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2006 - 3

INTERNATIONAL

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INTERNATIONAL

IGO Reaction to Controversial Cartoons

Over the past month, news bulletins have been dominated by coverage of the dramatic fallout from the controversial publication – initially by a Danish newspaper - of 12 cartoons, including caricatures of Prophet Mohammad.

The circumstances surrounding the publication and successive re-publications of the cartoons, as well as the ensuing wave of protests, threats, violence and diplomatic manoeuvring, have been widely reported and will not be rehearsed again here. The focus will instead be on the international reaction to events, as exemplified by a selection of formal statements issued by a number of intergovernmental organisations (IGOs). The statements considered here were issued by (in chronological order): European Commission Vice-President Frattini (Eur. Cssn. VP); the OSCE Representative on Freedom of the Media (OSCE RFOM); the Secretary General of the Council of Europe (CoE SG); the President of the Parliamentary Assembly of the Council of Europe (PACE President); the United Nations Special Rapporteurs on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; on freedom of religion or belief, and for the promotion and protection of the right to freedom of opinion and expression (UN SRs) (joint statement).

These responses were largely consistent with one another and coalesced around four essential points:

(i) recognition of the offence caused to the religious sensibilities of Muslims by the publication of the cartoons. This was formulated most vigorously by the three UN SRs, who declared that they "strongly deplore the depictions of the Prophet Muhammad and are distressed by the grave offence they have caused to members of the Muslim community".

(ii) strong condemnation of the "violence, destruction and hate which marred some of the protests" (CoE SG); the "violence, intimidation, and the calls for boycotts" (Eur. Cssn. VP), and the "death threats against journalists and intimidation of the media as well as the loss of lives, threats and other forms of violence […] often directed at people with no responsibility for, or control over, the publications" (UN SRs).

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(iii) a plea for "tolerance and dialogue" (UN SRs) and for multilateral action "on the basis of dialogue and mutual respect" (CoE SG) in order to defuse rampant tensions. The exchange of experiences and information, continuous dialogue and learning "to appreciate the diverse cultures and religions around us" were identified by the PACE President as key ways of fostering democratic pluralism and tolerance on a more long-term basis. Similarly, the UN SRs stressed the importance of "large editorial freedom" for the press "to promote a free flow of news and information", but without "the use of stereotypes and labelling that insult deep-rooted religious feelings", in order to facilitate "constructive and peaceful dialogue among different communities" and "to nurture mutual understanding".

(iv) a reiteration that the exercise of the right to freedom of expression (as guaranteed by international instruments) carries with it special duties and responsibilities (UN SRs, CoE SG), and should be exercised in a way that is respectful of freedom of religion and belief (UN SRs, Eur. Cssn. VP). The right to freedom of expression – as interpreted *inter alia* by the European Court of Human Rights - includes protection for the expression of offensive views (CoE SG). Nevertheless, as the CoE SG insisted: "having the right to cause offence does not make it right to do so. It is the responsibility of editors and journalists to use good judgement in deciding what should or should not be published. The publication of caricatures may not have transgressed any legal boundaries, but it certainly violated ethical norms based on mutual respect and acceptance of other people's religious beliefs." The Eur. Cssn. VP pointed out that the freedom to criticise – including by satire – is also covered by the right to freedom of expression.

For his part, the OSCE RFOM stated that "the right to question all beliefs is itself a cherished tradition in democratic countries". He also stated that while the OSCE favours responsible journalism, it does not accept that governments should play a role in that regard, arguing that "State interference into the work of the media" would "contradict the core commitments of the 55 OSCE participating States". Instead, he recommended that: "Publications that are offensive to certain sections of society should be dealt with through self-regulatory ethics bodies of the quality press, for example, press councils". ■

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- **European Commission: "Statement by Vice-President Franco Frattini on cartoons published by a Danish newspaper", Press Release IP/06/114 of 2 February 2006, available at: http://merlin.obs.coe.int/redirect.php?id=9999**

DE-EN-FR-IT

- **OSCE Representative on Freedom of the Media, "OSCE Media Freedom Representative defends papers' right to publish controversial cartoons, asks for mutual respect for traditions", Press Release of 3 February 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10002**

EN

- **Council of Europe, "Council of Europe Secretary General on controversy regarding the caricatures of Prophet Mohammad", Press Release of 6 February 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10003**

EN-FR

- **United Nations, "Human rights experts call for tolerance and dialogue in wake of controversy over representations of Prophet Muhammad", Press Release of 8 February 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10005**

EN

- **Parliamentary Assembly of the Council of Europe, "PACE President on controversy over caricatures: 'Rights come with responsibilities – but violence is never ever justified'", Press Release of 9 February 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10006**

EN-FR

UN / OSCE / OAS

2005 Joint Declaration by the Three Special Mandates for Protecting Freedom of Expression

This note reviews the Joint Declaration adopted by the three special mandates for protecting freedom of expression – the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression – on 21 December 2005, which focuses on two issues, freedom of expression and the Internet, and anti-terrorism measures.

The three special mandates have adopted a Joint Declaration with the assistance of ARTICLE 19 every year since 1999 (see IRIS 2005-2: 2 and IRIS 2004-2: 6). Each year, the Joint Declaration focuses on different thematic issues. In the past it has canvassed such issues as defamation, broadcast regulation, attacks on journalists, access to publicly-held information, and secrecy laws.

The most important contribution of the Joint Declaration in the area of anti-terrorism measures is to warn against the use of unduly vague terms in anti-terrorist legislation – such as 'glorifying' or 'promoting' terrorism – and to call on States to limit any new restrictions on freedom of expression to true cases of incitement to terrorism, defined as, "a direct call to engage in terrorism, with the intention that this should promote terrorism, and in a context in which the call is directly causally responsible for increasing the actual likelihood of a terrorist act occurring".

The main focus of the 2005 Joint Declaration is on the Internet. It calls for Internet regulation to respect freedom of expression, taking into account the special nature of the Internet, and not to impose filtering systems which are not end-user controlled or to require websites, blogs and so on to register with the authorities. On the issue of Internet content, the Joint Declaration calls for liability for ISPs and other carriers to be imposed only where they adopt the statements as their own or where they

have refused to obey a court order to remove them. It also calls for jurisdiction to be asserted in Internet content cases only in the State of establishment of the author or States to which the content is specifically directed.

The Joint Declaration also weighs in on the issue of Internet governance, a topical one given that consultations on the Internet Governance Forum were just initiated on 16-17 February 2006, in Geneva. It calls for Internet oversight bodies to be independent of government, political or commercial control, in similar fashion to democratic broadcast regulators. Although clearly principled, this is also controversial, given that the present regulator, ICANN, operates in accordance with a memorandum of understanding with the US Department of Commerce.

The Joint Declaration calls for corporations which provide Internet searching and other services to work together to resist official attempts to control or restrict use of the Internet. With Yahoo, Google, Microsoft and Cisco all on the defensive after criticism of their operations in China, including at US Congressional hearing, this is quite as topical and controversial as the Declaration's Internet governance recommendations.

The Joint Declarations, while not formally legally binding, play an important normative role and are relied upon extensively by NGOs, lawyers and others. The 2005 Joint Declaration, for example, has already been quoted in the context of the role of Internet corporations in defending Internet freedom. As such, they make an important contribution to global standard-setting in the area of freedom of expression. ■

Toby Mendel
ARTICLE 19, Global Campaign for Free Expression

● Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, 21 December 2005, available at: http://merlin.obs.coe.int/redirect.php?id=10026

EN

COUNCIL OF EUROPE

European Court of Human Rights: Nordisk Film & TV A/S v. Denmark

In August 2002, by a judgment of the *Højesteret* (Danish Supreme Court), the applicant company, Nordisk Film, was compelled to hand over limited specified unedited footage and notes of a broadcast television programme investigating paedophilia in Denmark. In order to make the programme, a journalist went undercover. He participated in meetings of "The Paedophile Association" and, with a hidden camera, interviewed two members of the association who made incriminating statements regarding the realities of paedophilia in both Denmark and India, including advice on how to induce a child to chat over the internet and how easy it was to procure children in India. In the documentary, broadcast on national television, false names were used and all persons' faces and voices were blurred. The day after the programme was broadcast, one of the interviewed persons, called "Mogens", was arrested and charged with sexual offences. For further investigation, the Copenhagen Police requested that the unshown portions of the recordings made by the journalist be disclosed. The journalist and the editor of the applicant company's documentary unit refused to comply with the request. The Copenhagen City Court and the High Court also refused to grant the requested court order having regard to the need of the media to be able to protect their sources. The Supreme Court, however, found against the applicant company, the latter was therefore compelled to hand over some parts of the unedited footage which solely related to "Mogens". The court order explicitly exempted the recordings and notes that would entail a risk of revealing the identity of some persons (a victim, a police officer and the mother of a hotel manager), who where interviewed with the promise by the journalist that they could participate without the possibility of being identified. In November 2002, Nordisk Film complained in Strasbourg that the Supreme Court's judgment breached its rights under Article 10 of the Convention, referring to the European Court's case law affording a high level of protection to journalistic sources.

