

Postal services: France before the Court over the non-implementation of two postal Directives

The European Commission has decided to refer France to the European Court of Justice to ensure it fully implements the two EU postal services Directives. The first Directive dates from 1997 and among other things requires Member States to appoint a national postal regulator legally and operationally separate from the postal operators. The second Directive, adopted in 2002, commits Member States to gradually open certain sectors of their postal markets to competition. The Commission has at the same time decided to close infringement cases against Belgium, which has now adopted a law establishing an independent regulator as required by the first Directive and against Greece and Austria, which have notified the Commission that they have put in place the market opening measures stipulated by the second Directive.

Internal Market Commissioner Frits Bolkestein said "Only a regulator separate from the big incumbent former monopolies can ensure that postal services give users the benefits of competition while maintaining the availability of affordable services to all, in line with EU and national laws. Member States agreed to set up such separate regulators in 1997 and France has no excuse for not yet having fully put that decision into practice. Neither has it implemented the 2002 Directive setting out further gradual steps of market opening. Until the French authorities fulfil their commitment to do so, they are depriving businesses from other EU countries of opportunities in the French postal market and their own citizens and businesses of their legal right to choose from whom they wish to buy the services concerned."

National regulatory bodies separate from the postal operators

According to the Article 22 of the first Postal Directive (97/67/EC), Member States must "designate one or more national regulatory authorities for the postal sector that are legally separate from and operationally independent of the postal operators", while remaining free to choose between a public authority or an independent body appointed for the task.

France has opted for a public authority by appointing the Minister for Economic Affairs, Finance and Industry as the national regulatory authority for the postal sector. However, the Minister is also responsible for certain tasks in connection with State property in "La Poste", as well as for its economic and financial performance. France has therefore still not fully complied with this essential component of EU law on postal services over four years after the deadline for implementation, despite a formal request from the Commission in the form of a "reasoned opinion" sent in June 2002 (see [IP/02/932](#)).

In spite of the fact that in December 2001 France decided to appoint a universal postal service ombudsman, whose primary task is to deal with complaints from users of the universal postal service and who enjoys a certain degree of independence in relation to the Minister, the ombudsman does not replace the Minister as the regulatory authority for the postal sector. There remains a need in the case of the Minister to ensure the proper separation of operational and regulatory functions.

A broadly similar situation until recently existed in Belgium, where the national Minister concerned also played a role in the national public sector postal services operator as well as exercising regulatory functions in the postal sector. However, following a reasoned opinion from the Commission in July 2001 (see [IP/01/1139](#)), Belgium adopted in January 2003 a law making the "Institut belge des services postaux et des télécommunications (IBPT)" an independent regulator. The Commission has therefore now decided to close the relevant infringement procedure.

Non-implementation of the Second Postal Directive

The Commission is also referring France to the Court over its failure to implement the second Postal Directive (2002/39/EC) in national law by the agreed date of 31 December 2002, despite a reasoned opinion sent by the Commission in July 2003 (see [IP/03/1005](#)).

The Directive was adopted by the European Parliament and the Council of Ministers in June 2002 (see [IP/02/671](#), [IP/02/406](#) and [IP/01/1420](#)). It aims to further open postal services to competition in a gradual and controlled way, while allowing for the safeguarding of quality "universal services" (i.e. the services required to be provided to all members of the public at an affordable price).

Under the main provisions of the Directive, Member States must open up to competition:

- from 2003 the delivery of letters weighting more than 100gr (or costing more than three times the price of a standard letter) and
- from 2006 the delivery of letters weighing more than 50gr (or costing more than two and a half times the price of a standard letter).

Until national legislation is modified to reflect the obligations to which Member States committed themselves in adopting this Directive, companies will not be fully able to provide a number of postal services that the Directive has opened to competition. This may deprive citizens and businesses from enjoying the benefits expected from the liberalisation process, in terms of price and quality.

Reasoned opinions were also sent in July to Austria and Greece but these infringement procedures have now been closed after both countries notified the Commission of their national implementation measures.

For the latest information on proceedings concerning all Member States, consult the following site:

http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm