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European Court of Human Rights: Recent Judgments on the Freedom of Expression

In a judgment of 21 September 2000, the Austrian broadcasting legislation is once more being analysed by the Strasbourg Court (Second Section) from the perspective of Article 10 of the European Convention, this time after a complaint by a private organisation that did not obtain a licence to set up and operate a television transmitter in the Vienna area. In its judgment of 24 November 1993 in the *Informationsverein Lentia* case, the European Court of Human Rights already decided that the monopoly of the Austrian public broadcasting organisation *ORF* was in breach of Article 10 of the European Convention on Human Rights and Fundamental Freedoms. This point of view was confirmed in a judgment of 20 October 1997 in the case of Radio ABC v. Austria. The Court was of the opinion that at least until 1 May 1997 there was no legal basis whereby an operating licence could be granted to any radio station other than the Austrian Broadcasting Corporation, a situation which violated Article 10 of the European Convention (see IRIS 1997-10: 3). In its judgment of 21 September 2000, the European Court now notes that until 1 August 1996 it was not possible to obtain a licence to operate a television transmitter in Austria. Hence, the situation of *Tele 1* was not different from that of the applicants in the *Informationsverein Lentia* case. Accordingly, there was a breach of Article 10 during that period. The Strasbourg Court notes, however, that as of 1 August 1996 private broadcasters were free to create and transmit their own programmes via cable network without any conditions being attached, while terrestrial television broadcasting was still reserved to the *ORF*. The Court is of the opinion that cable television broadcasting offered private broadcasters a viable alternative to terrestrial broadcasting as almost all households receiving television in Vienna had the possibility of being connected to the cable net. Thus, the interference with the applicant's right to impart information resulting from the impossibility of obtaining a licence for terrestrial broadcasting can no longer be regarded as a breach of Article 10. The Court did not decide on the question whether or not the Cable and Satellite Broadcasting Act, which came into force on 1 July 1997, is in breach of Article 10 of the Convention. The Court underlines that the applicant has not made notification of any cable broadcasting activities nor had it submitted an application for a satellite broadcasting licence. Consequently, it is not necessary for the Court to rule on this period as it is not its task to rule *in abstracto* whether legislation is compatible with the Convention. The Court comes to the conclusion that there has been a breach of Article 10 in the first period (from 30 November 1993 to 1 August 1996), while there has been no violation of this Article in the second period (from 1 August 1996 to 1 July 1997).

In a judgment delivered at Strasbourg on 28 September 2000 the European Court of Human Rights (Fourth Section) has found that by convicting Lopes Gomes da Silva the judicial authorities of Portugal infringed Arti-

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• **Publisher**:
European Audiovisual Observatory
76, allée de la Robertsau
F-67000 STRASBOURG
Tel.: +33 (0)3 88 14 44 00
Fax: +33 (0)3 88 14 44 19
E-mail: obs@obs.coe.int
URL http://www.obs.coe.int
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• **Comments and Contributions to:**
IRIS@obs.coe.int

• **Executive Director:** Wolfgang Closs

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• **Council to the Editorial Board:**
Bertrand Delcros, *Victoires Éditions*

• **Documentation:** Edwige Seguenny

• **Translations:** Michelle Ganter (co-ordination) – Brigitte Auel – Véronique Campillo – Paul Green – Katherine Parsons – Stefan Pooth – Erwin Rohwer – Stella Traductions – Nathalie-Anne Sturlèse – Catherine Vacherat

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Michelle Ganter, European Audiovisual Observatory (co-ordination) – Susanne Nikoltchev, European Audiovisual Observatory – Géraldine Pilard-Murray, section Droit du Multimédia et des Systèmes d'Information, University R. Schuman, Strasbourg (France) – Candelaria van Strien-Reney, Law Faculty, National University of Ireland, Galway (Ireland)

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Dirk Voorhoof
Media Law Section of the Communication Sciences Department Ghent University

cle 10 of the European Convention on Human Rights. Lopes Gomes da Silva, the manager of the daily newspaper *Público*, was sentenced by the Lisbon Court of Appeal for criminal libel through the press. The conviction was the result of a criminal complaint by a candidate for the local elections in 1993, Mr. Silva Resende. In an editorial published in *Público* shortly before the elections, Lopes Gomes da Silva referred to Resende as a "grotesque and clownish candidature" and as an "incredible mixture of reactionary coarseness, fascist bigotry and vulgar anti-Semitism". Lopes Gomes da Silva was ordered to pay PTE 150.0000 as a criminal fine and to pay PTE 250.000 to Silva Resende in damages. In a unanimous decision the Strasbourg Court held that this conviction was a breach of Article 10 of the Convention. The Court once more emphasised the particular importance of the freedom of the press and underlined that the limits of acceptable criticism are wider with regard to a politician acting in his public capacity and that journalists could resort to a degree of exaggeration or even provocation. By reproducing a number of extracts from recent articles by Silva Resende alongside his editorial, Lopes Gomes da Silva had complied with the rules of journalism, a matter to which the Court attached considerable importance. Although the penalty had been minor, the Court decided that the conviction for libel was not a measure that was reasonably proportionate to the legitimate aim pursued. Consequently, the Court concluded that there had been a violation of Article 10 of the Convention. ■

Both judgments are not final. Each party may, within three months from the date of the judgment of a Chamber, request that the case be referred to the Grand Chamber (Arts. 43-44 of the Convention).
Judgment by the European Court of Human Rights of 21 September 2000, application no. 00032240/96, Tele 1 Privatfernsehgesellschaft MBH v. Austria; http://www.dhcour.coe.fr/hudoc/
EN
Judgment by the European Court of Human Rights of 28 September 2000, application no. 00037698/97, Lopes Gomes da Silva v. Portugal. http://www.dhcour.coe.fr/hudoc/
FR

European Court of Human Rights: Finding against France on Violation of Article 10

Almost two years after the *Canard Enchaîné* case, the European Court of Human Rights has again found that France has violated the principles contained in Article 10 of the Human Rights Convention.

The case concerned the finding against the director of a newspaper and a journalist who had reported on the proceedings brought by a company that managed hostels for immigrant workers against one of its former directors. It was taken on the basis of Article 2 of the Act of 2 July 1931, which prohibits the publication before the Courts reach a verdict, of any information concerning proceedings instigated by an individual. The Court of Appeal in Paris, to which the case had been referred, had considered that the ban contained in the 1931 act was compatible with Article 10 of the Convention inasmuch as it was aimed at guaranteeing the presumption of innocence and therefore fell within the scope of the restrictions on freedom of expression authorised by the Act.

As the Court of Cassation had rejected the appeal lodged against this decision, the plaintiffs took the case to the European Court of Human Rights ("Court"). In its decision of 3 October 2000, the Court recalled firstly that journalists writing articles on current criminal proceedings must respect the rights of the parties involved. In considering whether interference with the course of justice was involved, the Court noted that the disputed ban – which was absolute and general, covering any type of information – only concerned proceedings instigated by an individual and not those instigated by the Public Prosecutor or on the basis of an ordinary complaint. The judges expressed surprise at this difference of treatment, which did not appear to be based on any objective reason, since the ban prevents the press informing the public of facts which may be of public interest (here, the case brought against political figures and their allegedly fraudulent acts in managing a public-sector company).

The Court held that there were other mechanisms for protecting secrecy during investigation and enquiry procedures, such as Articles 11 and 91 of the Code of Criminal Procedure and in particular Article 9-1 of the Civil Code, which provides that everyone is entitled to the benefit of the presumption of innocence. In addition, the latter provision states that in the event of a person against whom a charge has been brought and proceedings instigated by an individual being presented publicly, before any verdict is passed, as being guilty of the facts being investigated or enquired into by the courts, the judge may, even in urgent matters, order the insertion in the publication concerned of an announcement putting a stop to the infringement of the presumption of innocence.

This range of provisions, which the Court found sufficient, made the total ban contained in the Act of 2 July 1931 unnecessary; France had therefore been found in violation of Article 10 since the ban was not proportionate to the pursuit of the legitimate aims intended. ■

Charlotte Vier
Légipresse

Decision no.34000/96 of 3 October 2000 of the European Court of Human Rights in the case of Du Roy and Malaurie v. France, available in French at the following address: http://www.dhcour.coe.fr/hudoc/
FR

Committee of Ministers: European Convention on Conditional Access

The Committee of Ministers of the Council of Europe adopted on 6 October 2000 the European Convention on the legal protection of services based on, or consisting of, conditional access. The aim of this instrument, which complements a parallel European Community Directive (Directive 98/84/EC of 20 November 1998), is to offer operators/providers of pay television and radio as well as remunerated on-line services protection against the illicit reception of their services at the wider European level.

The preamble of the Convention underlines that providers of radio, television and Information Society services based on conditional access against remuneration are threatened by the existence of a parallel "industry" which manufactures, markets and distributes devices which enable unauthorised access to their services, and therefore highlights the need to pursue a common policy in Europe aimed at the protection of these services.