In its decision of 8 December 2005, the Strasbourg Court has come to the conclusion that the judgment of the Danish Supreme Court did not violate Article 10 of the Convention. The Strasbourg Court is of the opinion that the applicant company was not ordered to disclose its journalistic sources of information, rather, it was ordered to hand over part of its own research material. The Court is not convinced that the degree of protection applied in this case can reach the same level as that afforded to journalists when it concerns their right to keep their sources confidential under Article 10 of the Convention. The Court is also of the opinion that it is the State's duty to take measures designed to ensure that individuals within their jurisdiction are not subjected to inhuman or degrading treatment, including such ill-treatment administered by private individuals. These measures should provide effective protection, in particular, of children and other vulnerable persons and include reasonable steps to prevent ill-treatment or sexual abuse of which the authorities had or ought to have knowledge. The European Court supports the opinion of the Danish Supreme Court that the non-edited recordings and the notes made by the journalist could assist the investigation and production of evidence in the case against "Mogens" and that it concerned the investigation of alleged serious criminal offences.

It is important to note that the Supreme Court's judgment explicitly guaranteed that material which entailed the risk of revealing the identity of the journalist's sources was exempted from the court order and that the order only concerned the handover of a limited part of the unedited footage as opposed to more drastic measures such as, for example, a search of the journalist's home and workplace. In these circumstances, the Strasbourg Court is satisfied that the order was not disproportionate to the legitimate aim pursued and that the reasons given by the Danish Supreme Court in justification of those measures were relevant and sufficient. Hence, Article 10 of the Convention has not been violated. The application is manifestly ill-founded and is declared inadmissible.

The decision of the European Court makes it clear that the Danish Supreme Court's order to compel the applicant to hand over the unedited footage is to be considered as an interference in the applicant's freedom of expression within the meaning of Article 10 § 1 of the Convention. *In casu,* the interference however meets all the conditions of Article 10 § 2, including the justification as being "necessary in a democratic society". The Strasbourg Court is also of the opinion that the Danish Supreme Court and legislation (Art. 172 and 804-805 of the Administration of Justice Act) clearly acknowledge that an interference with the protection of journalistic sources cannot be compatible with Article 10 of the Convention unless it is justified by an overriding requirement of public interest. It thereby reflects the approach developed in the Strasbourg Court's jurisprudence in the cases of Goodwin v. UK (1996), Roemen and Schmit v. Luxembourg (2003) and Ernst and others v. Belgium (2003). ■

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● Decision by the European Court of Human Rights (First Section), case of Nordisk Film & TV A/S v. Denmark, Application no. 40485/02 of 8 December 2005, available at: http://merlin.obs.coe.int/redirect.php?id=9237

EN

Recommendation on the UNESCO Convention on the Protection of the Diversity of Cultural Expressions

On 1 February 2006, the Committee of Ministers adopted a Recommendation inviting Council of Europe member states to "ratify, accept, approve or accede" to the UNESCO Convention on the protection and promotion of the diversity of cultural expressions (see IRIS 2005-10: 2).

This Convention, adopted at UNESCO's 33rd session, reaffirms the sovereign right of states to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions. It underlines the importance of international and regional cooperation, as well as the input of civil society. The aim is essentially to foster conditions conducive to the protection and promotion of the diversity of cultural expressions and to facilitate dialogue on cultural policy which could involve regulatory measures, financial assistance, the establishment of and support to public institutions and steps to enhance media diversity (through for example public service broadcasting).

The Committee of Ministers highlights the fact the objectives and guiding principles of this UNESCO Convention coincide with those set out in a number of Council of Europe instruments relating to culture and the media.

The Recommendation concludes that the Committee of Ministers not only welcomes this Convention as an addition to the already existing instruments which contribute to enhancing freedom of expression but that it will also encourage its implementation.

The UNESCO Convention on the protection and promotion of the diversity of cultural expressions will enter into force after ratification, acceptance, approval or accession by thirty states or regional economic integration organisations. ■

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● Recommendation Rec(2006)3 of the Committee of Ministers to member states on the UNESCO Convention on the protection and promotion of the diversity of cultural expressions adopted by the Committee of Ministers on 1 February 206, available at: http://merlin.obs.coe.int/redirect.php?id=10044

EN-FR

EUROPEAN UNION

Court of First Instance: mabb Contests European Commission Decision

The *Medienanstalt Berlin-Brandenburg* (Berlin-Brandenburg media authority - mabb) has filed an action for annulment with the Court of First Instance of the European Communities against a decision of the European Commission. The disputed decision challenged the legality of subsidies granted to support the transition to digital terrestrial television (DVB-T) in Berlin-Brandenburg (see IRIS 2006-1: 7).

The Commission had decided that the state aid granted by the mabb in order to finance the launch of digital terrestrial television was unlawful under the terms of Article 87.1 of the EC Treaty.

The mabb had granted around EUR 4 million to private TV broadcasters who, in return, had agreed to transmit their programmes via the new network for at least five years. It had failed to notify the Commission as required by Article 88.3 of the EC Treaty.

According to the Commission, financial aid for the transition from analogue to digital broadcasting is not, in principle, unlawful. However, it must be granted

in accordance with objective criteria and must not distort competition between the different broadcasting platforms, ie terrestrial, cable and satellite.

In the mabb's opinion, the payments to broadcasters were made to compensate for their obligation to use the network for five years, which would be much more expensive than simply withdrawing from terrestrial broadcasting.

It also argues that companies cannot be forced under the terms of broadcasting licences to broadcast digitally and, finally, that the definition of broadcasters' obligations should remain the responsibility of the Member States. The Commission's ex-post decision cannot bring into question what has turned out to be a successful national transition strategy. ■

Max Schoenthal
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● Press release of the *Medienanstalt Berlin-Brandenburg* (Berlin-Brandenburg media authority), 30 January 2006, available at:
http://merlin.obs.coe.int/redirect.php?id=10016

DE

European Commission: Communication on Reviewing the Interoperability of Digital Interactive Television Services

In its bid to foster EU-wide development of digital interactive television services, the European Commission has actively promoted the digital dossier since 2004. In July 2004 a Communication was published setting out the Commission's position on the interoperability of digital interactive television services pursuant to Art. 18(3) of the 2002/21/EC Framework Directive. The Communication then concluded there was no need to mandate standards for interactive television and scheduled a review in 2005. The Commission's efforts have now culminated in a new Communication published in February of 2006.

To contribute to interoperable solutions and to ensure the adequate development of interactive TV, the Commission has since 2004 consulted stakeholders ranging from ministries to broadcasters but has also worked with network operators, manufacturers and industry associations. The ambitions resting on digital TV derive from the fact viewers can interact with the broadcaster via a "return channel" thereby making it possible to play games and send messages to the TV broadcaster. Interactivity operates on the basis of an Applications Programme Interface (API) which is a software stack in the receiver. Open interoperable APIs are paramount to preventing technical incompatibilities which in turn will benefit the development of a market of scale as well as safeguarding EU consumers' interests.

A List of standards has been published in the Official Journal by the Commission and includes such recent additions as MHEG-5 and WTVML. The Multimedia Home Platform (MPH) has been the standard of choice in Italy where the voluntary agreement of Italian broadcasters to use MHP reflects the success that can be reached through flexibility and consensus among market players. The Commission is intent on encouraging such developments in other EU Member States and aims to continue promoting open, interoperable standards for digital television in Europe and beyond (it has established and funded a series of actions targeting international standards).

The Communication concludes the Commission's priorities must be:
- to work with Member States to ensure the successful switch-over to digital TV (see IRIS 2005-7: 6)
- to promote open standards and interoperability;
- to support cooperation between Member Sates and stakeholders;
- to monitor use of proprietary technologies; and
- to promote international cooperation on the matter.

Yet again, it considers that: "the market is best served at the present time by continuing to rely on industry-led voluntary standardisation initiatives." ■

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● "Digital interactive TV: Voluntary standards best way to achieve roll-out of new digital services in Europe, says European Commission", press release of 7 February 2006, IP/06/127, available at:
http://merlin.obs.coe.int/redirect.php?id=10028

DE-EN-FR

● Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on reviewing the interoperability of digital interactive television services of 2 February 2006, available at:
http://merlin.obs.coe.int/redirect.php?id=10031

CS-DA-DE-EL-EN-ES-ET-FI-FR-HU-IT-LT-LV-NL-PL-PT-SL-SK-SV

European Commission: Amended Proposal for a Recommendation on Protection of Minors and Human Dignity and the Right of Reply

On 23 January 2006, the European Commission submitted to Parliament its amended proposal of the Recommendation on the protection of minors and human dignity in the European audiovisual and online information services industry (see IRIS 2004-6: 5 and IRIS 2005-9: 3). The recommendation had been scrutinized by the European Parliament in September of 2005 and emerged with a number of amendments designed to contribute to the effective protection of minors and human dignity in relation to audiovisual and information services made available to the public "whatever the means of conveyance". Whereas the scope of the Television without Frontiers Directive limited itself to the protection of minors and human dignity in television broadcasting activities, this new Recommendation seeks to cover the most recent technological developments and in particular on-line information services.

The core provisions of this Recommendation revolve around media literacy as a means to effectively educate the public at large on the dangers posed by the internet and the right of reply (or equivalent remedies) which should be implemented in each EU Member State by introducing appropriate measures in national law or practice. The Commission has accepted many Parliamentary amendments either entirely or in part so that the underlying principles remain intact. Specific internet training in schools targeting teachers as well as children and national EU-wide campaigns aimed at citizens are cited as examples to foster media literacy. The benefit of an exchange of best practices concerning such issues as a system of common descriptive symbols indicating the age category is reiterated and the role of the industry is yet again illustrated by its suggested use of filtering systems, access services meant specifically for children but also warning banners on all search engines.

