Directive on conditional access services: second reading European Parliament

The European Parliament adopted at second reading the report by MEP Georgios Anastassopoulos (EPP, Greece) on the Directive on the legal protection of services based on, or consisting of, conditional access. By adopting the report, the Parliament approved the Council of Ministers' common position with two amendments. The draft directive is aimed at ensuring adequate legal protection for TV, radio and Information Society services for which remuneration depends on conditional access such as encryption or electronic locking systems. At first reading, the Parliament adopted 24 amendments, with two main goals:

- to extend protection to conditional access services seeking to protect the "economic value" of a service and not only to ensure remuneration for it (amendments 2, 5 and 20), and
- to extend the definition of illicit activities to not only commercial activities but, more generally, to any activities for direct or indirect financial gain (amendments 9 and 23).

The Council did not incorporate these amendments into its common position. The European Commission also rejected these amendments but will conduct a study to determine whether it would be appropriate to extend legal protection to services using conditional access for reasons other than to ensure remuneration for them. Pending possible further Commission proposals on the basis of the study results, the European Parliament only re-introduced two amendments at second reading, asking that Member States must provide adequate legal protection against the release on the market of illegal devices used to circumvent measures that protect the remuneration of a legally provided service. At the next meeting of the Internal Market Council, which is scheduled on 9 November, it is expected that the Council will incorporate the Parliament's amendments and that Ministers will reach political agreement.

The recommendation for second reading can be found at: http://www.europarl.eu.int/ under no. A4-0325/98.
**Directive on the protection of personal data enters into force**

The [Directive on the protection of personal data (95/46/EC)](https://eur-lex.europa.eu) enters into effect on 25 October 1998. The Directive will establish a regulatory framework to ensure both a high level of protection for the privacy of individuals in all Member States and the free movement of personal data within the European Union. By minimising differences between Member States' data protection rules, the Directive will facilitate the development of electronic commerce. The Directive also establishes rules to ensure that personal data is only transferred to countries outside the EU when its continued protection is guaranteed, so as to ensure the high standards of protection introduced by the Directive within the EU are not undermined.

European Commissioner for the Single Market, Mario Monti, is disappointed that some Member States are lagging behind on implementing the Directive in national law, and will not hesitate to open infringement procedures against them. He stresses that the Directive will be applicable from 25 October.

In most European countries, personal data protection is a constitutional principle and the right to privacy is enshrined in the European Convention on Human Rights (Article 8). However, until now, differences between national data protection laws have resulted in obstacles to transfers of personal data between Member States. The Directive therefore lays down common rules, to be observed by those who collect, hold or transmit personal data as part of their economic or administrative activities or in the course of the activities of their association. There is an obligation to collect and process personal data only for specified, explicit and legitimate purposes, and to ensure that such data is relevant, accurate and up-to-date.

For cases where data is transferred to non-EU countries, the Directive includes provisions to prevent the EU rules from being circumvented. The basic rule is that the data should only be transferred to a non-EU country if it will be adequately protected there, although a practical system of exemptions and special conditions also applies (such as for data where the subject has given consent or which is necessary for performance of a contract with the person concerned, to defend legal claims or to protect vital interests (e.g. health) of the person concerned).

Such provisions are compatible with the General Agreement on Trade in Services (GATS, Article XIV), which recognises the protection of personal data as a legitimate reason for restricting the free movement of services. The advantage for non-EU countries where adequate protection can be provided is that the free flow of data from all 15 EU states will henceforth be assured, whereas up to now each Member State has decided on such questions separately.

The adequacy of data protection safeguards concerning transfers to non-EU countries will be considered case by case. Adequacy will not necessarily require a non-EU country to apply legislation similar to the EU's Directive. Alternative systems, such as voluntary arrangements applied by industry, or binding contractual clauses between the parties concerned by the data transfer, may be considered adequate if they are effectively applied and offer sufficient safeguards concerning data subjects' rights, including rights of redress.

The Commission is involved in on-going contacts with a number of non-EU countries in order to explore ways of avoiding possible interruptions to exchanges of personal data. The Article 31 Committee meets on 26 October to consider the current state of play on these contacts.

