

INFR(2008)4268		Member State: SK	Lead DG: GROW
Associated services: SANTE,SG,SJ,FISMA			
Title: VIOLATION DE PROVISIONS PRINCIPALES DU TRAITE CE			
Legal basis: 197A043,197A056,31992L0049			
Type: Regulations - treaties - decisions	EU financing: No	Sensitivity: No	
Related procedures: Main case: INFR(2008)4268; Affiliated cases: INFR(2010)4183			
Alleged breach:			
The complainants active in the Slovak substitute health insurance market allege a breach of the TFEU and the Third Non-Life Insurance Directive, as introduced by Act 530/2007.			
History of the decisions			
Letter of Formal notice Art. 258 TFEU		Referral 258 / 260(3)	
Sent: 23/11/2009 Reply: 12/01/2010,22/01/2010,31/08/2010,24/03/2011,19/10/2011		Decision date: Application received: Court ref: Ruling date:	
Additional letter of formal notice 258		Letter of formal notice 260	
Sent: Reply:		Sent: Reply:	
Reasoned opinion 258		Additional letter of formal notice 260	
Sent: Reply:		Sent: Reply:	
Additional reasoned opinion 258		Referral 260	
Sent: Reply:		Decision date: Application received: Court ref: Ruling date:	
Referral 258		Closure	
Decision date: Application received: Court ref: Ruling date:		Decision date: 20/11/2011	
Other adopted decisions:			
Origin: Complaint	Correspondence with the Member State (last events)		
Pre-closure letter:			

State of play on: 9/11/2011	Lead Unit: MARK.H.02								
<b>Background:</b> <b>I. FACTS</b> The complainants allege that certain provisions of Act 581/2004 Coll. on Health Insurance Companies and Healthcare Supervision, as amended, are in breach of TFEU and Dir 92/49/EEC: 1. Section 15(6) precluding insurance companies from freely disposing of any profits resulting from the provision of public health insurance in SK; 2. Section 6a(1) further reducing the maximum limit of gross written premiums that insurance companies may use to cover their operating expenses from 4% to 3.5%; 3. Section 61(1) providing that the transfer of the insurance portfolio has to take place without payment and to either a State-owned insurance company in the case of liquidation or to a State-owned or privately-owned insurance company in other, undefined, circumstances									
<b>II. CORRESPONDENCE WITH THE MEMBER STATE</b> 03/09/08: an administrative letter to SK [Ares(2008)23940] 27/10/08: 1st SK reply 13/01/09: 2nd SK reply [Ares(2009)9557] 09/03/09: 3rd SK reply 20/11/09: LFN [SG(2009)D/9322,C(2009)8843] 22/01/10: SK reply to LFN [INF(2010)100182] 01/09/10: SK additional info [ref 101.917/2010-KAM] and under our INF(2010)101341 22/11/10: meeting with SK 03/12/10: informal info by SK on amendments 26/01/11: SK Constitutional Court - amended Section 15.6 on ban on profit transfers 23/02/11: EC admin letter to SK 24/03/11: SK reply 08/07/11: Act 250/2011 Coll. published in SK Collection of laws on 30/07/11 19/10/11: SK notification of Act 260/2011 Coll.									
<b>III. LEGAL ASSESSMENT</b> Act No. 250/2011 Coll. modified Act 581/2004 Coll., in particular: 1. Art 1 Point 18 of Act 250/2011 Coll. repealed Section 15(6) of Act 581/2004 Coll.; 2. Art 1 Point 6 of Act 250/2011 Coll. introduced a new Section 6a(1) of Act 581/2004 Coll. The new Section 6a(1) encompasses a formula for calculating the cap on administrative costs. It proves appropriate for securing attainment of the objective pursued by it and does not go beyond what is necessary for attaining that objective and may be justified by that objective. The new rules apply without discrimination on grounds of nationality. MS hold exclusive competence over their social security systems. A MS may take the view that market principles implemented in the mandatory social security do not on their own ensure the desired results, given the interest of an insurance company in making a profit. The formula favours competition as it incentivizes other companies to enter the insurance market. 3. Art 1 Point 44 of Act 250/2011 Coll. introduced new Sections 61, 61a-61h of Act 581/2004 Coll. According to Section 61 Subsection 1 Indent (f) as well as Section 61b Subsections 9 and 15 of Act 581/2004 Coll., transfers of insurance portfolios are to be performed after consideration. Art 1 Points 6, 18 and 44 of Act 250/2011 Coll. came into force on 1 August 2011.									
<b>IV. CONCLUSION AND PROPOSAL</b> 2010/4183 treated under 2008/4268. On 21/09/11 pre-closure letters as regards 2010/4183 and 2008/4268 sent to the complainants and none of the complainants have reacted by 26/10/11. Case proposed to be closed in M11/2011. ISC on 17/10/11. LS agrees on 27/10/11 and SANCO 28/10/11.									
Conclusion and proposal:									
<table border="1"> <tr> <td>Prop. of the responsible service:</td> <td></td> </tr> <tr> <td>Legal service opinion:</td> <td></td> </tr> <tr> <td>Consulted services opinion:</td> <td></td> </tr> <tr> <td>Prop. validated by DG CAB:</td> <td></td> </tr> </table>		Prop. of the responsible service:		Legal service opinion:		Consulted services opinion:		Prop. validated by DG CAB:	
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