

European Commission sues Italy for Inadequate Implementation of the "Television Without Frontiers" Directive

IRIS 2000-6:1/6

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The Commission has brought an action against Italy before the European Court of Justice for violation of the obligation to transpose into national legislation Council Directive of 3 October 1989 (89/552/CEE) on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (the so called "Television Without Frontiers Directive"). The action follows a long pre-contentious infringement procedure initiated by letter of 15 January 1996.

According to the Commission, Italy is responsible for not having correctly transposed the provisions of the Directive concerning the insertion of advertising in programmes consisting of autonomous parts (art. 11, par. 2, of the Directive) and in audiovisual works (art. 11, par. 3, of the Directive). Those provisions were not considered in Law n. 223 of 6 August 1990, which provided for a set of rules more favourable to broadcasters than those of the Directive.

The Italian legislation recently adopted (Law n. 122 of 30 April 1998) eventually includes provisions aimed at implementing the text of Article 11, but limits the application of those provisions only to programmes whose rights had been acquired by broadcasters after 28 February 1998. For the above-mentioned reasons, the Commission is asking the Court to declare that Italy has violated the obligation to implement the Directive. It remains to be seen whether that obligation can be considered fulfilled by the entry into force in Italian legislation of the European Convention on Transfrontier Television, which includes provisions on the interruption of programmes by advertising similar to those of the Directive.

Case: Commission v. Italy, n. 191/00.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2000:211:0011:0012:EN:PDF>