As of 23 October, Greece, Portugal, Sweden, the United Kingdom and Italy have implemented the Directive, although the latter three still need to adopt some additional rules. Implementing laws are under consideration by the Parliaments of all other Member States except Germany,
France and Luxembourg. In those Member States where the implementing legislation is not yet in place, individuals will be entitled to invoke the Directive's provisions before national courts, in accordance with the case law of the Court of Justice (Marleasing case, C-106/89, 13.11.90). In addition, individuals suffering damage as a result of a Member State's failure to implement the Directive will be entitled to seek reparations before national courts, under the terms of the Court of Justice's case law in the Francovich case (C-6/90 and C-9/90, 19.11.91). Additional relevant information is available on the Internet:

http://europa.eu.int/comm/dg15/en/media/dataprot/index.htm

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**Report on role of libraries in modern society adopted by European Parliament**

The own-initiative report by Mrs. Ryynänen was adopted on 23 October by the European Parliament's plenary. After very good discussions, there was only one MEP who abstained from voting. All the other MEPs supported the report. Regarding future European Commission action, the following was announced on the libraries programme news page at http://www.echo.lu/libraries/en/newspage.html:

In Strasbourg this morning, the European Parliament adopted almost unanimously Mrs Ryynänen's report on the "Role of Libraries in the Modern World" in which she called on the European Commission and the Member States to support a number of measures in regard to consolidating the growing role played by libraries in organising widespread access to knowledge. An amendment on the need for European legislation on the use of permanent paper was also adopted.

Congratulating Mrs Ryynänen on her comprehensive report, Commissioner Franz Fischler announced that the Commission would now begin work on a Communication stimulating concertation on all the important aspects affecting modern library services and citizen's access to them. The Communication would address a number of specific issues now facing libraries including lifelong learning, copyright, literacy, regional information services and public library collaboration on access to knowledge. It would also lead to more focus on R&D activities involving libraries under the Fifth Framework Programme.

The European Parliament report "The role of libraries in modern society" by Mirja Ryynanen can be downloaded in all official EU languages at: http://www.europarl.eu.int/under the number: A4-0248/98.

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**Information Society: Parliament now involved in decision on action plan on promoting safe use of the Internet**

On 24 September the Council of Telecom Ministers adopted a common position on the action plan on promoting safe use of the Internet. The Council had already reached an agreement in principle on the action plan in May 1998, but the European Parliament had asked in July to change the legal basis for a decision on the action plan. Initially, the legal basis was consultation in Parliament in one reading only, followed by the Council's decision. However, the Parliament pointed out that it had to be granted joint decision-making powers with the Council. The common position of the Council will accordingly be forwarded to the European Parliament for its second reading in accordance with that procedure.
Culture: European Parliament's Culture Committee's viewpoint on Culture 2000

On 12 and 13 October the European Parliament’s Culture Committee debated and voted on the European Commission proposal for the First Framework programme for culture, the 'Culture 2000 programme'. This programme will replace the three current cultural programmes Ariane (books and reading), Raphael (cultural heritage) and Kaleidoscope (artistic creativity). The programme will run from 2000 to 2004. The rapporteur for the EP Culture Committee on the subject is Ms Nana Mouskouri (Greece). The Culture Committee adopted the report by Mouskouri, and approved the European Commission proposal with several amendments (a total of 77 amendments were tabled).

One of the adopted amendments concerns the types of cultural action which are covered by the programme. The European Commission proposed the following actions:

- integrated projects covered by structured, multi-annual cultural cooperation agreements;
- major projects with a European and/or international dimension;
- specific, innovative and/or experimental projects within the Community and/or in non-member countries.

The EP Culture Committee, however, voted in favour of a sectoral approach, taking into account the specific needs of each cultural sector:

- activity in the field of the performing arts (theatre and dance);
- activity in the field of music;
- activity in the field of plastic, applied and visual arts;
- activity in the field of cultural heritage (covering conservation of moveable and immovable heritage, including museums, libraries and archives);
- activity in the field of literature (books, reading and translation);
- activity relating to other forms of artistic expression.

Under these activities, support should be given to projects that are covered by cultural cooperation agreements as well as to specific projects. In addition to these vertical measures, the Culture 2000 programme should also include horizontal measures:

- trans-sectoral activities (covering cultural cooperation agreements and specific projects);
- joint activities and joint calls for proposals with other EU programmes (particularly in the field of education, vocational training and youth);
- measures to support major projects of symbolic importance.

The European Commission, represented by Mr Pappas of DG X, reacted positively to this vertical approach of the various cultural sectors. The Commission will probably go along with it, although Mr Pappas pointed out that such a structure is indicative only, and not fixed. He recalled that Culture 2000 is a framework programme with only a general outline and a flexible structure. He suggested to include the vertical actions in the annex of the programme, in order to facilitate the legal procedure.

The EP Culture Committee was also in favour of adding two further objectives to the programme. The European Commission had proposed the following objectives:

- the mutual knowledge of the culture and history of the European people, by highlighting their common cultural heritage and promoting the role of cultural dialogue;
- creativity, the trans-national dissemination of culture and the movement of artists and their works;
- promotion of cultural diversity and the development of new forms of cultural expression;
- contribution of culture to socio-economic development;
- promotion of cultural heritage having European dimensions;
- the spread of European cultures into non-member countries and dialogue with other world cultures.

The Culture Committee voted on adding the following objectives:

- improved access to and participation in culture for a wider audience;
- explicit recognition of culture as an economic factor and as a factor in social integration and citizenship.