As regards the protection of minors, the Commission intends to explore the possibility of supporting the establishment of a generic second level domain name reserved for monitored sites aimed at minors (this may well be .KID.eu) as proposed by Parliament. ■

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• Amended proposal for a Recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry of 20 January 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10034

CS-DA-DE-EL-EN-ES-ET-FI-FR-HU-IT-LT-LV-NL-PL-PT-SL-SK-SV

European Commission: Decision on State Aid in Polish Telecommunications Sector

On 26 January 2006, the European Commission decided that certain measures taken by the Polish state in the telecommunications sector should not be considered as state aid in the sense of Articles 87 and 88 of the EC Treaty. The Polish authorities had notified a law to the Commission for it to clarify whether the measures constituted state aid. The law envisages the prolongation of deadlines for telecoms operators' licence fee payments, debt write-offs and the conversion of outstanding debt into companies' shares. The payment obligations of the telecoms companies concerned arose from the purchase of telecommunications licences during the liberalisation of the fixed network market in Poland. During the 1990s, new entrants to the market had to purchase expensive licences in order to provide telecom networks and services in certain regions in competition with Telekomunikacja Polska S.A., which had previously been the only market player. The established provider, Telekomunikacja Polska, was allowed to continue operating during this period without having to apply or pay for a licence. After liberalisation was completed in 2001, licences were no longer required and companies could then provide telecom networks and services on the basis of an individual authorisation on payment of EUR 2,500. The introduction of European provisions on electronic communications in 2004 then resulted in the switch to a general authorisation system.

The Commission's decision was based on the view that the Polish measures were aimed at establishing a level playing field for Polish telecoms operators. This would promote competition to the benefit of consumers without granting advantages to individual operators. ■

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• Commission press release IP/06/83 of 26 January 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10037

EN-FR-DE-PL

European Commission: Statement of Objections to the International Confederation of Societies of Authors and Composers and its EEA Members

The European Commission has opened formal proceedings against the International Confederation of Societies of Authors and Composers (CISAC) and the individual national collecting societies in the EEA that are members of CISAC. They have been sent a Statement of Objections which targets the CISAC model contract and its implementation at bilateral level by CISAC members. Certain restrictive clauses contained in this model agreement lie at the heart of the Commission's concern. These clauses are thought to infringe the EC Treaty's prohibition of restrictive business practices (as laid down in Art. 81) and have triggered an antitrust investigation.

The model contract, and the agreements deriving from it at bilateral level, form the basis of the collective management of copyright for every category of exploitation (the broadcasting of music in a bar, in a night club or on the internet). Only the exploitation of works by way of the more recent platforms, such as the internet, satellite transmission and cable retransmission, are targeted by the Statement of Objections.

The potentially restrictive aspects of the agreements singled out by the Commission are as follows:

1. The membership restrictions obliging authors to transfer their rights only to their own national collecting society (whatever the subsequent exploitations of the rights)
2. The territorial restrictions obliging commercial users to obtain a license only from the domestic collecting society and limited to the domestic territory
3. The fact that interlocking agreements between collecting societies lead to a multiplication of membership and territorial restrictions and gua-

rantee an exclusive position for these societies on their respective markets.

Each collecting society enjoys an exclusive position on its national market and has its own *répertoire* (portfolio of works). Each EEA collecting society also has a reciprocal representation contract with all its fellow EEA societies. This enables each one of them to deliver a multirepertoire licence to commercial users on their domestic market.

The addressees of a Statement of Objections have two months to present a written defence after which they can also request to present their case orally to the Commission. ■

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● **"Competition: Commission sends Statement of Objections to the International Confederation of Societies of Authors and Composers (CISAC) and its EEA members", press release of 7 February 2006, MEMO/06/63, available at: http://merlin.obs.coe.int/redirect.php?id=10027**

EN

European Commission: Two EU Member States Singled Out for Non-Compliance with Tobacco Advertising Directive

The European Commission has sent "reasoned opinions" to Germany and Luxembourg. Both these countries have failed to implement Directive 2003/33/EC of 26 May 2003 on the advertising and sponsorship of tobacco products. The two non-compliant EU Member States had already been targeted by the Commission in October 2005, when a "letter of formal notice" was issued to their addresses. If they neglect to comply within two months, they face legal action and, ultimately, a ruling by the European Court of Justice that they have failed to fulfil their obligation to transpose EU legislation.

The Commissioner for European Health and Consumer Protection has stressed his determination in pursuing adequate implementation of this Directive by all Member States. Public health is at stake and "fancy advertising" contributes to "glamorising" smoking, particularly in the eyes of young people. Although most countries have indeed complied with their duty to implement the Directive, the Commission is also investigating cases of flawed transposition which will be duly tackled if exemptions or derogations contrary to the Directive are found in national provisions.

The Directive bans tobacco advertising in the print media, on the radio and on the internet. It also prohibits tobacco sponsorship of cross-border events or activities. The Directive was passed by the European Parliament and Council in 2003 and was due for transposition into Member States' legislation by 31 July 2005. It encompasses advertising and sponsorship with a cross-border dimension only. Although advertising in cinemas, on billboards or by way of merchandising (using ashtrays or parasols for example) falls outside its scope, it can still be banned by national laws, which is the case in several EU Member States.

Tobacco advertising on television has been banned in the EU since the early 1990s and is regulated by the Television without Frontiers Directive. ■

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● **"Tobacco advertising: European Commission takes action against two non-compliant EU Member states", press release of 1 February 2006, IP/06/107**

DE-EL-EN-FR

European Commission: Monitoring of Greek Compliance with Court Ruling on Electronic Communications Liberalisation Directive

On 14 April 2005, the European Court of Justice confirmed Greece had failed to implement, before the prescribed deadline, the electronic communications liberalisation Directive 2002/77/EC. The Commission has now sent a formal request to the Greek authorities with a view to obtaining information about the Hellenic republic's compliance with the Court ruling.

All Member States have implemented the electronic communications liberalisation Directive with the exception of Greece. As a result, competition in the fixed voice telephony market has stagnated and broadband services are not readily available to Greek businesses and households. In October 2005, the penetration of retail broadband in Greece was the lowest among the EU Member States hovering around 1 %.

The electronic communications liberalisation Directive adopted on 16 September 2002 simplifies and consolidates the provisions of previous Directives adopted under article 86 para.3 of the EC Treaty that have progressively liberalised EU telecommunications markets. The Directive prescribes the abolition of exclusive or special rights granted by the Member States for the establishment and/or the provision of electronic communications networks, or for the provision of publicly available electronic communications services.

Each Member State was obliged to take measures, before 24 July 2003, in order to guarantee undertakings the right to provide services or exploit networks, without discrimination, in accordance with a general authorisation regime which replaced the previous licensing system.

In addition, Directive 2002/77/EC extended the liberalisation principles of the previous framework to all electronic communications services, including broadcasting services. Implementation of the Directive is therefore paramount to enabling new competitors to penetrate the market for the provision of such services, and more particularly for digital terrestrial broadcasting.

Since the Court ruling Greece has failed to notify any implementing measures to the Commission. ■

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● **"Competition: Commission requests information from Greece on compliance with Court ruling on electronic communications liberalisation Directive", press release of 23 January 2006, IP/06/63**

DE-EL-EN-FR

European Parliament: Resolution on Freedom of Expression and Respect for Religious Beliefs

In the wake of the recent controversy surrounding the publication and re-publication of 12 cartoons, including caricatures of the Prophet Mohammed, the European Parliament (EP) adopted a Resolution entitled, "Right to freedom of expression and respect for religious beliefs", on 16 February. Although various inter-governmental organisations (IGOs) issued statements in relation to the publication of the cartoons and its aftermath (see IRIS 2006-3: 2), the EP Resolution merits separate consideration here, owing to its formal status and its itemised approach to relevant issues. Essentially, though, the Resolution is similar in its overall tenor to that of the aforementioned IGO press releases.

The Resolution underlines the importance of freedom of expression as one of the fundamental values of the European Union – alongside democracy, pluralism and tolerance. However, it stresses that the right must be exercised "within the limits of the law", with a sense of personal responsibility and with respect for the rights and (in particular, religious) sensibilities of others. The right should not be abused "by incitement to religious hatred or the dissemination of xenophobic or racist attitudes aimed at excluding any persons, whatever their origin or religious beliefs".

While the Resolution expresses "respect" for those who feel offended by the publication of the cartoons, it insists that "freedom of expression and the independence of the press as universal rights cannot be undermined by any individual or group that feels offended by what is being said or written" and that the courts are the proper forum in which to seek redress for any possible offence caused. In the same vein, it "condemns in the strongest possible terms the burning down of embassies of Member States, as well as the threats against individuals" and it "deplores the failure of some governments to prevent violence and the toleration by other governments of violent attacks". In this regard, it points to the relevant obligations of States under the Vienna Convention on Diplomatic Relations. At the same time, however, it "welcomes the statements and efforts of those leaders of European Muslim communities and in the Arab world who have expressed their firm condemnation of the violent attacks on embassies and the burning of flags".

The Resolution expresses solidarity with journalists in Jordan, Egypt and Algeria who "courageously reprinted and pointedly commented on the cartoons" and it "strongly condemns their arrest and urges the respective governments to drop all charges against them". It also expresses solidarity with Denmark and other countries and people affected by the whole affair. The Resolution "strongly regrets" that the controversy surrounding the cartoons has been exploited by some extremist factions to incite violence and discrimination. Furthermore, it regrets "the renewed and increased anti-Semitic and anti-Israeli propaganda in some Arab countries and in Iran", which it takes as showing that "those countries obviously do not apply the same standards to all religious communities".

