# Court of First Instance: TV 2 Brings Commission Decision Before the Court of First Instance

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By a decision of 19 May 2004, the European Commission ordered the Danish State-owned limited broadcasting company TV 2 to pay back excess State compensation of DKK 628.2 million, received during the period 19952002 (see IRIS 2004-7: 4). In July 2004, first the Danish Government and thereafter TV 2, decided to bring the Commission's decision before the EC Court of First Instance. The plaintiffs invoke the Protocol on the System of Public Broadcasting in the Member States annexed to the Amsterdam Treaty, which provides that "[t]he Treaty provisions shall be without prejudice to the competence of the Member States to provide for the funding of public service broadcasting insofar as such funding [...] does not affect trading conditions and competition in the Community to an extent which would be contrary to the common interest". This means that it is left to the Member States to determine in which way public service broadcasting is financed as long as the financing is in compliance with EC rules. The Danish Government and TV 2 assert that the Danish system of mixed financing commatter, not subject to interference from the EC authorities as it does not according to their opinion offend EC rules.

Also the commercial broadcasting company TV DANMARK A/S which originally started the conflict by bringing the complaint before the Commission asserting that the Danish State's support to the broadcaster TV 2 was incompatible with EC rules as it distorted competition between Member States has decided to appeal the Commission's decision to the Court of First Instance. Through the appeal, TV Danmark is broadening its claim to cover, in addition to the period 1995-2002 (for which the Commission has already decided that TV 2 received excessive State support), the years 2003 and 2004, in which TV 2 also allegedly received excess State support. By enlarging the period of reference for the State support granted, the original claim of DKK 628.2 million (EUR 84.4 million) has been augmented by a further DKK 220 million of excess State support for the years 2003 and 2004. Furthermore, the commercial broadcasting company TV 3/Viasat has decided to bring a claim before the Court of First Instance alleging that TV 2 has been able to sell television advertising for dumping prices because of the State support, to the detriment of TV 3.

The Minister of Culture has opened negotiations with the European Commission regarding the permission to refinance TV 2 in order to avoid bankruptcy of the broadcaster as the Danish Government intends to sell the State's shares in TV 2

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for the purpose of making the company an entirely privatised, commercial broadcaster. Now, the case brought before the Court is expected to postpone and complicate the plans of the government.

***"Regeringen indbringer TV2 afgørelsen for EF-Domstolen", 01.07.2004***

http://www.kum.dk/sw14004.asp

*Press release of the Ministry of Culture of 1 July 2004, The Government brings the TV 2 decision before the EC Court of Justic)*

***TV 2 / medienyt, 30.07.2004 p. 1 - 2: TV 2 går til EF-Domstolen; TV Danmark udvider EU-sagen***

http://gfx.tv2.dk/info/TV2medienyt30-07-04.pdf

*TV 2 / medianews of 30 July 2004 p. 1 - 2: TV 2 goes to the EC Court of Justice and TV Danmark enlarges the EU-case*

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