With regard to the budget of the programme, the Culture Committee voted on the increase of the budget from ECU 167 to ECU 250 million for the years 2000 to 2004. According to the Culture Committee, approximately 10 % of the programme's budget should be allocated to literature, and 35 % to cultural heritage.

Furthermore, the Culture Committee asked for European cultural contact points at national and regional level to be established under the Culture 2000 programme. Their tasks would be to promote the programme, to facilitate access to the programme and disseminate information on the programme.

The balance between big and small projects was also discussed between MEP's and the European Commission. The Commission proposed multi-annual co-operation projects that have a structural impact on culture, involving partners from at least seven countries, and at least four participating countries in the case of specific and innovative activities. However, MEP's Mr Kerr (UK), Mr De Coene (Belgium), Mr Elchlepp (Germany) and Ms Mouskouri (Greece) thought that smaller projects are as important as big projects, because they bring the European Union closer to the citizen. Therefore, the EP Culture Committee voted for a requirement of only five participating countries in cultural co-operation projects and three countries in specific projects.

The plenary session of the European Parliament will have its first reading on the Culture 2000 programme on 4-5 November. The first reading of the Council of Culture Ministers is scheduled for 17 November. The Parliament hopes to complete its second reading on the amended European Commission proposal before the end of the year.

Culture: European Parliament voted on extension of Ariane and Kaleidoscope

As the Ariane programme for books and reading and the and Kaleidoscope programme for artistic creativity both expire at the end of 1998, and the Culture 2000 programme will only start in 2000, a solution has to be found to cover the year 1999. On 11 September the informal Council of Culture Ministers already reached political agreement to extend both programmes for a further year, and on 23 September the European Commission adopted two proposals for the extension of the programmes. On 9 October the European Parliament voted at first reading on the Commission proposals. MEPs adopted two amendments put forward by Peter Pex (Netherlands) for the Cultural Committee. The first amendment calls for increased funding for the Ariane programme by ECU 4,1 million in 1999, whereas the Commission proposed an increase of only ECU 3 million. The amendment for Kaleidoscope foresees an increase of ECU 10,2 million for 1999, which is ECU 2,3 million more than the Commission proposal. The Commission proposal will now be discussed by the Council of Culture Ministers, and then go back to the European Parliament for second reading.
Fifth Framework programme: conciliation on budget fails for the second time

On 12 October the European Parliament and the Council of Ministers tried for the second time to reach an agreement on the budget for the Fifth Framework programme on research and technological development (1998-2002). However, the two institutions maintained their positions, the Parliament calling for a budget of ECU 16.300 million and the Council refusing to go over ECU 14.300 million. The Austrian Presidency of the European Union had proposed a compromise aimed at increasing the Council's offer to ECU 14.800 million, but this was rejected by Germany, Sweden, the United Kingdom and France.

Another obstacle to agreement is the commitment the Council made to Spain: the research budget would not hamper the negotiation of the budgetary perspective of the EU as a whole, and the research budget for the period beginning 2000 would be revised if necessary (see also Hot News February 1998). The Council has therefore divided the budget into two parts, one being a final figure covering 1998 and 1999, the other being an indicative amount for the period 2000-2002. The Parliament agrees in principle to the possibility of a mid-term review of the budget, but fears that it will have no decision power during any review. Besides, the Parliament wants to avoid the risk of suspension of the programme caused by a political problem that is not related to research. The Parliament and the Council have time until mid-November to find a compromise, but the deadline could be extended by common agreement for up to two weeks. The next conciliation meeting is scheduled for 10 November.

Fifth Framework programme: participation of candidate countries

The Council of Research Ministers authorised on 13 October the European Commission to negotiate with the eleven candidate countries their participation in the Fifth Framework programme for research and technological development. The objective is to enable research institutes, enterprises and universities in the candidate countries to participate under the same conditions as organisations from EU Member States. In exchange, those countries would be asked to contribute to the budget of the Fifth Framework programme. All eleven candidate countries expressed their wish to participate fully in the programme.

Research: Council of Ministers approved EU/USA scientific and technological cooperation

On 13 October the Council of Research Ministers adopted the agreement for scientific and technological cooperation between the European Union and the United States of America. The agreement has already been signed in December 1997, but could only enter into force after ratification by the European Parliament and the Council of Ministers. The co-operation will take the form of co-ordinated joint research projects, joint task forces, studies, exchanges of personnel and information, joint organisation of scientific seminars and training of scientists. Each party will finance its own participation in co-operation actions. The areas covered by this agreement include information and communication technologies, telematics and training and mobility of scientists.
Research: EU/Australia scientific and technological cooperation agreement to be amended

The Council of Ministers has authorised the European Commission to negotiate an amendment to the scientific and technological agreement between the European Union and Australia. The purpose of the amendment is to extend the scope of the present agreement to some areas of research that fall under specific programmes in the upcoming Fifth Framework programme. This includes the specific programme on a user-friendly Information Society, which makes reference to libraries and archives.