The Resolution pleads for a restoration of "constructive and peaceful dialogue" and the intervention of local leaders to actively curb the violence. It also recognises the need for international cooperation and dialogue to resolve the matter and urged, *inter alia*, that the problem be dealt with as a priority issue at the March session of the Euro-Mediterranean Parliamentary Assembly. ■

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● European Parliament Resolution on the right to freedom of expression and respect for religious beliefs (Provisional edition), 16 February 2006, Doc. No. P6_TA-PROV(2006)0064, available at: http://merlin.obs.coe.int/redirect.php?id=10040

ES-CS-DA-DE-ET-EL-EN-FR-IT-LV-LT-HU-NL-PL-PT-SK-SL-FI-SV

NATIONAL

AL – Changes on the Law for Radio and Television Planned

The Government of the Republic of Albania decided on 8 February 2006 to change the law "On public and private radio and television in the Republic of Albania". Under the amendments to the law the legal mandate of the *Këshilli Kombëtar i Radiotelevizioneve* (The National Council of Radio and Television), the responsible authority for licensing monitoring of the activity of the public and private radio and television in the country, is interrupted. Also for the members of the current *Këshilli Drejtues i Radiotelevizionit Publik* (The Directorate Council of the Public Radio and Television) the term of office will end sooner than expected.

It is planned that new members for both Councils will be elected by the Parliament and that the number of Council members will be reduced to almost half. The Prime Minister declared that this decision had been taken by the Government "in the framework of reforms to reduce the number of workers in public administration".

The law "On public and private radio and television in the Republic of Albania" was adopted in 1999 and has often been often amended, latterly in 2003 (see IRIS 2003-4: 5).

The main opposition party in the Albanian Parliament considered the new draft-law as a tendency of the Government to place the electronic private and public media under its control. ■

Hamdi Jupe
Albanian Parliament

● Draft-law of the Albanian Government "For some changes on the law "On public and private radio and television in the Republic of the Albania", dated 8 February 2006

SQ

AT – Administrative Court Extends Football Short Reporting Rights

In 2004, pay-TV broadcaster *Premiere* acquired the exclusive rights to cover the T-Mobile-Bundesliga. Austrian commercial TV company ATV+ subsequently purchased the secondary exploitation rights. The *Bundeskommunikationssenat* (Federal Communications Office) granted to *Österreichische Rundfunk* (ORF) the right to broadcast one short 90-second report on each match day (see IRIS 2005-1: 7).

Both ORF and ATV+ complained to the *Verfassungsgerichtshof* (Constitutional Court) about this decision. The Court threw out both complaints on the grounds that there was little prospect of them being upheld (see IRIS 2005-7: 8).

The case was then taken to the *Verwaltungsgerichtshof* (Administrative Court), which has now basically upheld ORF's appeal and decided that it should be allowed to broadcast 90-second reports on each Bundesliga match. Its decision was based on the ground that each individual T-Mobile-Bundesliga football match should be considered as an "event" in the sense of the *Fernseh-Exklusivrechtegesetz* (Exclusive Television Rights Act). The Court referred to Recommendation No. R (91) 5 of the Committee of Ministers of the Council of Europe on the right to short reporting of major events. Its interpretation means that, with five matches per match day, the permitted length of short reporting is multiplied by five.

The Administrative Court also decided that only a TV company subject to Austrian law can be obliged to grant the right to short reporting.

As a result of this verdict, the *Bundeskommunikationssenat* will have to issue a new decision, laying down new conditions for short reporting rights. Under its contract, ATV+ is only allowed to broadcast reports on the day's football matches after 10 pm. The broadcaster fears that the *Bundeskommunikationssenat* could, as previously, allow ORF to broadcast its reports much earlier. This would reduce the value of the secondary exploitation rights purchased by ATV+. ■

Robert Rittler
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• Decision of the *Verwaltungsgerichtshof* (Administrative Court) of 20 December 2005, 2004/04/0199, available at:
http://merlin.obs.coe.int/redirect.php?id=10015

DE

AT – ORF Must Operate Sports Channel

By an amendment to the *ORF-Gesetz* (ORF Act), the Austrian Parliament has made it compulsory for *Österreichischer Rundfunk* (the Austrian public service broadcaster - ORF) to provide a specialist TV channel. The channel should offer information about all sports-related issues, stimulate public interest in playing sport and report on sports which are normally given little coverage in the Austrian media. No further details were given on the number or length of the programmes that should be broadcast.

The channel will have to be broadcast via satellite. Cable operators will also be obliged to carry it via their networks.

ORF was already allowed to operate a specialist channel under the previous law, although it was prohibited from using any funds received through subscription fees for this purpose and from broadcasting it terrestrially.

ORF has previously run specialist channel TW1, initially in partnership with another company and subsequently on its own (see IRIS 2005-9: 6). This channel provides information on tourism, weather and sport. ■

Robert Rittler
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• *Bundesgesetz, mit dem das Bundesgesetz über den Österreichischen Rundfunk (ORFGesetz, ORF-G) geändert wird* (amendment to the ORF Act), BGBl 2005 Teil I of 30 December 2005, available at:
http://merlin.obs.coe.int/redirect.php?id=10046

DE

BE – CLT-UFA Television Returns to Luxembourg

Since 1 January 2006, RTL-TVI, Club RTL and Plug TV have ceased to be television broadcasting services in the French-speaking Community. That, in any case, was the view held by the Belgian PLC TVI which, until then, was the editor of these services. On 3 October 2005 its board of directors decided to not request renewal of the authorisation that it had been granted by the Government of the French-speaking Community in 1996 for the RTL-TVI and Club RTL services, and which lapsed on 31 December 2005. At the end of December 2005, TVI also announced its renunciation of the authorisation issued in March 2004 for its third channel (Plug TV).

According to TVI, editorial responsibility for these three services now lay in the hands of the Luxembourg company CLT-UFA, of which TVI is a subsidiary. The concession granted to CLT-UFA by the Luxembourg Government covered RTLTVI and Club RTL and other programmes with an international dimension. The *Conseil Supérieur de l'Audiovisuel* (the French-speaking Community's audiovisual regulatory body– CSA) did not seem convinced by this line of argument, and on 1 February 2006 it brought a complaint that TVI and CLT-UFA were broadcasting the RTL-TVI and Club RTL services without authorisation. The complaint does not prejudice the decision that will eventually be taken, but merely indicates the commencement of the procedure. TVI and CLT-UFA must now submit their written observations, and they have been called to appear before the CSA's authorisation and supervision board on 15 March 2006.

There will no doubt be a number of further stages

in this matter. It raises more particularly the question of the "establishment criteria" laid down in Article 2 of the "Television Without Frontiers" Directive. It will perhaps also be necessary to refer to Article 2(7) of the French-speaking Community's Broadcasting Decree of 27 February 2003, according to which the French-speaking Community has authority over editors of services established in a Member State of the European Union or Party to the European Economic Area Agreement whose activities, as observed by the CSA's authorisation and supervision board after consulting the Commission of the European Union, are entirely or mainly directed at the general public of the French-speaking Community and the services are established in one of these States with a view to evading the rules that would apply to them if they were under the authority of the French-speaking Community. ■

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CS – Tender for Radio and TV Coverage Announced

On 25 January 2006 the Serbian Broadcasting Agency announced the tender for the issuing of licences for the terrestrial transmission of radio and TV programmes. This has been rendered possible after the confirmation of the Frequency Allocation Plan by the Government, as well as by confirmation of the broadcasting fees proposed by the Broadcasting Agency and the Telecommunications Agency. The tender contains the following: Five networks for coverage of the whole territory of the Republic (national coverage) for TV and radio respectively, one network for coverage of the territory of the province of Vojvodina (provincial coverage) for TV and radio respectively, and six TV and 14 radio networks for coverage of the broader region of Belgrade (Belgrade coverage). The tender is open for 60 days as of 25 January 2006, and the decision on the applications shall be made within the subsequent 90 days.

In accordance with the 2002 Broadcasting Act the conditions for the applications have been divided into technical, organizational and programme-related ones. Technical conditions refer mostly to studio and broadcasting equipment which is used/intended to be used, the organizational requirements refer to the status of the applicant, with special emphasis on existing human resources for the stations that are already on air, as well as to the proof of registration of the applicant and the financial data (for existing broadcasters) or the business plan (for new ones). Concerning the programme offer, programming schedules have to be presented as well as, for the existing broadcasters, the proof that copyrights are regulated by contract and paid for. Conditions that relate to the transmitters have been set in accordance with the Telecommunications Act of 2003. They are mostly limited to the requirement of having a contract with an individual or an organization authorised to make technical documentation.

The reactions to the announcement of the tender are twofold: on the one hand, it seems that the fact that the Broadcasting and Telecommunications Agencies finally started to work is unequivocally supported, but on the other hand many broadcasters feel that the amounts of the fees have been set quite high bearing in mind the existing advertising market, which may, as a consequence, lead to the financial disaster of some broadcasters or total commercialisation of the programme offer in order for the financial obligations to be met. ■

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DE – Proposed Copyright Law Amendments Back on Agenda

On 26 January 2006, following the publication of a revised Bill, the *Bundesjustizministerium* (Federal Ministry of Justice) organised a hearing for interested parties on the second wave of copyright law reforms.

