.				
Stade : Non-communication				On 21 March 2012 the Swedish parliament adopted the measures transposing the Directive and they entered into force on 1 May 2012. DG HOME duly concluded that Sweden had fully transposed the Directive. In cases where a Member State transposes a Directive at a moment in time where the infringement already has reached the stage before the Court under Article 260(2) TFEU, awaiting a second judgement, and where the Commission has requested both a lump sum and a penalty payment, the common practice is to withdraw the request for the penalty payment while maintaining the request to condemn the Member State to pay a lump sum. Against this background, on 31 May 2012, the Commission decided to withdraw the request for a daily penalty payment to be imposed on Sweden, whilst maintaining the request for a lump sum.				
Procédures en relation : dossier père -> ; dossiers fils ->				On 30 May 2013, the ECJ gave its judgment on case C-2011/270, ordering Sweden to make a lump sum payment of 3m EUR. On 19 July 2013 DG HOME signed a request for payment of this lump sum, receipt of which was acknowledged by Sweden on 29 July. Sweden duly effected the requested payment on 19 August 2013.				
Fait Incriminé :				II. CORRESPONDENCE WITH THE MEMBER STATE				
Infringement case 2007/1181 - concerning non-transposition by Sweden 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.				By letter of 15 March 2010, the European Commission asked Sweden what measures it had taken to comply with the Court of Justice judgment. By letter of 6 April 2010, Sweden informed that the legislative process of transposing the Directive was ongoing. However, this letter was not accompanied by draft legislation and did not include a precise timetable of the adoption of the legislation.				
Mise en demeure 258 (ex226) :				The Commission sent Sweden an Article 260 letter of formal notice on 28 June 2010 to which Sweden replied by letter of 27 August 2010. The letter did not contain a draft law and did not include a time table for the adoption of legislation to transpose the Directive.				
Mise en demeure 260 (ex228) :				On 7 January 2011, the Commission informed Sweden of its intention to go ahead with a second referral to the ECJ. On 20 January 2011, Sweden replied to the Commission that the draft legislation was submitted to the Parliament on 8 December 2010 (copy sent) and that the draft law was due for adoption in the first half of March 2011.				
Mise en demeure complémentaire 258 (ex226) :				On 3 April 2012 SE notified to the Commission that measures transposing the Directive had been adopted by the Swedish parliament on 21 March 2012. The legislation entered into force on 1 May 2012.				
Mise en demeure complémentaire 260 (ex228) :				III. CONCLUSION AND PROPOSAL				
Avis motivé 258 (ex226) :				Sweden has complied with the ruling of the Court and the case should now be closed. Therefore DG HOME proposes to close the case in M11/2013				
Avis motivé 260 (ex228) :								
Saisine 258 (ex226) :								
Saisine 260 (ex228) :								
Origine habilitation :				Correspondance avec l'état membre (2 dern. évén.):				
07/11/1990:PV(1990)1020:MDH 91				03/04/2012:EM - Courrier :MNE(2012)51590 03/04/2012:EM - Courrier :MNE(2012)5159				
Historique des décisions (6 dernières décisions) :								
31/05/2012:E/2012/3477:Abandon astreintes:								
06/04/2011:E/2011/2351:Saisine 260(ex228):Astreinte: 40947.20€/jour ;Somme forfaitaire: 9597€/jour								
24/06/2010:E/2010/4091:C(2010)3955:Mise en demeure 260(ex228):								
14/04/2009:E/2009/2505:Saisine 258(ex226):								
18/09/2008:E/2008/5412:Avis motivé 258(ex226):								

Etat des consultations :							Prop. du service responsable :	17/10/2013:Classement::
	MD258(ex226)	MDC258(ex226)	AM258(ex226)	AMC258(ex226)	MD260(ex228)	MDC260(ex228)	Prop. des chefs de cabinet :	
DG -> SJ							Prop. décision de la Commission :	
SJ -> DG							Position du service juridique :	
DG -> SG								