

EN
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Answer given by Ms Vestager
on behalf of the European Commission
(7.10.2019)

The question of legality of the amendment and the dismissal orders is presently before the Greek Council of State. The Commission has full trust in the impartial assessment by this Court.

The Commission understands from the Greek government that it intends to avoid politically influenced appointments or decisions by individuals having worked in positions close to the government during a cooling off period of 5 years.

According to Directive 2019/1¹ (“the ECN+ Directive”), decision makers of national competition authorities cannot take instructions from any public entity, including the government. Therefore, even if a decision maker of a national competition authority would have previously worked for the government, that individual should in the future be guaranteed independence in the performance of his/her duties also absent the type of rule introduced in Greek law by the amendment. While the ECN+ Directive already foresees guarantees from political interference in the decision making of the national competition authorities, it does not prevent Member States from introducing stricter conditions for appointments as an extra safeguard against political interference. In this regard, the ECN+ Directive only sets a minimum standard of protection.

The ECN+ Directive foresees that the decision makers of national competition authorities can be dismissed only if they have either been found guilty of serious misconduct or no longer fulfil the conditions for the performance of their duties as laid down in advance in law.

However, the implementation period of the ECN+ Directive does not expire until February 2021. In this period, the legal effect of the Directive is not the same as after the expiry of the deadline. In these circumstances, it does not appear justified to take further action at this stage.

The Commission is in close contacts with the Member States as regards the implementation of Directive 2019/1.

Once transposed, the ECN+ Directive will ensure that national competition authorities have the necessary independence, tools and resources they need to be fully effective enforcers.

¹ Directive 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market, OJ L 11, 14.1.2019, p. 3–33.