Surveillance Authority: Liechtenstein's Failure to Transpose Electronic Communications Framework

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On 22 November 2005, the EFTA Surveillance Authority decided to bring the failure by Liechtenstein to implement the 2002 regulatory framework for electronic communications (see IRIS 2002-3: 4) before the EFTA Court in Luxembourg. With this step, the Authority follows a similar action launched by the European Commission against a number of EU Member States earlier last year (see IRIS 2004-6: 6).

The decision to bring the matter before the EFTA Court concerns the non-transposition of the following EEA legislation into national law:

- The Access Directive (2002/19/EC);

- The Authorisation Directive (2002/20/EC);

- The Framework Directive (2002/21/EC);

- The Universal Service Directive (2002/22/EC); and

- The Directive on competition in the markets for electronic communications networks and services (2002/77/EC).

This updated regulatory framework entered into force in the European Union in mid- 2003. Its incorporation into the EEA Agreement had, however, been delayed. Liechtenstein was required to transpose the Directives into national law before 1 November 2004. None of the said Directives have been implemented into national law as of yet. The Authority had initiated infringement proceedings against Liechtenstein in December 2004.

The 2002 regulatory framework aims at further liberalising and harmonising the market for electronic communications networks and services in Europe. It provides for regulation with a lighter touch, allowing EEA States to roll back rules as soon as markets are competitive. Delays in the transposition and application of the new rules are detrimental to business and consumers and create disparity across the EEA.

The EFTA and EEA States Iceland, Liechtenstein and Norway are under the same obligation to implement and apply the provisions of the EEA/EC regulatory

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framework for electronic communications as the EU Member States. Liechtenstein has obtained certain specific adaptations to the Access Directive 2002/19/EC and the Universal Service Directive 2002/22/EC; however, they only concern aspects of the Directives' application and not the obligation to implement their provisions into national law as such.

"Liechtenstein facing Court action for failing to put in place new rules on electronic communications", Press Release of the EFTA Surveillance Authority PR(05)37, 22 November 2005

http://www.eftasurv.int/information/pressreleases/2005pr/dbaFile8102.html

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