[ES] Spain approves new telecommunications law

IRIS 2014-6:1/16

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On 9 May 2014, the Spanish Parliament adopted the Ley 9/2014 de Telecomunicaciones (Act. No. 9/2014 on Telecommunications). This new general regulation of electronic communications networks and services replaces the previous law that had been in place for more than ten years, since 2003. The new law is fully in line with the so-called Telecom Package approved in 2009 (which consists of the European Union Directives on Citizens' Rights and Better Law Making and the Regulation establishing the Body of European Regulators for Electronic Communications), yet the incorporation of such provisions into Spanish law had already taken place through a Decree adopted by the Spanish Government in March 2012.

The adoption of this law has to be put in the general framework of the European Commission's Digital Agenda for Europe launched by the European Commission to stimulate investment in the area of broadband connections, promote a stable regulatory environment and ultimately deliver smart, sustainable and inclusive growth. Besides this, the law is also aimed at fostering a higher degree of competition in the Spanish telecommunications sector as well as a major simplification of administrative burdens, particularly in the area of licensing and registration requirements.

The elaboration of the law took place in the context of the creation and implementation of a new regulatory authority. In particular, Act. No 3/2013 created the National Commission for Markets and Competitions, which constitutes a probably unique example of a multi-sector regulator (with competences that cover the areas of telecommunications, audiovisual media services, energy, transportation and postal services, as well as competition), that incorporates both ex-ante and ex-post powers of intervention (see IRIS 2014-2/16). During the discussions prior to the approval of the new telecommunications law, different sectors accused the Spanish Government of trying to deprive the new regulator of its most important competences (those that had been exercised by the Telecommunications Market Commission as the former regulator) and to give them back to the current Ministry of Industry, Energy and Tourism. Finally, the introduction of several last minute amendments seems to have resulted in a more balanced text. However, it should be stressed that competences regarding planning, management and regulation of electromagnetic spectrum vis-à-vis the provision of audiovisual media services still remain fully in the hands of the Government.

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Ley 9/2014, de 9 de mayo, de Telecomunicaciones

http://www.boe.es/boe/dias/2014/05/10/pdfs/BOE-A-2014-4950.pdf

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