European Commission: Infringement Procedure Relating to the Greek Law on the Incompatibility between Media Companies and Public Contracts

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On 27 April 2005 the European Commission issued a “reasoned opinion” against Greece (second stage of the infringement procedure) over the controversial law 3310/2005 preventing companies “interconnected” with mass media businesses from obtaining public contracts (see IRIS 2005-3: 13). The Commission considers that the law “is contrary to both secondary Community law (the Directives on public procurement), in that it lays down exclusion criteria that are not provided for in the Directives, and primary Community law (the EC Treaty), in that it lays down measures that impede, or render less attractive, the exercise of almost all the fundamental freedoms acknowledged by the EC Treaty.” The Commission has rejected the Greek government's argument that the media could use their power in order to wield influence over the procedures of public procurement, which, according to the Commission, are to be conducted in a way that is not politically tainted. The second stage of the infringement procedure follows a threat, voiced a fortnight ago by the Commission's directorate general for regional policy, to freeze all EU funding for major public works in Greece after the end of May unless the law is changed.

In its response sent on 10 May to Brussels the Greek government announces that it will table a legislative amendment in Parliament by the end of May to postpone the implementation of the above law on public tenders for four months so that government officials can discuss this controversial legislation with the European Commission.

One must remember that in its first letter sent to the Commission on 6 April (further to the Commission's letter of formal notice), the Greek government claimed that threats to pluralism and objectivity of the media led to the introduction of law 3310/2005 and that the national legislator has sovereign power in this field. The Greek government considered that the aim of the incompatibility provision (which exists also in the Constitution, as amended in 2001) is to prevent the creation of conditions that could endanger the essential legal principles prescribing transparency.

Its final position not only creates many legal problems concerning future legislation but can also be considered as a political defeat threatening to undermine the broader campaign against entangled interests.

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"Public procurement: Commission takes further action on Greek legislation excluding certain companies from public contracts", Press Release of the European Commission IP/05/492 of 27 April 2005

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