Article 4 of the Convention establishes that it shall be unlawful to carry out a number of activities on the territory of a ratifying State. In countries where international treaties do not require an act of "reception" or "incorporation", this Article will be a sufficient legal basis to make the listed activities automatically illegal in that country. In many other countries, direct applicability of this Article will not be the case, and Parties to the Convention will therefore have to take "necessary mea-

sures" to prohibit and make unlawful on their territory the activities listed in Article 4. This will normally mean the adoption of legislation. Parties are not obliged to take measures to criminalise or prosecute unlawful acts which are committed outside their territory.

The activities which ratifying States must establish as criminal or administrative offences are the whole range of commercial operations associated with illicit access to conditional access services, for example the manufacturing of illicit decoders or smart cards for pay-tv services or the distribution or commercialisation of the latter.

Ramón Prieto Suárez
Media Division
Directorate of Human Rights
Council of Europe

The personal use of an illicit decoder, smart card or other device is not made an offence under the Convention, but Parties may go beyond the Convention on this point and notify the Secretary General that they criminalise such an activity.

All operators/providers of a remunerated conditional access service, regardless of their nationality or place of establishment, will be offered protection under the Convention against the unlawful activities listed in Article 4, and irrespective of whether reciprocal treatment is offered in the country where that operator is established (principle of "universal protection").

By the adoption of this Convention, the Council of Europe will be supporting European broadcasters and online service providers against the financial losses that they suffer as a result of illegal decoding devices and hacking activities in general.

The European Convention on the legal protection of services based on, or consisting of, conditional access will be opened for signature on 24 January 2001, and will enter into force after three States have expressed their

European Convention on the Legal Protection of Services Based on, or Consisting of, Conditional Access.

EN-FR

France Stops the Entry into Force of the Protocol Amending the European Convention on Transfrontier Television; Lithuania Joins the Convention

Francisco Javier Cabrera Blázquez
European Audiovisual Observatory

On 20 September, the French Minister of Foreign Affairs notified the Secretary General of the Council of Europe of the objection of the French Government to the automatic entry into force of the Protocol amending the European Convention on Transfrontier Television.

The Protocol in Article 35, paragraph 2, foresees its entry into force following the expiry of a period of two years after the date on which it has been opened for acceptance (*i.e.*, 1 October 2000; for more information on the Protocol see IRIS 1998-9: 4). However, those States or the European Community which expressed their consent to be bound by the Convention prior to the expiry of a period of three months after the opening for acceptance of this Protocol have the right to object to it.

In a letter to the Secretary General of the Council of Europe, the French Minister of Foreign Affairs states that, because the French Parliament has not yet approved the ratification of the Protocol, France cannot accept its automatic entry into force. Therefore, and according to Article 35, paragraph 3, the Protocol shall enter into force on the first day of the month following the date on which France has deposited its instrument of acceptance.

A week later, on 27 September, Lithuania joined the list of countries that have ratified the European Convention on Transfrontier Television and its amending Protocol. The Convention will enter into force for Lithuania on 1 January 2001. ■

Objection contained in a letter from the Minister of Foreign Affairs of France, dated 20 September 2000, registered at the Secretariat General on 28 September 2000 - Or. Fr. Available at: http://conventions.coe.int/treaty/EN/DECLAREList.asp?NT=171&CV=1&NA=&PO=999&CN=999&CM=9

EN-FR

A list of recent changes to European Conventions and Agreements is available at: http://conventions.coe.int/treaty/EN/news.htm

EN-FR

EUROPEAN UNION

Court of Justice of the European Communities: Annulment of the Tobacco Advertising Directive

Roberto Mastroianni
University of Florence

By judgement of 5 October 2000, the Court of Justice of the European Communities annulled Directive 98/43/EC on the advertising and sponsorship of tobacco products. The Directive, adopted pursuant to Articles 100A and 57 of the EC Treaty (now Articles 95 and 47) laid down a general prohibition of advertising and sponsorship relating to those products. It was aimed at eliminating obstacles to the functioning of the internal market deriving from barriers to the movement of products and the freedom to provide services and distortions of competition resulting from differences in the national rules.

Following the Opinion of Advocate General Fennelly (IRIS 2000-8: 3), the Court held that the Community legislature had no power to adopt the Directive on the basis of the Treaty provisions relating to the establishment of the internal market and freedom to provide services. According to the Court, the total ban of advertising of tobacco products was not justified on the basis of the powers attributed to the Community, whereas a partial prohibition on certain forms of advertising and sponsorship of the same products (*i.e.*, in sports events of in the distribution of magazines and newspapers) would have been justified, given the clear impact of these national rules on the functioning of the internal market. ■

Judgment of 5 October 2000; case C-376/98, Federal Republic of Germany v. European Parliament and Council of the European Union.
http://europa.eu.int/jurisp/cgi-bin/form.pl?lang=en&Submit=Suchen&docrequire=alldocs&numaff=C-376%2F98&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100

EN-FR-DE

European Convention: Towards Protection of Freedom of Information through EU Charter

On 2 October 2000, the Convention for drafting the future Charter of Fundamental Rights of the European Union approved the Draft EU Charter of Fundamental Rights. Article 11 of the Draft EU Charter concerns "Freedom of expression and information" and stipulates:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

2. The freedom and pluralism of the media shall be respected."

The first paragraph of Article 11 of the Draft EU Charter copies the language of Article 10 (first and second sentence) of the European Convention on Human Rights and Fundamental Freedoms (ECHR) whereas the second paragraph of Article 11 of the draft EU Charter has no ECHR-counterpart.

The interplay of the Draft EU Charter with the ECHR, including the compatibility of the two articles on freedom of expression and information, was an issue during the drafting and led to referencing the international treaty at various places in the Draft EU Charter.

According to the Preamble of the Draft EU Charter, those rights already resulting from the ECHR, including the case law of the European Court of Human Rights, shall be "reaffirmed". In addition, Article 52 paragraph 3 ("Scope of guaranteed rights") states that rights contained in the Charter that correspond to rights guaranteed by the ECHR, shall have the same meaning and scope as those laid down by the ECHR. Article 53 ("Level of protection") prohibits the interpretation of the EU Charter "as restricting or adversely affecting human rights and fundamental freedoms" as recognised, among others, by the ECHR. Conversely, the Draft EU Charter expressly allows the European Union to provide more extensive protection than the ECHR (see Article 52, paragraph 3, last sentence).

Susanne Nikoltchev
European Audiovisual Observatory

The decision to draw up a Charter of fundamental rights of the European Union was taken at the meeting of the European Council in Cologne in June 1999. In October 1999 at its Tampere meeting, the European Council agreed upon the body, then named the Convention, that would be entrusted with drafting this Charter. The Convention was composed of three member groups, the first comprised of Member State representatives, the second of European Parliament representatives and the third of representatives from national parliaments. Roman Herzog, the former President of Germany and before that President of Germany's Constitutional Court was elected chair-person of the Convention aided by three vice-chairpersons that were elected from among and by the representatives of each member group. The Convention commenced its work on 17 December 1999. Since then, several non-governmental organisations had been given the chance to comment on the project. Co-operation had also been sought with the Council of Europe to see in particular whether coexistence of two parallel systems of human rights protection in Europe was possible and not prone to generate inconsistencies. The Committee on Legal Affairs and Human Rights, and the Political Affairs Committee pronounced their views on this parallelism in their report and opinion, respectively, in January 2000.

The draft EU Charter will be further discussed at the upcoming European Council meetings in Biarritz (October 2000) and Nice (December 2000). The question of its status will certainly be on the agenda. Orginally enivisioned as a solemn declaration without legally binding force on Member States, the option of making the EU Charter an integral part of Community law is now gaining prominence. ■

Report of the Committee on Legal Affairs and Human Rights, Doc. 8611 of 14 January 2000 Opinion of Political Affairs Committee, Doc 8615 of January 2000.

EN-FR

Draft EU Charter on Fundamental Rights of 2 October 2000, full text approved by the Convention.

EN-FR-DE

European Commission: Communication on the Application of Articles 4 and 5 of the "Television without Frontiers" Directive

Annemique de Kroon
Institute for Information Law University of Amsterdam

Article 4 of the "Television without Frontiers" Directive provides that Member States must ensure that broadcasters reserve the majority of their transmission time for European works. Article 5 requires that Member States ensure that broadcasters reserve at least 10% of their transmission time or 10% of their programming budget for European works created by independent producers. The directive furthermore requires that Member States report to the Commission on the application of Articles 4 and 5 every two years.

In July of this year the fourth Commission monitoring report for the years 1997 and 1998, based on reports sent in by the Member States, was published. The general conclusions are that the number of television channels in Europe increased substantially in 1997/1998; that the results indicated by the national reports on the channel's compliance with Articles 4 and 5 are generally satisfactory and that the aims of the Directive have broadly been met.

In the first annex of the Communication, new guidelines for monitoring the application of Articles 4 and 5 are suggested. ■

Fourth Communication from the Commission to the Council and the European Parliament on the Application of Articles 4 and 5 of Directive 89/552/EEC "Television without Frontiers" for the period 1997-8, 17 July 2000, COM(2000) 442 final.
http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0442en01.pdf

EN-FR-DE

European Commission: German Regulations on the Issue of Terrestrial Radio Licences under Investigation

On 12 September 2000 the Commission of the European Communities sent to the Federal Republic of Germany a reasoned opinion concerning discrimination in the issue of broadcasting licences in Rheinland-Pfalz. On 17 August 1999 the Commission had drawn up a letter of complaint on this subject, to which the Federal Republic of Germany had replied on 8 October 1999.