Since the first wave of copyright law amendments transposed into German law the binding provisions of the EU Directive on Copyright in the Information Society in 2003 (see IRIS 2003-9: 13), no further regulations have followed. A draft for the second wave was published in September 2004, but was not adopted during the parliamentary term ended autumn 2005.

The new revised draft concentrates on certain restrictions, particularly concerning private copies, the adaptation of remuneration for technological advances, unknown uses and restrictions on the reproduction of works on electronic reading devices in public libraries.

A particular source of controversy and the subject of numerous written responses is the exemption from punishment of copyright breaches by private users. Copies for private use are prohibited if they are made from obviously illegal sources -- downloading an illegal file from an Internet file-swapping site, for example, is illegal and subject to criminal sanctions. The Bill provides that minor offences with only a small degree of illegality should be exempt from punishment. It explains that, since more and more private end users are committing this kind of copyright breach via digital networks, it is inappropriate from a legal policy viewpoint to prosecute every offender.

The Bill also states that, in future, authors may also have rights over unknown uses. Here, however, a separate remuneration right is obligatory. Authors can also revoke this right, unless the other party has already begun to use the new form of exploitation.

The obligation to pay copyright fees is summarised in a technology-neutral paragraph. In addition, the amount due is no longer calculated according to the "discernible certainty" of reproduction, but rather is based on the actual type of exploitation.

Generally speaking, the rules on such remuneration should be adapted to the new conditions of the digital environment, particularly taking into consideration possible anti-copying measures that could have an effect on remuneration.

Further criticism has been directed at the decision to make works available via electronic reading devices in public libraries, museums and archives, for which an appropriate fee is to be paid, as well as the distribution of copies on request. In the latter case, the Bill states that public libraries will still be able to post or fax parts of a work or article. However, such an electronic communication should only take place in the form of a graphic file. Even this should only apply if access is not granted to members of the public in places and at times of their choice via a contractual agreement.

The industries concerned will be given one more opportunity to respond in order to then create conditions in which the Bill can become law. ■

Kathrin Berger
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● ***Referentenentwurf eines Zweiten Gesetzes zur Regelung des Urheberrechts in der Informationsgesellschaft*** **(Draft Second Law Regulating Copyright in the Information Society), 26 January 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10018**

DE

DE – New Draft Amendment of Telecommunications Act

On 31 January 2006, the *Bundesministerium für Wirtschaft und Technologie* (Federal Ministry for Business and Technology) published a new draft law amending current telecommunications legislation.

An amendment to the Telecommunications Act had already been agreed by the *Bundestag* in June 2005, but was never adopted because of the drafting in of a mediation committee and the premature end of the parliamentary term.

One new addition to the draft agreed in 2005 concerns the regulation of "new markets", which is explained in Art. 9(a). According to this provision, new markets should only be covered by the market regulations if there is factual evidence that the development of a sustainable competition-oriented market in the area of telecommunications services or networks would otherwise suffer long-term damage. The responsible regulatory body, the *Bundesnetzagentur* (Federal Network Office) decides whether regulation is required. The draft explains that new markets should not be subjected to unreasonable regulation, since this can disproportionately influence conditions of competition in a newly emerging market.

Another important addition is a new sentence 3 in Art. 42 para. 4. This would enable the *Bundesnetzagentur* to impose competition law obligations if there was factual evidence that a company was in danger of abusing its dominant market position. This amendment is designed to bring the law into line with Art. 17 para. 4 of the Universal Service Directive 2002/22/EC. ■

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● **Draft law amending telecommunications legislation (31 January 2006), available at: http://merlin.obs.coe.int/redirect.php?id=10017**

DE

DE – Reservations Concerning RTL Group's Takeover of News Channel n-tv

The *Bundeskartellamt* (Federal Cartels Office), Germany's competition authority, has expressed reservations concerning the plan of RTL Television GmbH Deutschland to acquire sole ownership of news channel n-tv.

RTL, which currently owns 50% of the shares in n-tv Nachrichtenfernsehen GmbH & Co. KG, is planning to purchase the remaining 50% from CNN/Time Warner. The *Bundeskartellamt* claims that the merger would affect the whole television advertising market in Germany. Together with ProSiebenSat.1 Media AG, the Luxembourg-based RTL Group already holds a so-called collective dominant market position, which would be protected and strengthened by its takeover of n-tv.

In addition, the *Bundeskartellamt* believes that the planned merger would, thanks to an additional alignment of market- and business-related elements, narrow even further the existing duopoly between the RTL and ProSiebenSat Groups.

The parties to the merger had until 16 February 2006 to respond to the warning, before the *Bundeskartellamt* was due to take a final decision. ■

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● **Press release of the *Bundeskartellamt* (Federal Cartels Office), 6 February 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10014**

DE

FR – Another Case Upheld against a Producer for Using an Anti-copy Device on a CD

In a judgment on 10 January, the Regional Court in Paris upheld the attitude adopted by the Court of Appeal in Paris in a decision made on 22 April 2005 in the case of S. Perquin and the association Que Choisir v. Universal Pictures Vidéo France (see IRIS 2005-6: 13), prohibiting the use by the producer of the phonogram at issue of a technical protection device on the Phil Collins CD *Testify* that made it impossible to make a private copy on any medium. In the present case, a private individual, with the backing of a consumer defence association, complained that he was not able to play a CD with a protective device on his laptop and was not able to copy it onto a digital medium. The Court held that the bailiff's official report produced by the user to establish that the disputed CD could not be played on his CD-ROM player constituted sufficient proof that the CD was affected by a defect resulting from the incompatibility of the protective device used to prevent digital

copying that made it unfit for its intended use.

The court held that the exception for making a private copy laid down in Articles L.122-5 and L.211-3 of the Intellectual Property Code constituted an exception of public order incumbent on the beneficiaries of neighbouring rights and on authors whatever the medium used. In line with the Court of Appeal of Paris in the previous case already mentioned, the Court considered whether this exception met the conditions laid down in Article 5-5 of Directive 2001/29/EC of 22 May 2001 – the "three-step test" – although this has not in fact been transposed into domestic legislation. As the exception was limited to reproduction strictly for private use, this constituted a special case (first step). The private copy made by the user for his personal use did not conflict with normal exploitation of the CD (second step), and did not unreasonably prejudice the legitimate interests of the rightsholder (third step). Although devices that prevent copying are not actually illegal, they must be compatible with the lawful exception for making a private copy. In failing to use a device that allowed a private copy to be made on any medium, the producer of the phonogram caused the applicant prejudice for which he was entitled to reparation.

The judgment laid particular emphasis on the failure on the part of the producer and the vendor of their obligation to inform (Article L.111-1 of the Consumer Code), as there was no indication that it would not be possible to play the CD on the CD-ROM player of a computer. The Court therefore ordered the producer and the vendor to pay the user and the consumers' rights association EUR 59.50 and EUR 5,000 respectively in damages, and prohibited the producer from using a technical device for protection that was incompatible with the exception for making a private copy. ■

Philie Marcangelo-Leos
Légipresse

● Regional Court of Paris, (5th chamber, 1st section), 10 January 2006 – Christophe R., UFC Que Choisir v. Warner Music France, FNAC; available at: http://merlin.obs.coe.int/redirect.php?id=10047

FR

FR – Peer-to-peer – towards a Reversal of Precedent?

On 2 December, the National Assembly adopted two amendments to the draft legislation on copyright and neighbouring rights in the information society (DADVSI) granting the benefit of making a private copy to copies made by downloading from networks on condition that the Internet users pay remuneration to the rightsholders. As Parliament prepares to consider the text again in early March, the courts are finding it hard to achieve any coherency on peer-to-peer activities.

After a series of recent decisions, the courts were tending to "legalise" downloading activities on the basis of the exception for making a private copy, while coming down against activities that made recordings available to the general public (see IRIS 2005-10: 13). In a recent high-profile judgment, however, the Regional Court in Paris – for the first time, to our knowledge – discharged an Internet user who had not only downloaded but also offered for exchange 1,875 music files using the Kazaa system. In doing so, the Court based its findings on the principle of the strict interpretation of criminal legislation, and stated that there was no presumption of bad faith because a peer-to-peer system had been used, and no presumption of refusal to authorise sharing on the part of the rightsholders of the musical works. Under the Kazaa system it is not in fact possible to distinguish between files of works according to their legal category (subject to authorisation, authorised or in the public domain), and the Court held that the absence of a prior check of databases of authors and editors and the possibility of freely disposing of a work could not be held to characterise culpable intent. In the case at issue, of the 1,875 music files referred to, only 1,212 corresponded to works whose legal status was clearly defined and the Internet user had no information that would prevent the use of works for which distribution was not lawful.

According to legalis.net, the decision to discharge this case should be put into perspective because of the procedure applied. This judgment was made in the context of a summons issued by a senior law-enforcement officer, a procedure without prior investigation that reduces the time before a case comes to court and does not allow an expert's report on both sides. In cases involving the counterfeit of intangible elements, the courts are particularly attentive to the reliability of proof produced and to observance of the defence's rights. Both the public prosecutor and the civil society of phonographic producers (*Société Civile des Producteurs Phonographiques* – SCPP), which is also a party to the proceedings, have nevertheless appealed against the judgment. Perhaps by then Parliament will have taken another look at the situation and either maintained the present arrangements or extended them to include the activities of making files available in the context of an optional global licence. ■

Amélie Blocman
Légipresse

● Regional Court of Paris, 31st chamber, 8 December 2005, SCPP v. A. G.; available at: http://merlin.obs.coe.int/redirect.php?id=9998

FR

FR – Docu-fiction versus Privacy, Right to One's Image and Right to Be Forgotten

The television channels France 3 and Arte are currently making a six-part docu-fiction covering the criminal case of the murder in 1984 of "little Grégory" that took on an exceptional dimension and earned substantial media coverage at the time.