Green Paper on combating counterfeiting and piracy in the Single Market published

The European Commission has adopted a Green Paper on combating counterfeiting and piracy in the Single Market, marking the start of a wide-ranging consultation of all the parties concerned, the Member States and the institutions of the European Union (EU). This consultation, which is expected to be completed in March 1999, aims to determine the economic impact of counterfeiting and piracy in the Single Market, to assess the effectiveness of the relevant legislation and to propose a number of initiatives to improve the situation. These initiatives could include support for private-sector monitoring, legal protection of security and authentication devices, assessment of the penalties and other means of enforcing intellectual property rights and the setting-up of suitable administrative cooperation between the relevant national authorities.

The initiatives on intellectual property rights have so far focussed essentially on harmonising national legislation (for example trademarks, biotechnology inventions) and on creating unitary rights at Community level (for example, the Community trademark). It is necessary to ensure proper implementation not only of the legislation itself, but of the rights and obligations of market operators resulting from this legislation in the Single Market. In fact, counterfeiting and piracy are prejudicial to the proper functioning of the Single Market as they give rise to deflections of trade and distortions of competition, leading to a loss of confidence among market operators in the ability of public authorities to provide effective protection of their rights and to a reduction in investment.

A horizontal initiative could prove to be needed to respond to this phenomenon in a comprehensive way. The Green Paper aims to assess precisely the scale and economic impact of counterfeiting and piracy in the Single Market and to assess the effectiveness of legislation on intellectual property. The improvements under consideration in the Green Paper relate to four specific aspects:

a) Support for private-sector monitoring
b) Legal protection of security and authentication devices
c) Assessment of the means of enforcing intellectual property rights
d) Setting up suitable administrative cooperation between the relevant national authorities

The Green Paper represents a starting point for a wide-ranging consultation of the parties concerned. It will be completed in March 1999 with the organisation, jointly with the German Presidency of the EU Council, of a hearing of all interested parties in Munich on 2 and 3 March, in order to consider in more detail the most important points arising from the coming discussions. The Commission will then be in a position to determine the action to be undertaken in this field.
CEEC: green light for Phare assistance to Romania

The European Commission approved on 20 October the national 1998 Phare programme for Romania, with a budget of ECU 106,6 million. The Phare programme supports the process of economic transformation and strengthening of democracy in the partner countries of Central and Eastern Europe. Phare also provides funding to prepare for membership of the European Union, and is seen as the financial instrument of the European Union's pre-accession strategy. The European Commission also approved a financial memorandum to co-fund certain regional development activities for a total of ECU 4,25 million. With this new aid, the overall budget of Phare assistance granted to Romania since 1990 adds up to ECU 950 million.

Enlargement: negotiations with six candidate countries to start on 10 November 1998

The General Affairs Council of Ministers has officially decided to open concrete negotiations with six candidate countries (Cyprus, Hungary, Poland, Estonia, Czech Republic and Slovenia) on 10 November. The Council noted that the analytical examination of the European legislation ('screening process') was proceeding according to plan. So far 13 chapters have been screened. The Council recalled that the pace of progress in the negotiations will depend upon the individual situation and preparedness of each applicant country.

Agenda 2000: progress report discussed by Council of Ministers

On 5 October the Austrian Presidency of the European Union presented to the General Affairs Council of Ministers a progress report on the work concerning the various aspects of Agenda 2000. Agenda 2000 is of fundamental importance for the future development of the European Union, as it includes the financial perspectives for the period 2000-2006, opinions on the accession applications, and guidelines for reforms of the Common Agricultural Policy, Structural Funds and Cohesion Fund. Following discussions, the Ministers reached an agreement in principle on achieving greater concentration of structural assistance by shortening the list of beneficiary regions. This implies that for regions which will no longer qualify, assistance has to be gradually phased out. Work will have to continue in order to find the most acceptable and effective ways of achieving this. There was also agreement on the structure of the pre-accession instruments. A majority of Member States was in favour of creating a specific budget heading for pre-accession expenditure.
Structural Funds: ECOSOC opinion on reforms

On 10 September the Economic and Social Committee (ECOSOC) adopted an opinion on the reform of the Structural Funds. The Committee broadly supports the European Commission proposals to reform the Structural Funds. However, the Committee stressed the importance that the reforms should continue to secure economic and social cohesion across the European Union. Among others, the adaptation of workers to changes in technology should be facilitated and educational and training systems should be developed to combat unemployment in the less favoured regions only. General national employment and education policy should remain a responsibility of the Member States. The text of the opinion is available at:
http://www.esc.eu.int/en/docs/default.htm