The case concerned the granting of the third regional terrestrial radio licence to broadcaster *Rockland Radio*, which is partly owned by the holder of the other two licences, *RPR*. One company which failed to win the licence was *Eurostar*, 75% of which is owned by French broadcaster *NRJ*. An initial appeal against the issue of the licence to *Rockland Radio*, lodged with the *Verwaltungsgericht Neustadt* (Neustadt Administrative Court) was withdrawn before the Court could reach a verdict. *NRJ* took the case to the European Commission instead. The complaint and the Commission's opinion referred to the provisions of Sections 6.3.1, 11.2.6 and 12.3.3 of the *Landesrundfunkgesetz* (Regional Broadcasting Act – *LRG*) of 28 July 1992. Section 6.3.1 stated that broadcasting licences should be valid for ten years. Section 11.2.6 stipulated that new terrestrial radio stations should have an essentially different type of programming style than that of existing broadcasters. Section 12.3.3 made provision that, when deciding which of several bidders who all fulfil the necessary conditions should be awarded a licence, consideration should be given to whether programmes, or at least parts of them, are actually made in Rheinland-Pfalz or whether the development of private radio in the *Land* would be promoted in some other way.

The Commission considers the disputed regulations to be in breach of the freedom of establishment provided for in Articles 43 *et seq* of the EC Treaty. It is particularly critical of the fact that the local broadcaster *RPR* was the

Wolfram Schnur
Institute of European Media Law (EMR)

only terrestrial radio broadcaster to benefit from the decision to extend the validity of licences to ten years, to the exclusion of other broadcasters. In the Commission's opinion, Section 11.2.6 of the *LRG* affords unfair protection for *RPR*, since competition is hampered by the requirement for a different type of programming style and therefore the chances of becoming established in the broadcasting sector in Rheinland-Pfalz are greatly restricted. It also finds that the broadcasting model, derived from the provisions of Section 12, as well as the preferential treatment given to broadcasters that produce programmes in Rheinland-Pfalz, discriminate against foreign broadcasters.

On the other hand, the Federal Government and the *Landeszentrale für Privaten Rundfunk* (National Private Broadcasting Authority), the relevant supervisory bodies, claim that the regulations are essential to the economic viability of regional private radio. They point out that, since the transmission area includes only a few major towns and cities, regional radio would be jeopardised if competition were made even fiercer as a result of channels broadcasting from neighbouring *Länder*, or if licences were valid for too short a period. Moreover, this system was necessary to ensure a varied media landscape because the relatively small transmission capacity meant that it was totally unfeasable to accommodate broadcasters from outside the *Land*.

The Commission urged the Federal Republic of Germany to comply within two months. If it fails to do so, the Commission can appeal to the European Court of Justice under the terms of Article 226 of the EC Treaty. ■

NATIONAL

BROADCASTING

AT – Broadcasting Laws Amended

Albrecht Haller
University of Vienna and Höhne & In der Maur Lawyers

An important amendment has been made to both the *Kabel- und Satelliten-Rundfunkgesetz* (Cable and Satellite Broadcasting Act), which governs private broadcasters, and the *Rundfunkgesetz* (Broadcasting Act), which covers the *Österreichischer Rundfunk* (Austrian public service broadcaster – *ORF*). Provisions concerning events of major importance for society have been added to both Acts, bringing them fully into line with the revised EC "Television Without Frontiers" Directive. Most changes necessitated by the Directive had already been introduced in 1999. The Cable and Satellite Broadcasting Act has also been adapted in the areas of freedom of establishment, advertising/teleshopping and the protection of minors. The Parliament has also passed a *Bundesgesetz über die Anwendung von Normen von Fernsehsignalen* (Federal Act on the Use of Standards for Television Signals – *FS-G*). The purpose of this Act is to promote the development of television services suitable for wide screen format (16:9) and high-resolution television, as well as services that use fully-digital broadcasting systems. It is designed to transpose into domestic law Directive 95/47/EC on the use of standards for the transmission of television signals.

In order to put other broadcasters on an equal footing with the *ORF*, the maximum length of radio advertising in both the Cable and Satellite Broadcasting Act and the *Regionalradiogesetz* (Regional Radio Act), which covers private local and regional radio broadcasters, has been increased from 120 to 172 minutes per day. Provision has also been made in the Regional Radio Act for broadcasters whose licence is revoked by the *Verwaltungsgerichtshof* (Administrative Court) or *Verfassungsgerichtshof* (Constitutional Court) (see IRIS 2000-8: 4).

Finally, the Parliament has also passed a *Bundesgesetz über den Schutz zugangskontrollierter Dienste* (Federal Act on the Protection of Conditional Access Services – *ZuKG)* in order to incorporate into domestic law Directive 98/84/EC on the legal protection of services based on, or consisting of, conditional access (see IRIS 2000-4: 11).

All of these amendments entered into force on 12 July 2000. To complete the picture, it should be noted that the Government has also tabled a Bill to introduce a Federal Act on the Exercise of Exclusive Television Broadcasting Rights and amend both the Cable and Satellite Broadcasting Act and the Broadcasting Act (see IRIS 2000-5: 5). ■

***Bundesgesetz, mit dem das Kabel- und Satelliten-Rundfunkgesetz und das Rundfunkgesetz geändert werden* (Federal Act amending the Cable and Satellite Broadcasting Act and the Broadcasting Act), Federal Gazette, 2000 I 49, 11 July 2000.**
***Bundesgesetz über die Anwendung von Normen von Fernsehsignalen* (Federal Act on the Use of Standards for Television Signals - *FS-G*), Federal Gazette 2000 I 50, 11 July 2000.**
***Bundesgesetz, mit dem das Regionalradiogesetz geändert wird* (Federal Act amending the Regional Radio Act), Federal Gazette 2000 I 51, 11 July 2000.**
***Bundesgesetz über den Schutz zugangskontrollierter Dienste* (Federal Act on the Protection of Conditional Access Services – *ZuKG*), Federal Gazette 2000 I 60, 11 July 2000.**
***Regierungsvorlage betreffend Bundesgesetz, mit dem ein Bundesgesetz über die Ausübung exklusiver Fernsehübertragungsrechte erlassen wird und das Kabel- und Satelliten-Rundfunkgesetz sowie das Rundfunkgesetz geändert werden* (Government Bill on a Federal Act to pass a Federal Act on the Exercise of Exclusive Television Broadcasting Rights and amend both the Cable and Satellite Broadcasting Act and the Broadcasting Act).**

DE

DE – Bremen Cable Allocation Monopoly Dispute Resolved

Wolfram Schnur
Institute of European Media Law (EMR)

In a judgement of 28 August 2000, the *Bundesverwaltungsgericht* (Federal Administrative Court - *BVerwG*) dismissed complaints against the decision taken by the *Oberverwaltungsgericht der Freien Hansestadt Bremen* (Bremen Higher Administrative Court – *OVG*) on 14 September 1999, in which it decided not to revise cable allocation regulations in Bremen.

The Bremen *OVG* had upheld the regulations and practice of cable allocation in Bremen after a complaint was lodged by a private cable network operator (see IRIS 2000-1: 9).

The *BVerwG* based its decision primarily on the fact that the complaints did not have sufficient general legal relevance (Section 132.2.1 of the Rules of the Administrative Court). In principle, a question of appealable law should be raised, together with an explanation of its general relevance above and beyond the individual case. In the Federal Administrative Court's opinion, the general question concerning the "admissibility of the *Land* Media Authority's decision concerning cable allocation" was not sufficient to fulfil this condition. In order to find a breach of the freedom of information described in Article 5 of the *Grundgesetz* (Basic Law – *GG*) or of the freedom of ownership set out in Article 14, the Court held that the grounds on which the Bremen *OVG* had based its decision (case-law of the Constitutional Court), would have to be examined. The complaint did not explain on what legal grounds the decision in this particular case could be considered incorrect. ■

Decision of the *Bundesverwaltungsgericht* (Federal Administrative Court – *BVerwG*), 28 August 2000, case no. 6 B 92.99.

DE

DE – Court Rules on Claim to Right of Reply

Wolfram Schnur
Institute of European Media Law (EMR)

On 8 June 2000, the *Oberlandesgericht Stuttgart* (Stuttgart Regional Court of Appeal – *OLG*) rejected an appeal against a decision by the *Landgericht Stuttgart* (Stuttgart District Court – *LG*).