One of the parties in the case (a witness) has submitted the matter to the Regional Court of Paris under the urgent procedure. On the basis of Articles 809 of the New Code of Civil Procedure (urgent matters) and

9 of the Civil Code (privacy), the party concerned called for a ban on showing the series or, in the alternative and in a more original fashion, for the screenplay of the audiovisual work to be handed over within 48 hours and a copy of the completed film handed over at least four months before broadcasting, to enable her to uphold her rights in respect of her image. In support of her claims, the party concerned said that she feared the worst about what might be said about the events in which she had been involved, feared a biased presentation of the facts, and had no desire, more than twenty years after the events, to have her privacy, image and dignity seriously infringed once more.

The Court rejected her claims, however. The judges pointed out that a ban on divulging a work to the general public was, by its preventive nature, radically contrary to freedom of expression and could only be envisaged in extremely serious cases. Likewise, the measure requested in the alternative, namely for the handing over of the screenplay of a work being produced and a final copy of the film before it was broadcast, constituted interference that, by submitting the work to the judgment of a third party before it was made public, exerted pressure on the authors' freedom of expression. Thus the desire on the part of the applicant party to be able to judge the work in order to be able to preserve the subsequent exercise of her rights could not in itself justify allowing such a measure, unless substantial proof were produced to show that there was a risk of serious infringement of the rights of the person concerned that could not be made good by the award of damages.

The judges felt that the risk of infringing the applicant party's right to her image was inoperative in the present case, since all the roles of the parties involved in the case were to be played by actors. Likewise, given current case-law and precedent, the right to privacy was overridden by the public's right to be informed about a criminal case. Thus the recollection of the facts in the form of a docu-fiction did not alter the balance fixed by the courts between freedom of expression on one hand and the legitimate aspiration of the persons concerned to a right to be forgotten which did not actually exist at law. In the circumstances, in the absence of specific elements indicating that the authors, producers or broadcasters had any intention of specifically harming the applicant party, the risk of infringing her right to privacy was not such as to justify the measures she was requesting. ■

Amélie Blocman
Légipresse

● Regional Court of Paris, order in an urgent matter, 10 February 2006, M. Bolle v. France Télévision Interactive, Arte France, France 3 et al.

FR

FR – Inter-professional Agreement Signed on Cinema on Demand

On the same day as parliamentary debate began on the draft legislation on copyright and neighbouring rights in the information society, all the professionals concerned (players in the film circuit, Internet access providers, Canal +, France Télévision) signed an agreement on cinema on demand on the Internet.

Whatever form it takes (dematerialised rental ("streaming"), dematerialised sale, cinema on demand individually, package offers or subscription), this agreement gives cinema on demand a specific place in media chronology. The signatory parties undertake that films will not be available on a cinema on demand service before a period of thirty-three weeks has elapsed from the time the film is first shown in a cinema theatre. The agreement, which has been concluded for a period of twelve months, also provides for minimum remuneration for rightsholders in proportion to the public price of the transaction (between 30 and 50% of the product of dematerialised rental or sale) and their contribution to the development of production of cinematographic works of European origin or made in the French language. The operators of cinema on demand undertake to make an annual contribution in the form of a percentage (between 3.5% and 10%) of their turnover to such development.

A monitoring committee has been set up to study the development and application of the agreement, and more particularly commercial and pricing practices, the relevance of the minimum remunerations provided for in the agreement, and the advisedness of experimental waivers concerning the established chronology. It has also been agreed that the parties will draw up an interim report after the first nine months of application of the agreement and discuss how the agreement is to be continued. According to the society of dramatic authors and composers (*Société des Auteurs et Compositeurs Dramatiques* – SACD) and the civil society of authors, directors and producers (*Société Civile des Auteurs Réalisateurs et Producteurs* – ARP), the agreement gives the green light to the organised development of a lawful offer of cinematographic content on the Internet, and should now be supplemented by a "graduated response" to the piracy phenomenon. Concluded just days after the adoption of the proposed revision of the "Television Without Frontiers" Directive extending its scope to include non-linear services, this agreement shows that the Internet, if it is regulated, can constitute an extraordinary tool for the circulation of works and diversity in Europe. ■

Amélie Blocman
Légipresse

● Inter-professional memorandum of understanding on cinema on demand of 20 December 2005; available at: http://merlin.obs.coe.int/redirect.php?id=10025

FR

GB – Distributing Music over the Internet Ruled Illegal

The English High Court has made two summary judgements ruling that the two men involved cease using peer-to-peer software facilitating the illegal sharing of music files.

The identity of one was obtained after a court order had been served on an Internet Service Provider.

The decisions are the first cases to be heard on this issue in a UK court. Many cases (150 cases launched since October 2004) have been settled out of court - for up to GBP 6,500.

The file-sharing constitutes an infringing act under the Copyright Designs and Patents Act of 1988.

One man was ordered to make an immediate payment of GBP 5,000 to the British Phonographic Industry and the other GBP 1,500. In addition, each has to pay costs and also damages, when determined.

In one case, the defence argued that there was no evidence of infringement; the court declined to accept it. In the other case, the defence argued that the person involved did not know that what he was doing was illegal. Judge Lawrence Collins ruled that "Ignorance is not a defence".

51 more file-sharers have been given until 31 January to settle their cases out of court. ■

David Goldberg
DeeJgee research

- **Copyright Designs and Patent Act 1988, available at: http://merlin.obs.coe.int/redirect.php?id=10008**
- **Polydor Ltd and others v. Woodhouse and others, November 2005 High Court - Chancery Division**
- **"UK Courts rule file-sharers liable in landmark legal cases", 27 January 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10009**
- **"Court rules against song-swappers", available at: http://merlin.obs.coe.int/redirect.php?id=10010**

EN

GB – Regulator Reviews Television Production Sector and Makes New Proposals for Independent Commissioning

Ofcom, the UK communications regulator, reviewed the independent production sector in 2002 and, as a result, new Codes of Practice were issued setting out the principles by which the public service broadcasters commission programmes from independent producers (IRIS 2004-2: 13). It has now undertaken a further review and has recommended changes to the codes.

The review found that with more than 27,000 hours of programmes made by UK producers in 2004, UK viewers enjoy one of the highest levels of domestically-originated content in the world. 56% of output was produced in house by the broadcasters, and 44% by external producers. 63% of productions were made in the London area.

Ofcom considered that the conditions for the withdrawal of regulation from the television production sector will not be met in the medium-term. Thus it proposed that the 25% quota for independent productions should remain for at least five years. It also supported as critical for the external production sector the BBC's proposed 'Window of Creative Competition' by which a further 25% of programme output will be open to competition by both external and in-house producers. However, more clarity should be given to the way that the BBC's commissioning structure will work to ensure equal terms for commissioning. Quotas should continue for production outside London (currently, for example, 30% for the BBC, 50% for Channel 3), and the BBC should aspire to 50% of production outside London. Ofcom recommends that there should be no change in the current definition of an independent producer.

In relation to the Codes of Practice and new media rights, concerns had been expressed by producers and broadcasters about a lack of flexibility in them. Ofcom proposed a new approach for the definition of rights windows, the periods during which broadcasters retain control of a programme before the rights revert to the producer. It suggests two main rights windows; a primary window during which rights acquired by a public service broadcaster apply across any distribution platform, followed by a holdback period during which the broadcaster is able to apply a restriction to the exploitation of rights by the producer. Ofcom is now seeking agreement by the industry on how to resolve these issues; if agreement is not reached it will have to intervene directly by proposing variations to its guidance on the Codes of Practice. ■

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- **Ofcom, 'Ofcom Television Production Sector Review', news release of 10/01/06, available at: http://merlin.obs.coe.int/redirect.php?id=10011**

EN

HR – Rumours about *Latinica* Show

In December 2005 the Croatian Radio-Television (HRT) broadcast the *Latinica* show titled "The Legacy of Tudjman" which aroused great rumour in the general public. *Latinica* is a talk-show which has been broadcasted for years on the Croatian National Television (HRT). The show in question was about the first president of the Republic of Croatia. Broadcast just before a parliamentary discussion on the Report on Business Operations of the Croatian Radio-Television and on the activities of the Programming Council, the show was heavily criticized by members of the Croatian Parliament. They argued that the show lacked journalistic professionalism and balance, that it showed disrespect for different arguments and views, and portrayed a superficial, partial, one-sided and biased discussion on the subject.

The *Latinica* show was also discussed by the HRT Programming Council which is, under the Croatian Radio-Television Act, responsible for the monitoring of the implementation of the programming principles and obligations stipulated by the Act. It shall, in case of non-compliance, notify in writing the HRT's Director General, the head of the organisational unit, and the programme director, or the news programme

editor-in-chief. The Programming Council found that the *Latinica* show – The Legacy of Tudjman – violated the programming principles of the Croatian Radio-Television, and requested the HRT Directorate to hold the author and host of the show to account.

The Director General of HRT set up a commission consisting of five members who had to watch the *Latinica* show again to decide whether or not any professional mistakes had been made. Based on the recommendation provided, the Director General of HRT would then adopt a decision. The same show was also discussed by the Ethics Commission of HRT.

