

European Commission: 6th Communication on the Application of Articles 4 and 5 of the TVWF Directive

IRIS 2004-8:1/3

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The European Commission has recently adopted its Sixth Communication on the application of Articles 4 and 5 of the "Television without Frontiers" Directive, which lay down rules on the broadcasting of European works, including independent productions, by European television broadcasters. Specifically, Article 4 requires Member States to ensure, where practicable and by appropriate means, that broadcasters under their jurisdiction reserve a majority proportion of their transmission time for European works. In addition, Article 5 requires Member States to ensure, where practical and by appropriate means, that broadcasters reserve at least 10% of their transmission time or of their programming budget for European works (in particular recent ones) by independent producers. The relevant transmission time does not include the time appointed to news, sports events, games, advertising and teletext services.

Pursuant to Article 4(3) of the Directive, an evaluation of the implementation of these provisions is published every two years by the Commission on the basis of national reports submitted by the Member States. The present report covers the period 2001-2002 (for the earlier reports see IRIS 1996-9: 8, IRIS 1998-5: 4, IRIS 2000-9: 5 and IRIS 2003-1: 5) and shows that the objectives of Articles 4 and 5 have generally been met, both in relation to the report's reference period and also compared with the previous reference period (1999-2000).

As regards the application of Article 4, the report presents generally positive results. The average transmission time reserved for European works in all Member States was 66.95% in 2001 and 66.10% in 2002, with a 5.42 point increase being registered over the four-year period 1999-2002, representing a medium-term overall upward trend. The report also notes that for the majority of Member States there has been constant progress at national level since 1999 (although the average transmission time of European works varies significantly between Member States: e.g. 46.98% for Portugal and 87% for the Netherlands in 2001). The average compliance rate for all channels in all Member States also increased over the reference period and over the 1999-2002 four-year period.

The trend is less positive as regards the application of Article 5. Indeed, the report records a decrease in the average transmission time reserved for European works by independent producers both over the reference period and also compared with

the previous reference period. Having said this, the report notes that the average transmission time of these works remained constantly well above the 10% minimum proportion set by Article 5, stabilizing over the four year period at above 1/3 of total qualifying transmission time, corresponding to more than half of European works overall (in this case too, the average transmission time varied significantly depending on the Member State concerned, e.g. 21.33% for Italy and 68.92% for the Netherlands in 2001). Furthermore, the results were generally positive as regards the transmission of recent European works by independent producers: these remained over four years constantly above 1/5 of total qualifying transmission time, corresponding to about 2/3 of the independent productions broadcast. In light of this, the Commission's assessment is that the objectives of Article 5 have broadly been met (although it also notes that the results presented for Article 5 should be qualified by the fact that some States did not present comprehensive information).

The present report only covers the EU-15, while the 10 new Member States will be included for the first time in the next implementation report (for the period 2003-2004).

Additional detailed information on the application of Articles 4 and 5 for 2001-2002 is contained in an annex to the communication.

Sixth Communication from the Commission to the Council and the European Parliament on the application of Articles 4 and 5 of Directive 89/552/EEC "Television without Frontiers", as amended by Directive 97/36/EC, for the period 2001-2002, COM (2004) 524, 28 July 2004

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