The *LG Stuttgart* had rejected the applicant's claim that the defendant should be obliged to broadcast a reply. The *OLG* upheld this decision with particular reference to the fact that the reply had not been sent to the defendant immediately. Section 10.3.3 of the *SWR-Staatsvertrag* (SWR State Agreement), on which the right of reply was founded, stipulates that a demand for a reply to be broadcast need only be granted if it is submitted immediately, or within two months at the most. In deciding whether, in this case, the applicant's right to a reasonable period of reflection outweighed the media's need to keep its content up-to-date, the Court attached particular importance to the frequency with which the programme concerned was broadcast. It considered it both necessary and reasonable that a reply to a television programme shown every three weeks should be received in due and correct form within two weeks of the programme being shown. However, in the Court's opinion, a draft reply sent within the prescribed period did not fulfil the requirement for immediate action. Material became out of date more quickly on television than in the printed media. In this particular case, since the request for a reply had been made so late, it would not have been possible to broadcast it until the next programme but one. ■

Judgement of the *OLG Stuttgart*, 8 June 2000, file no. 4 W 26/2000.

DE

DE – Stuttgart Appeal Court Ends Gross/Net Dispute

Alexander Scheuer
Institute of European Media Law (EMR)

On 5 September 2000 the *Oberlandesgericht Stuttgart* (Stuttgart Appeal Court - *OLG*) ended the lawsuit between the *ARD* (Union of German Public Service Broadcasters) and *ProSieben Media AG* without reaching a verdict (see IRIS 1998-3: 6).

The European Court of Justice preliminary ruling, made at the *OLG's* request, led both parties to declare that their dispute was over (see IRIS 1999-7: 6 and 1999-10: 5). The Court, which therefore only had to decide what costs were due, concluded that the costs cancelled each other out, since it was not clear which side would have won the case if it had been allowed to continue.

Even the Court of Justice's verdict that, according to Article 3 of the "Television without Frontiers" Directive, Member States are free to impose stricter regulations than that provided by the Directive (which is the so-called "gross principle"), did not necessarily mean that the "net principle" was applicable under the *Rundfunkstaatsvertrag* (Agreement between Federal States on Broadcasting).

This conclusion was based on the fact that, if the legislator had intended to transpose the Directive by imposing the more restrictive "net principle", it had not made this sufficiently clear. If this had been the intention, the possibility of imposing tighter rules provided by Article 3 of the Directive had not been exercised properly. As a consequence, the direct applicability of Article 11.3 of the "Television Without Frontiers" Directive would have been decisive with the result that it could not be established that the accused private television broadcaster had acted illegally.

Otherwise, it may be concluded that, if the Directive were correctly transposed, the broadcaster would have broken the law if it had applied the "gross principle".

However, irrespective of this, the question had been raised as to whether the defendant should have trusted the responsible *Land* media authority to inform it that it could continue to apply the "gross principle".

Therefore, since the likelihood of the complaint being upheld was uncertain, the Court was entitled to decide that the costs of each party cancelled one another out. ■

Decision of the *Oberlandesgericht Stuttgart* (Stuttgart Appeal Court - *OLG*), 5 September 2000, case no. 4 U 116/00.

DE

DE – Monopolies Commission Investigates *ARD* and *ZDF* Complaint against *Telekom*

Kristina Dahl
Institute of European Media Law (EMR)

Following a joint complaint by *ARD* and *ZDF*, the *Bundeskartellamt* (Federal Monopolies Commission) is investigating whether *Deutsche Telekom AG* is abusing its dominant market position with respect to contracts governing the feeding of programmes into the cable network. The complaint centres on the fact that *Telekom* has an agreement with broadcasters exempting it from paying any copyright on the programmes carried on its network.

In addition, *Telekom* demands a fee for public service channels to be included on the cable network. The *Regulierungsbehörde für Telekommunikation und Post* (Regulatory Authority for Telecommunications and Post) had previously ruled that public and private broadcasters should be treated equally in terms of cable charges (see IRIS 1999-4: 14). Members of the *ARD* are currently appealing against this decision before the *Verwaltungsgericht Köln* (Cologne Administrative Court).

By complaining to the Federal Monopolies Commission, *ARD* and *ZDF* hope to stop *Deutsche Telekom AG* "abusing its dominant market position" by refusing to pay any copyright charges. The Commission has stated that it is examining a possible breach of anti-monopoly legislation. Section 20 b of the May 1998 amendment to the *Urheberrechtsgesetz* (Copyright Act) states that cable companies are liable for copyright on programmes they broadcast. This amendment was introduced in order to transpose into German law Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (see IRIS 1998-5: 12).

ARD and *ZDF* are hoping, through their action, to force *Telekom* to pay between DEM 80 and 93 million per year as reasonable compensation for the fact that it includes both channels on its network and charges viewers a monthly subscription fee. If the complainants' argument is upheld, there will be major consequences for the German cable market, since private broadcasters would also demand compensation from *Telekom* for the copyright on their programmes. ■

***ZDF* press release, 19 September 2000.**

DE

ES – The CMT Approves Several Decisions Related to Audio-Visual Services

Alberto Pérez Gómez
Dirección Audiovisual Comisión del Mercado de las Telecomunicaciones

The *Comisión del Mercado de las Telecomunicaciones* (Telecommunications Market Commission – *CMT*), is an independent regulatory body whose main duty is to safeguard the existence of free competition in the telecommunications and audio-visual and interactive services markets. The *CMT* also enforces the Spanish Law 17/1997, which incorporates into Spanish Law EC Directive 95/47, on the use of standards for the transmission of television signals. The Board of the *CMT* has recently adopted several Decisions related to the audio-visual sector:

- In May 2000, the *CMT* adopted a Decision allowing *Quiero TV*, a Spanish Digital TV platform, to provide digital audio services (consisting of music programmes of different kinds such as pop, rock, classical music), on conditional access. In its Decision, the *CMT* considered that the appropriate kind of permit needed to provide these services is not a concession for radio broadcasting services, but a General Authorisation (within the meaning of EC Directive 97/13) for the provision of digital data transmission services. These General Authorisations are the same as those that Internet Service Providers (ISPs) must obtain to be able to operate.

The *CMT* adopted this decision while taking into account that the terms under which the DTTV concession of *Quiero TV* was granted, allow this broadcaster to provide "digital additional services" (which are indeed telecommunications services), including "digital audio services", once this broadcaster has obtained the permit for the provision of those services. It must also be borne in mind that operators providing music services via the Internet may not need any permit at all if they have reached an agreement with a duly authorized ISP.

– In June 2000, the *CMT* passed a Decision on the public service obligations of the broadcasting carrier services operators. A woman from Camprodón, a mountain resort in North-eastern Spain, complained that the area in which she lived was not covered by *Retevisión*, the broadcasting carrier services operator that held a monopoly position in that market until April 2000.

The *CMT* considered that it was entitled to answer this complaint, as the *CMT* has, among others, the responsibility of ensuring that the public service obligations of broadcasters and telecom operators are fulfilled. The *CMT* stressed that it is broadcasters who are obliged to provide an adequate coverage of the TV services, and not *Retevisión*, which nevertheless, as the former monopoly, has certain duties vis-à-vis the broadcasters, in order to allow them to ensure that the continuity of the broadcasting carrier service is not affected by the liberalisation. As for the coverage obligations imposed upon broadcasters, they just had to cover 80% of the national territory, according to the National Technical Plan on Private TV. The current national coverage of analogue hertzian TV is approximately 95%, so, taking into account the existing legislation in this field, the broadcasters are not obliged to extend the coverage of their services to areas like Camprodón.

– In June 2000, the *CMT* answered a consultation made by *Telefonica Media* (the audio-visual branch of the *Telefonica* Group) concerning the legal status of the providers of television multiplex services. The *CMT* stated that the multiplex operator as such is not regulated in Spanish Law. Each of the concessionaires of DTTV programme services must provide itself with the technical services needed for the provision of the DTTV service. If the transmission capacity of a multiplex is shared among several concessionaires, they must reach agreements on the subjects that affect them all (e.g., choice of Application Programming Interface (API), management of the transmission capacity used for data transmission...). If the operators are not able to reach agreement on these matters, it is not clear how the conflicts should be resolved.