The HRT Directorate proposed to the Programming Council to continue the broadcasting of the *Latinica* show, taking into account the long and successful tradition of the show. It was pointed out that at the organisational level, *Latinica* and other similar shows, should have a special editor to co-ordinate the work, take part in preparations and finally approve the broadcasting of the show whereby authors and journalists' freedom and right to criticism shall not be limited, and any detected superficiality, prejudice or lack of professionalism shall be eliminated. ■

Nives Zvonaric
Council for Electronic Media

HU – Recommendation for Electronic Media Relating to the National Elections in 2006

The national parliamentary elections in Hungary will take place on 9 April 2006. On 12 January 2006 the Hungarian National Radio and Television Commission ("NRTC") published its recommendations for the electronic media on the coverage of the national elections. The main goal of the recommendation is, according to its Chapter on "Goals and Basic Principles", to better enforce the relevant articles of the Hungarian Media Act and the Act on the Elections Procedure on Balanced Broadcasting.

The document consists of ten chapters: I. Goals and Basic Principles; II. General rules; III. The way of presentation; IV. The politician's participation in political news and magazine programmes during election period; V. The politician's participation in other radio and television programmes; VI. The media's election programmes; VII. The specifics of political advertising; VIII. The presentation of a political party in the capacity of programme supporter; IX. The presentation of the result of public opinion polls; X. Responsibility for the presentation of political communications.

According to Chapter II on General Rules, political communications means:

- the politician's participation in radio and television programmes (political news and magazine programmes, in entertainment shows, and in other shows such as press reviews or educational programmes);
- official campaign programmes (debates, and round table forums);
- political advertisements (paid media appearances); and
- the publishing of public opinion results.

Under the General Rules of the documents the NRTC recommends the following behaviour for Hungarian radio and television channels:

1. No radio or television channels may favour a single party, or the candidate of a single party.
2. As of midnight the day before election-day for 24 hours, political candidates shall not appear in the media. During this period, topics which may be a matter of dispute amongst the candidates are to be avoided, excluding reports on the schedule of voting sites and on their attendance by the voters.
3. During the election campaign period, the presentation of poems, music or other artistic crafts which are used by the political parties for campaign purposes, shall not be recommended.
4. During the election period, to the extent possible, public servants not undertaking political party appearance shall be interviewed on the public interest decisions of the government.
5. During the election period the public servants not undertaking political party appearance shall be interviewed on the public interest decisions of local government.
6. News programmes, site reports, press reviews may not serve party propaganda purposes.
7. During the election period, in the case of political news, press reviews and public opinion polls, special attention shall be paid at the indication of the news sources. ■

Gabriella Cseh
Attorney at Law, esq.

● ***Ajánlás a magyarországi elektronikus médiumok számára a 2006-os országgyűlési választásokkal kapcsolatban*** **(Recommendation for Electronic Media Related to the National Elections in 2006), 12 January 2006, available at: http://merlin.obs.coe.int/redirect.php?id=9997**

HU

KG – Public Television Established

On 10 December 2005 President Kurban Bakiev of Kyrgyzstan issued a Decree regulating general aspects concerning the establishment of a national public broadcasting company. The Decree endorsed the bylaw of the company.

According to the Decree, the public broadcasting company named "Public Television - ELTR" shall be organized on the basis of the state-run Television and Radio Company "OSH - 3000", located in the town of Osh. Authorized authorities shall provide the new company with a metric wave frequency covering the whole territory of the country. The Government shall be obliged to carry out organizational, financial and other measures that are subsequent to the Decree and to bring its own acts into accordance with the Decree.

The bylaw of the public broadcasting company endorsed by the Decree regulates its legal status,

principles of programme policy, management, as well as its financial activities. The "General provisions" chapter proclaims the main aims of the Company, which are to inform the public in accordance with the highest professional standards of journalism as well as to contribute to the integration and harmony of the society. The Company shall be a legal entity functioning as a state institute. It shall hold its assets and give title to the necessary bank accounts. However, according to Kyrgyz civil law the state shall formally fully retain its property owner's rights (Articles 164, 231 of the Civil Code).

Chapters 2 and 5 of the bylaw provide for the principles, the programme concept and aims of the Company. The main principles shall be: editorial independence, objectivity and balance of information, differentiation between facts and commentaries, plurality, transparency, and audience participation programme making policy (p. 8). The programmes shall serve public interests, and refrain from protecting the interests of any party, group or ideology (p. 32). The Company shall be obliged to disseminate information, social, cultural, youth and children's programmes. One of the few concrete provision states that the amount of programmes in Kyrgyz language shall take up not less than 60 per cent of broadcasting time (p. 34). The bylaw includes a number of provisions protecting the rights of minors and guaranteeing objectivity and impartiality.

According to chapter 3 of the bylaw the Company shall be managed by the Supervisory Board and the Chief Executive Officer. The Board shall include 9 members to be appointed by the President of Kyrgyzstan according to the recommendations of educational, academic and other non-governmental organizations for a five-year term. Termination of powers of the Board members shall be possible in a limited number of occasions listed in the Bylaw. The Board shall participate in the appointing of the CEO and in drawing up the budget; however it shall have only consultation functions in these matters. At the same time the programme policy making as well as the control over the policy shall be the Board's prerogative.

The CEO shall be appointed by the President of the Kyrgyz Republic with the Supervisory Board's sanction. The competence of the CEO shall include: representation of the Company, operational finance management, day-to-day programme management, employment and dismissal of the Company's staff. The bylaw does not include any grounds for termination of powers of the CEO or any other mechanisms of control over this official activity.

Bylaw's Chapter 4 is devoted to the financing and business activities of the Company. Point 28 here provides for the following sources of the Company's finances: national budget, governmental subsidies, placement of commercials and other permitted sources. The bylaw does not establish minimum amounts of national budget financing or special requirements regarding the amount or content of advertising. The Company shall be obliged to send reports to financial control agencies as any other legal entities do. According to p. 46 of the act the Supervisory Board shall have the right to initiate financial audits of the Company. ■

Dmitry Golovanov
Moscow Media Law and Policy Centre

- **Decree of the President of Kyrgyz Republic of 10 December 2005 N 632 *"O teleradioveschatelnoi kompanii Kyrgyzskoi Respubliki "Obschestvennoe televidenie - ELTR"* ("On television and radio broadcasting company of the Kyrgyz Republic "Public television – ELTR") published in *Erkin Too* (official gazette) on 12 December 2005**
- **Bylaw of 10 December 2005 "On television and radio broadcasting company of the Kyrgyz Republic "Public television – ELTR" (not published)**

RU

NL – Satellite Broadcasts Disseminating Hatred Blocked

On 26 January 2006, the Minister of Justice announced to the Dutch Parliament that all broadcasts emanating from the Lebanese channel Al Manar and of the Iraqi Sahar TV1 will be blocked. A spokesman for the *Nationaal Coördinator Terrorismebestrijding* (National Coordinator on the Fight against Terrorism) confirmed a study conducted on the matter warrants this decision as it would seem these channels disseminate hate speech.

The *Commissariaat voor de Media* (Dutch Media Authority) also listed Islamic satellite broadcasts that can be received in the Netherlands and concluded that there are serious doubts as to some channels which originate in Syria, Libya and Sudan. These suspicions are mainly based on the reputation of the regimes in those countries and the fact that the channels are under direct Governmental supervision.

The Iranian Al Alam and the Saudi Art Iqraa channels are still available in the Netherlands although they are presumably also encouraging hate speech. These channels are under French supervision in the European Union and France, being in control of the Hotbird-satellite which broadcasts the signal, could prevent their distribution. The Dutch Media Authority is intent on maintaining contact with the French organisation that is responsible for the supervision of these channels.

Although the satellite broadcasting of Al Manar and Sahar TV1 is now blocked, these, as well as other programmes, are still available on the internet. This undermines the recently announced measures and the Minister acknowledges that this problem calls for an approach at EU-level. ■

Rosa Hamming
Institute for Information Law (IViR), University of Amsterdam

- ***"Donner weert haat van satellite"* (Donner counters hate speech broadcast by satellite), press article of 27 January 2006, NRC Handelsblad, available at: http://merlin.obs.coe.int/redirect.php?id=10019**
- ***"Kabinet wil intensievere aanpak radicale websites en buitenlandse TV-zenders"* (Cabinet pushing for harder approach to radical websites and foreign TV-channels), press release of 10 June 2005, available at: http://merlin.obs.coe.int/redirect.php?id=10020**
- ***"Dreiging in Nederland nog steeds substantieel"* (threat in Netherlands still substantial), press release of 2 December, issued by Council of Ministers, available at: http://merlin.obs.coe.int/redirect.php?id=10021**

NL

NL – Government Stimulates Production of Videoclips

On 1 February 2006, the Secretary of State for Culture, Medy van der Laan, announced that in the next three years an amount of EUR 600,000 will be made available for the production of videoclips. This initiative is part of the action programme "Culture and Economy", which is meant to stimulate the creative industry with direct funding and by reducing existing obstacles. One of these obstacles is the gap between the creative sector and other sectors.

