European Commission: 6 Member States Referred to Court of Justice over Electronic Communications Framework

IRIS 2004-6:1/8

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On 21 April 2004, the European Commission announced its decision to refer to the European Court of Justice the six Member States that had still not fully implemented the new regulatory framework for electronic communications into their national law (i.e. Belgium, Germany, Greece, France, Luxembourg and the Netherlands). The new framework was to be implemented by July 2003, but 8 Member States failed to meet this deadline and in October 2003 the Commission opened infringement proceedings against those States (see IRIS 2003-10: 5 and IRIS 2004-2: 4). Proceedings against two Member States, Spain (see IRIS 2004-1: 11) and Portugal (see IRIS 2004-6: 15), have since been closed as these States have now notified transposition measures. The Commission notes that it is also aware of the progress being made in certain Member States, namely France and the Netherlands, to finalise implementing measures and that it is ready to take these developments into account as soon as it receives formal notification of national laws. In the Netherlands, implementing legislation was adopted on 20 April 2004 (see IRIS 2004-6: 14), and Germany has also now adopted transposition measures (see IRIS 2004-6: 9). With this decision, the Commission wants to send a clear signal to all Member States that the sector can no longer afford any further delays in these fundamental reforms.

The Commission has also sent reasoned opinions (the second stage in infringement proceedings) to 8 Member States for their failure to notify measures transposing the e-Privacy Directive (which is also an element of the new framework and which was to be implemented by 31 October 2003). Proceedings were initially opened against 9 Member States (see IRIS 2004-2: 4), but the proceedings against Sweden were closed after it notified its new spam legislation. The Member States concerned now have two months to comply with their obligations, failing which they could be referred to the European Court of Justice.

"Six Member States face Court action for failing to put in place new rules on electronic communications", Press Release of the European Commission IP/04/510 of 21 April 2004

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