- In May 2000 the *CMT*, in answering a request made by the Government of the Autonomous Community of Navarre, has also approved a report on the model proposed by this Government for the implementation of Digital Terrestrial TV in Navarre. ■

***Acuerdo del Consejo de la Comisión del Mercado de las Telecomunicaciones* de 25 May 2000, *por el que se resuelve proceder a la inscripción de la modificación por ampliación de la Autorización General de Tipo C otorgada a la sociedad Quiero TV* (Decision of the *CMT* stating that the General Authorisation of Quiero TV allows this operator to provide digital audio services). http://www.cmt.es/cmt/document/decisiones/RE-00-05-25-17.html**
***Acuerdo del Consejo de la Comisión del Mercado de las Telecomunicaciones* of 1 June 2000, *por el que se aprueba la resolución en el asunto relativo a las deficiencias en la prestación del servicio soporte de televisión en el Càmping Els Solans de Camprodón* (Girona) (Decision of the *CMT* on the provision of broadcasting carrier services in Camprodón (Girona)). http://www.cmt.es/cmt/document/decisiones/RE-00-06-01-10.html**
***Acuerdo del Consejo de la Comisión del Mercado de las Telecomunicaciones* of 8 June 2000, *por el que se aprueba la contestación a la consulta planteada por Telefónica Media, S.A., en relación a la figura del operador del canal múltiplex* (Decision of the *CMT* answering the consultation made by Telefónica Media about the multiplex operator). http://www.cmt.es/cmt/document/decisiones/RE-00-06-08-04.html**
***Acuerdo del Consejo de la Comisión del Mercado de las Telecomunicaciones* of 25 May 2000, *por el que se aprueba el Informe al Gobierno de Navarra sobre el proyecto de pliego de cláusulas administrativas particulares y de prescripciones técnicas de la explotación del servicio público de TV digital terrenal en su Comunidad* (Decision of the *CMT* approving a Report on DTTV in Navarre). http://www.cmt.es/cmt/document/decisiones/RE-00-05-25-06.html**

ES

ES – The Autonomous Community of Castilla-La Mancha Decides to Create a Regional Public Service Broadcaster

Alberto Pérez Gómez
Dirección Audiovisual Comisión del Mercado de las Telecomunicaciones

The Parliament of Castilla-La Mancha (one of the seventeen Spanish Autonomous Communities) has recently approved an act on the creation of a regional public broadcaster. The creation of this public regional broadcaster has been made in accordance with State Act 43/1983 (the so called Third TV Channel Act). This act states that regional public TV services must be provided by a company whose capital shall be fully owned by the regional Government. The main bodies of the public regional broadcasters shall be the Board and the Director. Both of them are placed under the control of the regional legislative chamber. This regional public broadcaster will get its revenue from the regional budget and from advertising.

The Government of Castilla-La Mancha has already asked the national Government, (which is responsible for the management of the radio spectrum) for the permission needed to exploit a frequency. Once this permission is awarded, Castilla-La Mancha will become the eighth Autonomous Community authorised to exploit its own public TV. The other seven Autonomous Communities are Catalonia, the Basque Country, the Autonomous Community of Madrid, Andalusia, the Autonomous Community of Valencia, Galicia and the Canary Islands. ■

***Ley 3/2000, de 26 de mayo, de creación del Ente Público de Radio-Televisión de Castilla-La Mancha* (Law on the creation of the regional public broadcaster for Castilla-La Mancha), *B.O.E. nº* 159, of 4 July 2000, pp. 23921-23926.**

ES

GB – BBC Wins Freedom of Speech Wardship Case

David Goldberg
IMPS-School of Law University of Glasgow

In a case turning substantially on the issue of freedom of expression, the British Broadcasting Corporation has successfully applied to have an injunction against it broadcasting an interview lifted. This would have prevented the BBC from broadcasting an interview with a "ward of court". The ward is a 16 year-old boy, who suddenly left the home of his grandparents, with whom he had been living. He went off, quite suddenly, to join a religious group. The boy's grandmother sought and won a court order to have the boy made a ward of court. In order to trace him, permission was granted to publicise the fact of his disappearance and to publish photographs of him, and an extract of an e-mail, allegedly sent by B, stating that he was happy. The BBC contacted the group in question. This resulted in the boy phoning a BBC programme; he was interviewed. The BBC informed the grandmother of this fact and she sought, and won, an injunction preventing the BBC from broadcasting the interview.

The main grounds of the BBC's challenge were that (a) this was not a case that was covered by either Article 8, para. 2 or Article 10 para 2 (European Convention) and (b) that a broadcast could only be stopped by an injunction and not, as was argued, because this broadcast would amount to a contempt of court, the boy being a ward of court.

As regards to freedom of speech, the court stated that, despite the fact that the Human Rights Act does not enter into force until October 2000, Article 10 reflects the common law of England. It held that the "interests identified in para.2 of Art.8 and Art.10 of the Convention were not trump cards which automatically rode over the principles of open justice and freedom of expression." Furthermore, the court's task was not to undertake a "balancing exercise". The court should only restrain speech when it was "necessary" to do so. So, the key question for the court is: do those who seek to bring themselves within the ambit of the interests set out in paras. 2 of Articles 8 and 10 "demonstrate convincingly" that they are so? Mere assertions will not do, nor will inviting the court to make assumptions. Strong evidential proof is required. Further, the court held that the BBC was under no duty to obtain the court's permission to broadcast the interview with B. ■

British Broadcasting Corporation v. Kelly, Times Law Reports 9 August 2000.

GB – Government Accepts Report Recommending Greater Financial Transparency by the BBC

Tony Prosser
IMPs-School of Law University of Glasgow

An independent review of BBC financial reporting has recommended that the Corporation should provide increased access to information and a simpler presentation of information for the viewing public.

The report was commissioned by the Secretary of State for Culture, Media and Sport after the independent review of The Future Funding of the BBC (see IRIS 1999-8: 11) recommended that a number of steps be taken to investigate and improve the BBC's financial accountability and transparency. The report was written by independent consultants Pannell Kerr Foster.

The report found that current BBC reporting meets all the legal requirements and accounting standards applying to financial reporting and in some cases goes further than that of private broadcasters. However, it recommended that the BBC should go further still and in particular:

– publicly compares its performance against that of commercial competitors and its own internal performance targets;

– makes financial information less technical and easier to understand for the viewer with a separate, short document accompanying the annual report;

– includes full reporting of efficiency savings with an indication of where they have been made;

– presents more fully expenditure not related to programmes, particularly highlighting savings; and

– reports more fully the contribution of the BBC's commercial arm to its public service commitments.

The Government immediately accepted the recommendations of the report. ■

Viewers to Have Increased Access to BBC Accounts, Department for Culture, Media and Sport Press Release DEMS 0242/2000, 3 October 2000, available at: http://www.culture.gov.uk/creative/index.html

GB – Agreement Reached on Timing of ITV News

Tony Prosser
IMPs-School of Law University of Glasgow

In the last issue of IRIS (IRIS 2000-8: 8) it was reported that the Independent Television Commission, the UK regulator for private broadcasters, had ordered the ITV companies to re-time their news bulletins because of a drop in audience figures after the moving of the main evening bulletin from 10 p.m. to a later time. The companies had challenged this by judicial review. The judicial review application was withdrawn after a compromise deal had been reached with the Commission. This will result in the provision of a news bulletin at 10 p.m. on Mondays-Thursdays, though reduced in length from thirty to twenty minutes. In addition it will be possible to re-schedule the bulletin on an average of one evening per week to permit the showing of longer programmes after the 9 p.m watershed when more adult content may commence. The Commission also agreed to permit an extra 2.5 minutes of advertising during the peak hours of 6 p.m to 11 p.m., though the total daily limit remains unchanged.

The BBC has in the meantime announced plans to move its main evening bulletin to 10 p.m. and this will thus be in direct competition with the re-timed ITV bulletin. ■

ITV and ITC Resolve Evening Schedule Issue, Independent Television Commission Press Release 69/00, available at: http://www.itc.org.uk/

IS – New Broadcasting Act

Due to an obligation imposed under the Agreement on the European Economic Area (EEA) to implement Directive 97/36/EC, a new Broadcasting Act has been adopted in Iceland. The new Act no. 53/2000, with effect from 17 May 2000, covers all types of broadcasting, both public and private, radio and television. The chapters of the previous Broadcasting Act, which related to *Ríkisútvarpið* (the public broadcaster), have been assembled in a separate Act (no. 122/2000) without any change in

substance. A revision of the legal framework for public broadcasting is planned, particularly as regards its means of financing.

The Broadcasting Act reflects in detail the obligations under Directive 89/552/EEC as amended by Directive 97/36/EC on jurisdiction, major events, teleshopping etc. It authorises the Minister of Culture to draw up a list of important events not to be broadcast on an exclusive basis. The Minister of Culture announced, when introducing the proposed Act in Parliament, that such a list would only be drawn up after careful consideration of the experience in other States of implementing their lists.

The new law authorises the Minister of Culture to start preparing for the introduction of digital broadcasting. Any new or renewed broadcasting licence shall include a clause where the authorities reserve a right to impose on broadcasters the switchover to digital after reasonable notice.

The Broadcasting Act increases the role of the *Útvarpsréttarnefnd* (Broadcasting Commission), which was already responsible for granting licences and monitoring compliance with conditions stipulated therein. In future, it will be responsible for both the private and public broadcasting sectors, in the latter case mainly with regard to respect for the EEA rules. Emphasising the independence of the Commission, the law stipulates that its decisions are final at the administrative level, whereas they may still be challenged before the courts. The Minister of Culture will no longer appoint the Chairperson and the Vice-Chair of the Commission; the Commission itself will elect them. The Act does not change the existing rules on the composition of the Commission, whose seven members are elected by Parliament.