Because of this gap the creative sector has almost no access to private funding and there exists a lack of entrepreneurial spirit. As a result, the economic opportunities for the creative industry are not exploited adequately. The Cabinet wants to tackle this obstacle because it considers creativity to be a fundamental element of the modern knowledge economy. Culture and creativity are of great importance for the economy and could stimulate the development of new ideas and technologies. By providing a subsidy for the production of videoclips, the Government aims to stimulate the cooperation between musicians and visual artists in making videoclips of high quality, which can then be used to promote the Dutch artists and their CDs at international level. The Fund for Visual Arts, Design and Architecture will develop a plan for the practical implementation of the subsidy and carry it out in cooperation with the media, because the media can allow for maximum distribution of the videoclips by ether, cable and the internet. It is hoped that this will help the creative industry to become one of the leading industries in the Dutch economy. ■

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● ***"Van der Laan steunt musici met geld voor videoclips"*** **(Van der Laan supports musicians with funding for videoclips), press release of 1 February 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10022**

NL

NL – Minister of Justice Orders Financial Transparency on the Use of Money Collected by Private Copy Foundation

On 31 January 2006, the Minister of Justice ordered the *Stichting de Thuiskopie* (Private Copy Foundation - STK), to improve its financial administration and transparency if it is to maintain its responsibilities. The Foundation owes its existence to a provision in the Dutch Copyright Act and fulfils the role of collecting the money that must be paid for private copying and distributing it to rightsholders organisations.

The latter oversee the final distribution to the individual rightsholders. Because of persistent disagreement between these organisations, relating to financial matters, as well as serious delay in the payments to the rightsholders, the Minister of Justice ordered the *College van Toezicht Auteursrechten* (Copyright Supervising Board) to investigate the situation. The Board concluded that the STK did not adequately address the matter of delayed payments. The STK also appeared to be incapable of giving financial clarification as to the activities of the distributing organisations, for which this Foundation is responsible. These organisations seem to have too much influence on the make-up of the Foundation's managerial structure. On the other hand, the Board did conclude that, since 2004, a constant stream of payment to the rightsholders has been initiated. Because of this improvement the Minister of Justice conceded that it is too soon to immediately withdraw the responsibilities attributed to the STK. In light of its observations, the Board presented some recommendations on how to further improve the situation.

According to the Board, the STK should draw up a solid financial administration and a transparent overview on the collection and distribution of received amounts. In addition, it should set conditions, with which the distributing organisations must comply. The distributing organisations should hold their competence for a fixed term so that during and at the end of each term the activities can be evaluated. In case of non-compliance with these conditions, the competence of the Foundation could be withdrawn. Furthermore, the STK must ensure that management can decide autonomously and take all necessary measures to prevent the emergence of conflict of interests. These recommendations have been approved by the Minister of Justice. As a result, the STK is given a period of three months to draw up a plan on how to comply with these recommendations and a period of six months to come up with a complete financial overview covering the activities carried out in 2004.

The Minister of Justice expressed confidence that the STK will comply with the recommendations of the Copyright Supervising Board in the shortest delay possible. ■

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● ***"Verantwoording thuiskopiegelden moet verbeteren"*** **(Transparency relating to amounts collected on basis of private copying must improve), press release of 31 January 2006, available at: http://merlin.obs.coe.int/redirect.php?id=10023**

● ***Rapportage van het onderzoek door het College van Toezicht auteursrechten naar Stichting De Thuiskopie, December 2005*** **(Report of the Copyright Supervising Board relating to the Private Copy Foundation) of 29 December 2005, available at: http://merlin.obs.coe.int/redirect.php?id=10024**

NL

NO – Implementation of EC Copyright Directive – Final Step

Norway has implemented the EC Copyright Directive. The implementation was carried out through several alterations of the Norwegian Copyright Act (it has entered into force as of 1 July 2005). A White Paper prepared by the Ministry of Cultural and Church Affairs laid the foundations for the imple-

mentation (see IRIS 2005-4: 16). During the subsequent Parliamentary scrutiny, some minor adjustments were made. Most controversial among these was undoubtedly the expansion of the statutory permission to circumvent applied technological protection measures in order to be able to enjoy a lawfully acquired work on "relevant user equipment" within the private sphere. Contrary to what had been the Ministry's express intentions, the Parliament decided that the said exception shall also encompass circumvention of copy-controls on CDs for the purpose of conversion to mp3. ■

Thomas Rieber-Mohn
University of Oslo

• *Lov om opphavsrett til åndsverk m.v. (åndsverkloven)* (revised Copyright Act), available at:
http://merlin.obs.coe.int/redirect.php?id=1398

• Preparatory reports, available at:
http://merlin.obs.coe.int/redirect.php?id=10012

NO

NO – Media Ownership Act – Revisited

The Norwegian Media Ownership Act was enacted in 1997 for the purpose of promoting freedom of expression, genuine opportunities to express one's opinions and a comprehensive range of media. Originally, the Act empowered the supervisory body – the Media Ownership Authority – to intervene in acquisition of ownership interests within the media sector, in order to avoid accumulation in the hands of any one entity of "significant ownership positions" in the national, regional or local markets. A "significant" position was in practice, with regard to the national market, interpreted as a market share exceeding 1/3.

As previously reported (see IRIS 2004-9: 14), the former civic/centre coalition Government proposed to raise the intervention-limit- at the national level- to 40 per cent. The proposal was subsequently adopted by the Norwegian Parliament and the revised intervention-limit entered into force as of 1 january 2005.

However, the general elections, held in 2005, put a new labour/socialist coalition in power, and in its declaration of assent, the new Government expressed its intent to yet again change the Media Ownership Act in order to prevent too strong a concentration of ownership interests. A recent Green Paper carries out this manifesto by proposing a reduction of the intervention-limit to the original quota of 1/3 at the national level (this would complete the circle). The Ministry of Cultural and Church Affairs also proposes to empower the Media Ownership Authority with the authority to counter (based on the proposed new limit) acquisitions made between the presentation of the Green Paper and the (possible) future enactment of the proposal, something that seems to conflict with the constitutional prohibition against retroactive legislation.

The Government will now take up the dossier and should announce its views within the months ahead. ■

Thomas Rieber-Mohn
University of Oslo

• Green paper relating to the Media Ownership Act, available at:
http://merlin.obs.coe.int/redirect.php?id=10013

NO

RO – Cartels Office Approves State Film Aid

The *Consiliul Concurenţei* (Romanian Cartels Office) has approved the proposal that the Romanian State should provide direct credit of RON 74.5 million (EUR 1 = RON 3.6) for film productions. Before taking this decision, it had to verify whether such a loan would infringe the rules on the financial support of film and television productions. The money will be paid to the *Centrul Naţional al Cinematografiei* (National Centre for Cinematography) and must be repaid interest-free within seven years. According to a statement published by the Cartels Office at the end of January 2006, the state will therefore "support Romanian productions and compensate for the disadvantage suffered by domestic productions competing with films produced outside the European Community". Producers will be allowed to spend at least 20% of a film's budget in an EU member state. State aid may account for up to 50% of the budget, with the remainder to be covered by producers' own resources. The statement explains that, in the case of particularly expensive films with a small budget, state aid may represent up to 80%.

The Romanian National Centre for Cinematography manages the Film Fund and is answerable to the Romanian Ministry of Culture. The system for the granting of state film aid is described in Government Regulation No. 39 of 14 July 2005 (*Ordonanţa nr. 39 din 14 iulie privind cinematografia*, see IRIS 2005-8: 18). ■

Mariana Stoican
Radio Romania International, Bucharest

• *Consiliul Concurenţei a autorizat schema de ajutor de stat pentru produtorizat schema de ajutor de stat pentru producţia cinematografică*, press release of the Romanian Cartels Office, 24 January 2006, available at:
http://merlin.obs.coe.int/redirect.php?id=9993

RO

UA – Annual Report of the National Council of Ukraine on TV and Radio Broadcasting

On 31 January 2006 the National Council of Ukraine on TV and Radio Broadcasting, a state authority responsible for the development of TV and radio broadcasting of Ukraine, approved its Annual Report for 2005 and submitted it to the Supreme Rada (parliament) and to the President of Ukraine.

This report consists of 6 parts which highlight information on the results of licensing for the reporting period; as well compliance of TV and radio companies with licensing requirements; with legal requirements as to the quota of the national product for broadcasting, with legal requirements on advertising and sponsorship; with legal requirements as to

the share of foreign investments in the statuary fund of TV and radio companies; analysis of the situation regarding fair competition and monopolization of broadcasting market.

According to the Report, the State Register of TV and Radio Companies contains data on 1268 broadcasters including 647 TV companies, 524 radio companies; 97 TV and radio companies. During the reporting period 380 licenses were issued, including 270 for TV broadcasting and 110 for radio broadcasting. In 2005 the Council requested the State Centre on Radio Frequencies of Ukraine that technical permission be issued for 649 new frequencies for the needs of broadcasting, among which 295 frequencies were already put up for competition. It was also reported that in 2006 new frequencies for analogue broadcasting will cease to be issued by the recommendation of the International Telecommunications Union.

Problems with wired radio were also noted in the report. The number of households with wired radio fell from 19.5 millions in 1990 to 8.5 millions in 2005. The main reason for such a decrease was reported to be the absence of funds to maintain and replace lines in rural areas. ■

Taras Shevchenko
Kiev Media Law Institute

● ***Zvit Natsionalnoi Rady Ukrainy z pytan telebachannya i radiomovlennya za 2005 rik* (2005 Report of the National Council of Ukraine on TV and Radio Broadcasting), available at: http://merlin.obs.coe.int/redirect.php?id=9996**

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AGENDA

International Conference on Hate Speech: Cases and Policies In Contexts
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