Finally, the new Act abolishes the controversial *Menningarsjóður útvarpsstöðva* (Broadcasting Culture Fund) that had been criticised for only serving the purpose of transferring money from one broadcasting organisation to another. ■

Páll Thórhallsson
Media Division Directorate General of Human Rights Council of Europe

The Broadcasting Act no. 53/2000 with effect from 17 May 2000 is available at http://www.althingi.is/lagas/125b/2000053.html

IS

IT – New Provisions on Public Service Advertising

On 7 June 2000, the Italian Parliament approved law no. 150 on Public Service Advertising (*Disciplina delle attività di informazione e di comunicazione delle pubbliche amministrazioni, Legge* of 7 June 2000, no. 150, in *Gazzetta Ufficiale* of 13 June 2000, no. 136). The law entitles any Italian public Institution, both at national and local level as defined by the Public Administration Act of 1993 (*Razionalizzazione dell'organizzazione delle amministrazioni pubbliche e revisione della disciplina in materia di pubblico impiego, Decreto legislativo* of 3 February 1993, no. 29, in *Gazzetta Ufficiale* of 6 February 1993, no. 14), to carry out institutional information and communication activity. Public service advertising transmitted on television is exempted from the ordinary transmission time limits concerning commercial sponsoring and advertising. Article 3 contemplates two different types of public service advertising: *messaggi di pubblico interesse* (messages of public interest) and *messaggi di utilità sociale* (messages of social utility). The former must be determined by the Council of Ministers and may be transmitted only free of charge by public and private (if specifically authorised) broadcasters; the total amount shall not exceed 2% of any given clock hour on public channels and 1% of the weekly transmission time on private channels. The latter may be freely determined by each institution, provided that the messages are of social interest; if not transmitted free of charge, the price may not exceed 50% of the ordinary price fixed for commercial advertising and the total transmitted amount must not exceed an average of four minutes of the daily transmission time of the broadcaster concerned. ■

Maja Cappello
Autorità per le Garanzie nelle Comunicazioni

Legge of 7 June 2000, n. 150, Disciplina delle attività di informazione e di comunicazione delle pubbliche amministrazioni, available over the Internet at http://www.camera.it/parlam/leggi/00150l.htm

IT

IT – Results of Public Consultation on Radio and Television Advertising and Sponsorship

In September 2000 the *Autorità per le garanzie nelle comunicazioni* (Italian Communications Authority) published the final report of a public consultation launched on 10 March 2000, concerning advertising and sponsorship on radio and television. The aim of the consultation is the creation of a framework for the adoption of a regulation concerning radio and television advertising and sponsorship pursuant to the Communications Act of 31 July 1997, no. 249 (*Istituzione dell'Autorità per le Garanzie nelle Comunicazioni e norme sui sistemi delle telecomunicazioni e radiotelevisivo*, see IRIS 1997-8: 10). Broadcasters, advertisers and consumers associations were thus asked to give their opinion regarding existing legislation on the following issues:

- the separation of advertisements and programmes, with particular attention to break identification (split-screen, virtual advertising and impression of brands);
- the gross and net principle and the allowed amount of advertising per day and in any given clock hour;
- advertising restrictions by product (medicines, alcoholic drinks and tobacco), age and audiotext services.

Some contributions have dealt with the so-called telepromotions as defined in the RTI case (ECR 1996, I-6471) and with the debated question of whether programme anchormen should be prevented from taking part in advertisements which are broadcast during the same programme.

Another controversial issue is the interruption of sporting events. Particular attention has been paid to the definition of what is to be considered as "interval" under the "Television without Frontiers" Directive 89/552/EEC. As the Directive allows the insertion of advertising breaks only in the intervals, another problem relates to the determination of how breaks may be taken in coverage of long continuous events.

Many participants have shown great interest in the challenges arising from the use of new technology in the creation of advertisements, such as the use of electronic imaging systems or virtual advertising.

Several contributions have dealt with the question of whether the net or the grossed-up principle should be used as the benchmark for the calculation of transmission time in Italian broadcasting. The recent judgment of the European Court of Justice in the ARD case (see IRIS 1999-10: 5) has been used as the main argument in order to justify the gross principle, while other participants have principally made reference to the wording of the relevant provision and opted for the net principle. ■

Maja Cappello
Autorità per le Garanzie nelle Comunicazioni

***Sintesi delle risultanze della consultazione pubblica per un'indagine conoscitiva in materia di pubblicità radiotelevisiva* (final report of a public consultation concerning advertising and sponsorship on radio and television broadcasting), available at http://www.agcom.it/provv/sintesi_pubbl.htm**

IT

NL – RTL4 and RTL5 Submitted to Dutch Media Act

Inger Weidema
Institute for Information Law University of Amsterdam

Holland Media Groep (Holland Media Group – HMG) is a commercial broadcasting corporation, which broadcasts television programs on channels RTL4 and RTL5. By a decree dated 20 November 1997 the *Commissariaat voor de Media* (Dutch Media Authority) decided that:

- HMG must be seen as the broadcasting corporation that is responsible for the programs broadcast by RTL4 an RTL5;
- HMG is subject to the authority of the Netherlands and thereby to the supervision of the *Commissariaat voor de media;*
- The *Commissariaat voor de Media* allows the making of television programs by HMG and broadcast of these programs by cable operators under certain conditions and for a certain period of time.

HMG registered a complaint against this decree that was dismissed by the *Commissariaat voor de Media*.

On 27 April 2000, HMG lodged an appeal against this decision and asked for an annulment. HMG claims that Luxembourg has jurisdiction since HMG's headquarters are based in that country. According to the District Court of Amsterdam, HMG is the broadcasting corporation which is responsible for the programs of RTL4 and RTL5 as prescribed by the "Television without Frontiers" Directive and the Dutch *Mediawet* (Media Act) and therefore HMG is considered to have its seat in the Netherlands. According to the Directive, a broadcasting company that has its seat in a certain country is submitted to the jurisdiction of that country. Hence, HMG is subject to the supervision of the Netherlands and the *Mediawet* applies. The appeal of the HMG was dismissed. ■

District Court Amsterdam, judgment of 7 September 2000, case 98/3461. *Holland Media Groep* (Holland Media Group) v. *Commissariaat voor de Media* (Dutch Media Authority).

NL

NL – Contract Concerning the Transmission of Children's Series

Inger Weidema
Institute for Information law University of Amsterdam

L. Hartog van Banda and M. Appelboom have been involved, as a writer and as a producer, respectively, in the making of two very popular children's series, *Tita Tovenaar* and *De Berenboot* (I and II). The series were broadcast on Dutch television in the seventies and eighties. Hartog van Banda holds the copyright in video and sound recordings that have been made of the series. Over the years the relationship between the two men deteriorated. Hartog van Banda now wants to enter into an agreement with *Bridge BV* and *Kindernet* (Bridge Limited Corporation and Children's Channel) to again broadcast the children's series on Dutch television, but he needs Appelboom's permission. Appelboom refuses to give his consent so the other parties cannot reach an agreement. Therefore, Hartog van Banda has asked the District Court of the Hague to order Appelboom to cooperate in reaching an agreement with *Bridge BV* and with *Kindernet*. According to the president of the court, Appelboom cannot reasonably be compelled to give his unconditional permission, especially since it seems that there has not yet been any deliberation about the content of the agreement between Hartog van Banda and *Bridge BV* and *Kindernet*. However, the President decided that Appelboom must participate in negotiations about a possible agreement. ■

District Court the Hague, Judgment of 4 May 2000, case KG 00-332, L. Hartog van Banda v. M. Appelboom.

NL

SE – DTT Licensees Found to Be British

Greger Lindberg
Swedish Broadcasting Commission

Acting on complaints from viewers, the Swedish Broadcasting Commission made two rulings on 15 June 2000 that put the present licensing system used by the Swedish Government into question.

Kanal5 Ltd and TV3 Ltd both hold licenses issued by the British Independent Television Commission (ITC) for satellite transmissions. In both cases the broadcasts are directed towards the Swedish market and are in the Swedish language.

In 1998 Kanal5 AB and TV3 AB received licenses from the Swedish Government to transmit digital terrestrial television. Both companies were established in Sweden and in both cases part of the same international concern as their respective UK namesakes. Transmissions began in early 2000 and were almost identical to the satellite transmissions. The only difference was that, as Swedish legislation is for the most part stricter on advertising issues than the UK legislation, advertising messages on the satellite version were often replaced by a message saying that advertisements could not be shown due to legal complications.

The ITC told the Broadcasting Commission that in its opinion the UK companies were indeed established in the UK, and that editorial decisions were taken at the "companies" headquarters in the UK. Both channels declared that if the Commission was to find that the satellite and DTT transmissions were one and the same service, it was to be considered conducted by the UK company.

It was also noted in the Commission's ruling that it had previously in 1995 found that the companies operating the satellite service under the names TV3 and Femman (later Kanal5) were not to be considered established in Sweden.

In its ruling the Swedish Broadcasting Commission found, with reference to the Swedish Radio and Television Act and the Directive (89/552/EEC, amended by Directive 97/36/EC), that only the person that holds editorial control can be the broadcaster. It also found that since content on satellite and DTT transmissions were almost identical, editorial control could only rest with either TV3 AB or TV3 Ltd and either Kanal5 AB or Kanal5 Ltd. Finding no indication that the Swedish companies exercised any editorial control, the Commission found that editorial control rested solely with the UK companies. Since there was no reason to suggest that these companies were to be considered established in Sweden, the Commission concluded that Swedish law could not be applied to these broadcasts, and consequently dismissed the complaints. The decisions, which were unanimous, are not subject to appeal.

The rulings by the Swedish Broadcasting Commission put into question the system of prior authorization used in many countries, at least if what is desired is a virtual retransmission terrestrially of a satellite broadcast. ■

The Commission's decisions (SB 202 and 203/00) are available in Swedish only at http://www.grn.se/Pressmeddelanden/2000/202-203-00pm.htm

SV

SK – New Broadcasting Act Comes into Force

Beatrix Kormanèíková
Office of the Council for Broadcasting and Retransmission

On 14 September 2000, the Slovak Parliament adopted the "Act on Broadcasting and Retransmission and on Amendments to the Act on Telecommunications No. 195/2000 Collection of Laws ("Coll."). The new Act replaces

the Radio and Television Broadcasting Act No. 468/1991 Coll. as amended,

the Act on the Council of the Slovak Republic for Radio and Television Broadcasting and on the Change of Act No. 468/1991 Coll. No. 160/1997 Coll. as amended,

and § 1 of the Act on Provisions for Radio and Television Broadcasting No. 166/1993 Coll. as amended.

The new Act entered into force on the day of promulgation in Coll. of Law, *i.e.*, on 4 October 2000.

The Act regulates: 1) the position and activity of the Council for Broadcasting and Retransmission (formerly called the Council of the Slovak Republic for Radio and Television Broadcasting) and 2) rights and duties of broadcasters, operators of retransmission systems and other defined subjects (including foreign subjects be it legal or natural persons).

The new Act fully harmonizes the Slovak law with European standards, in particular concerning:

- Jurisdiction
- Basic definitions
- Protection of human dignity and humanity, protection of minors and the right of reply
- European works and independent production of television program services
- Access by the public to information concerning broadcasting of television program services (the right to short report)
- Access by the public to events of major importance
- Advertising, teleshopping and sponsorship (e.g. advertising of alcohol, except beer, from 6.00 a.m. till 22.00 p.m. is totally forbidden. From 22.00 p.m. till 6.00 a.m, corresponding to European standards, special conditions must be fulfilled for advertising alcohol).

The main role of the Council for Broadcasting and Retransmission is to provide and support the public right to access information, the right to freedom of expression and the right of access to programmes of cultural value as well as of educational purposes. The Council is responsible for providing regulation on radio and television broadcasting and retransmission. The Council ensures that all broadcasters (both public and private services) achieve pluralism of information in news programmes and comply with legal provisions in radio and television broadcasting as well as retransmission of programme services.

The main tasks of the Council are licensing and regulating. The Council decides about licenses and registration of retransmission systems, it monitors broadcasting, gives warnings and imposes fines on broadcasters and cable operators that violate legal provisions. The Council grants additional frequencies to public service broadcasters, elaborates the plans of frequency spectrum usage for broadcasting in cooperation with the Telecommunication Authority. The Council monitors compliance with the European Convention on Transfrontier Television and represents Slovakia in The Standing Committee for Transfrontier Television of the Council of Europe. It participates in the formulation of state media policy, provides statements and proposals for international agreements concerning broadcasting, cooperates with international organisations as well as regulatory authorities of other countries (since 1996 the Council is a member of the European Platform of Regulatory Authorities – EPRA). The Council consists of nine members elected by the Slovak Parliament for a six year-period. The members may be re-elected for a second period of another six years.

Art. II of Act No. 308/2000 Coll. introduces four changes to the Act on Telecommunications. Most importantly, it determines that frequencies for radio and TV broadcasting will be free of charge (according to Act No. 195/2000 Coll. they were supposed to be paid for). ■

***Zákon è. 308/2000 Z.z. o vysielaní a retransmisii a o zmene zákona è. 195/2000 Z.z. o telekomunikáciách'* (Act No. 308/2000 Coll. on Broadcasting and Retransmission) of 14 September 2000.**

SK

RO – New Advertising and Sponsorship Regulations

As from 27 July 2000, advertising, sponsorship and teleshopping in Romanian electronic media are regulated by the *Consiliul National al Audiovizualului* (National Audiovisual Council).

The decree, *Decizia privind adoptarea normelor obligatorii pentru publicitate, teleshopping si sponsorizare in domeniul audiovizualului*, published in Official Gazette no.352, stipulates, *inter alia*, that advertising in the audiovisual sector should not take up more than 15% of daily airtime. Commercials must not account for more than 20% of any 60-minute period (starting on the hour). Over shorter time-spans also, no more than 20% of airtime may be devoted to advertising. An exception is made for *Anunturi de utilitate publica* (public service announcements) and *anunturi umanitare* (humanitarian appeals), which are broadcast free of charge and therefore do not count as advertisements. Brand-new regulations have been introduced, banning advertising and teleshopping for cigarettes and other tobacco products. The following rules apply to advertising and teleshopping for all alcoholic drinks: any such advertisements or activities must not be aimed at minors or contain pictures of minors if they are advertising alcoholic drinks. Furthermore, alcohol consumption must not be associated with enhanced physical performance or driving. There must be no suggestion that alcoholic drinks can have any kind of therapeutic, stimulating or sedative power, nor that they can help solve personal problems. People who do not drink or who drink moderate amounts of alcohol must not be portrayed in a negative way. The fact that a drink has high alcohol content must not be presented as an advantage. Advertisements for alcoholic drinks shown on prime-time television must not show people drinking. They may not be shown at all during children's programmes or sports broadcasts.

Mariana Stoican
Radio Romania International

With regard to sponsorship, the aforementioned decree mentions that a programme may only be sponsored on the following conditions:

- the sponsor's name, logo or trademark may only be broadcast at the beginning and/or the end of the programme concerned;
- during sports, cultural, light entertainment and game shows, the sponsor's name or trademark may not be shown more than once every 20 minutes;
- the sponsor must in no way influence the content, format or scheduling of the programme, nor the editorial impartiality of the broadcaster. It is forbidden to advertise the products or services of the sponsor or any third party during the sponsored programme. ■

***Decizia privind adoptarea normelor obligatorii pentru publicitate, teleshopping si sponsorizare in domeniul audiovizualului* (Decree concerning compulsory standards for advertising, teleshopping and sponsorship in the audiovisual sector), 27 July 2000.**

RO

NEW MEDIA/TECHNOLOGIES

IE – Recent Developments in Electronic Commerce

Candelaria van Strien-Reney,
Faculty of Law, National University of Ireland, Galway

In July 2000, Ireland enacted legislation dealing with electronic commerce (See IRIS 2000-8: 11). The Electronic Commerce Act 2000 is now in force and will form the basis for further participation by Ireland in the new regulatory framework for electronic communications and services proposed by the European Commission. The Irish telecommunications market was deregulated on 1 December 1998 (see IRIS 1999-3: 14), and the Minister for Public Enterprise has welcomed the European Commission's proposal to "unbundle the local loop", as it will provide an opportunity to increase competition and benefit consumers.

As a result of the Electronic Commerce Act, An Post (the Irish post office company) has launched its first range of electronic commerce initiatives, "www.billpay.ie." This permits consumers to pay bills in a secure manner by using the Internet. The Irish Government has indicated that it may be willing to provide funding to upgrade the post office network in order to open the opportunities provided by electronic commerce and the Information Society to as great a number of Irish citizens as possible. Finally, as part of the Government's strategy to develop Ireland as a major location for e-business, it has been announced that a major European e-business centre is to be established in Ireland. The centre will offer complex web hosting and Internet infrastructure services, hardware and software procurement and installation, content distribution, integration and management services, systems applications and professional services. ■

Press release by the Minister for Public Enterprise, 12 July 2000. Available on the Irish Government's website: http://irlgov.ie/tec/press00/july12th00.htm
Press release by the Minister for Public Enterprise, 23 August 2000. Available on the Irish Government's website: http://www.irlgov.ie/tec/press00/aug23rd00.html
Press release from the Department of Enterprise, Trade and Employment, 5 October 2000. Available on the Irish Government's website: http://www.entemp.ie/pressrel/051000a.html

PT – Four Licenses for Third Generation Mobile Phones

Helena Sousa
Departamento de Ciências da Comunicação Universidade do Minho

On 29 September 2000, seven companies (TMN, Optimus, Oniway, Telecel, Leadcom, Titancon and Mobijazz) applied for four UMTS (Universal Mobile Telecommunication System) licenses. The *Comissão de Análise do Concurso* (bidding commission) has 45 days to analyse the proposals and the commercial offer of third generation mobile telecommunications is expected to start early 2002.

UMTS is the European version of IMT 2000 (International Mobile Telecommunications) and it represents important technological advances when compared with second generation mobile systems (GSM and DCS) and first generation mobile telecommunications (analogue technology).

UMTS will provide all multi-media services that are now available by fixed internet and a range of new ones deriving from its mobile character. A considerable number of audiovisual services such as tele-education, tele-medicine, video-conferencing, entertainment and news are also expected to be on offer. The *Instituto das Comunicações de Portugal* (Portuguese Communications regulatory body) states that the main criterion for a successful application is its contribution to the development of an Information Society. ■

***ICP lança concurso público para atribuição de licenças em UMTS* (The Portuguese Communications Regulatory body opens up the bidding process for UMTS licences), press release (27 December 1999) at http://www.icp.pt/umts/press/press_01.html**
***Terceira geração móvel, Concurso Público aberto hoje* (Third generation mobile system, The bidding process is open), press release (1 August 2000) at http://www.icp.pt/umts/press/press_03.html**
UMTS – *Terceira geração móvel, Candidaturas ao concurso aceites pela Comissão de análise* (UMTS – Third generation mobile system, Applications accepted by the Analysis Commission), press release at http://www.icp.pt/press/not257.html

PT

US – Napster Continues Online

On 2 October, the 9th Circuit Court of Appeals in San Francisco, California, heard the arguments of both parties concerning the preliminary injunction granted by US District Judge Marilyn Hall Patel in the case RIAA v. Napster. On 26 July 2000, the District judge had enjoined Napster from causing, assisting, enabling, facilitating or contributing to the copying, duplicating or other infringement of all copyright songs, musical compositions or material in which Plaintiffs held copyright and ordered that the injunction should come into effect on 28 July 2000. On that same day, however, the 9th US Court of Appeals granted the Defendant an emergency stay and ordered the case to be argued before the first available panel in October. (for detailed information about the Napster case, see IRIS 2000-8: 14).

At the hearing, the main discussion centered on the applicability of the so-called Sony Betamax Doctrine. This doctrine basically says that the sale of recording devices does not constitute contributory infringement of copyrights if the product is capable of substantial non-infringing uses. Napster attorney David Boies stated that

Francisco Javier Cabrera Blázquez
European Audiovisual Observatory

Napster was capable of non-substantial infringing uses, and therefore entitled to the same kind of protection given to VCRs. For the other party, RIAA attorney Russel Frackmen insisted that the Sony case was not applicable, and that Napster was not sued for its technology but rather because of its business practices.

These questions were discussed intensively during the hearing as well as, among others, the legal nature of the Napster system, and the burden of proof for the fair use defense. With a view to the decision on the merits, Judge Mary Schroeder asked the Plaintiffs' attorney whether an injunction naming every specific copyrighted song would be acceptable.

In the end, the three-judge panel adjourned without yet pronouncing on the legal question whether the preliminary injunction will be definitively lifted. Napster services will therefore continue. ■

The Napster hearing of 2 October is available on video streaming at: http://www.cnn.com/2000/LAW/law.and.technology/10/02/napster.trial.01/
Appellant Napster, Inc.'s Opening Brief, available at: http://dl.napster.com/brief0818.pdf
Brief of Plaintiffs/Appellees, available at: http://www.riaa.com/pdf/Napster 09082000.pdf

EN

RELATED FIELDS OF LAW

AT – Media Act and Copyright Act Amended

Albrecht Haller
University of Vienna and Höhne & In der Maur Lawyers

The duty to supply and the obligation to deliver printed matter, set out in the Media Act, have now, after much planning, been extended to other forms of media (except phonograms and moving picture carriers) (see IRIS 1999-7: 13). The corresponding amendment to the Media Act entered into force on 1 September 2000.

The Parliament has also abolished the system provided for in the Copyright Act whereby collecting societies are entitled to claim appropriate compensation on behalf of artists whose work is exhibited for profit-making purposes. Consequently, a significant part of the 1996 amendment to the Copyright Act is no longer valid (see IRIS 1996-10: 13). ■

***Bundesgesetz, mit dem das Mediengesetz geändert wird* (Federal Act amending the Media Act), Federal Gazette 2000 I 75, 8 August 2000.**
***Bundesgesetz, mit dem das Urheberrechtsgesetz geändert wird* (Federal Act amending the Copyright Act), not yet published in the Federal Gazette.**

DE

CZ – Electronic Signature Act

Jan Fučík
Broadcasting Council, Prague

The Czech Republic has become the first country in Central and Eastern Europe to pass a law on electronic signatures. The Czech Parliament adopted the *Zákon č. o elektronickém podpisu* (Electronic Signature Act) on 29 June 2000 in order to transpose Directive 1999/93/EC into domestic law.

The Act contains definitions that correspond with those set out in the EC Directive. An "electronic signature" is defined as data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication. An "advanced electronic signature", which offers a higher degree of security, must meet a series of more stringent requirements. A "signatory" is a natural person who holds an electronic signature-creation device and acts either on his own behalf or on behalf of another natural or legal person. A "certificate" is an electronic attestation which links signature-verification data to a natural person and confirms the identity of that person. "Qualified certificates" are defined as electronic attestations which meet the requirements laid down in the Act and are provided by certification service providers who fulfil the requirements of the Act.

A "certification service provider" is the legal or natural person who issues certificates, keeps a record of them or provides other services related to electronic signatures. "Accredited certification service providers" are accredited under the terms of the Act. All qualified certificates should meet certain requirements and contain the advanced electronic signature of the certification service provider.

Certification service providers do not need to be officially approved.

Certification service providers issuing qualified certificates should be registered as such with the regulatory authority and fulfil the requirements of the Act.

Accredited certification service providers which cease their operations must inform the regulatory authority as early as possible (no later than three months after ceasing operations). They must either ensure that valid certificates are taken over by another certification service provider or invalidate them.

The regulatory authority can use a range of measures, including fines, to enforce these requirements. For monitoring purposes, certification service providers must allow the various organs of the regulatory authority access to their business premises. They must also, on request, make available any relevant documentation, even if it only exists in electronic format, and offer any assistance that may be necessary. The tasks of the regulatory authority are performed by the Data Protection Office.

Foreign certificates may be used as qualified certificates provided they are recognised as such by a certification service provider entitled to issue qualified certificates under the terms of the Act. Such a provider must guarantee the accuracy and validity of the foreign certificate.

The regulatory authority is empowered to issue decrees on the implementation of the Act.

Through the adaptation of the relevant provisions, electronic signatures are recognised under civil, administrative (fiscal) and criminal law.

The Act will enter into force three months after being published in the Gazette of Laws and Decrees of the Czech Republic, *i.e.* on 26 October 2000. ■

***Zákon o elektronickém podpisu a o zmìnì nìkterých dalších zákonù (zákon o elektronickém podpisu* – Electronic Signature Act), 29 June 2000.**

CS

FR – Higher Council on Literary and Artistic Property Instituted

The *Conseil supérieur de la propriété littéraire et artistique* (Higher Council on Literary and Artistic Property), announced by Lionel Jospin in January 1999, has just been instituted by decree and should be set up before the end of the year, for a period of six years. The Higher Council's mission is to advise the Minister for Culture and Communications; the Minister will give it an agenda and

it must make proposals and recommendations on literary and artistic property. It is also to act as an observatory for the exercise and respect of copyright and neighbouring rights, monitoring the evolution of practice and markets, except on matters concerning monopolies, which are dealt with by the *Conseil de la Concurrence* (Competition Council). The Higher Council will also be responsible for helping to resolve disputes, and for this purpose it may designate a suitable person with a view to conciliation. Apart from the nine statutory representatives, one member of the *Conseil d'État* as its chairman, one counsellor at the *Court of Cassation* as deputy chairman, plus eight individuals qualified in copyright matters, thirty-two members representing the professional organisations still have to be appointed by order of the Minister for Culture and Communications on proposals from the organisations. The authors of intellectual works, including software and databases, the producers of phonograms, cinematographic or audiovisual works, the editors of newspapers and magazines, books and on-line services, radio broadcasters and consumers will thus be able to express their position on copyright through this Higher Council. The work of the Higher Council will be forwarded to the Minister for Culture in the form of written opinions, and the Government will keep it informed of follow-ups to its proposals and recommendations.

The Higher Council on Literary and Artistic Property is to be consulted in the near future on the Bill on the Information Society which is to be presented in the Council of Ministers and submitted to Parliament early in 2001. ■

Amélie Blocman
Légipresse

Order of 10 July 2000 instituting the *Conseil supérieur de la propriété littéraire et artistique* (The Higher Council on Literary and Artistic Property), published in the *Journal officiel* (official gazette) dated 19 September 2000, p.14634.

FR

GB – Competition Authorities Agree Mergers to Consolidate Channel 3 Ownership

The UK competition authorities have agreed to a set of mergers that will change the number of owners of the major Channel 3 companies (by far the most important private broadcasters) from three to two. Channel 3 (better known as ITV) is organised on the basis of sixteen regional licenses that combine as a single network to offer the bulk of the programmes. Since the award of the licences in 1991, there has been a strong process of consolidation between the owners of franchises, so that by 1999 all the most important licences were owned by three companies; Carlton Communications, the Granada Group and United News and Media. Further consolidation was restricted in two ways: firstly a 15% limit on multi-licence ownership representing more than a 15% share of total television audience time (including that of the public BBC) under the Broadcasting Act 1996, schedule 2, and secondly undertakings given in 1994 by the companies to the competition authorities that a single company would not exceed 25% of all television advertising revenue. The latter is the more demanding as the BBC does not broadcast any advertising.

Three mergers were proposed (in the form of hostile takeovers), between Carlton and United News and Media, between Granada and United News and Media, and between Granada and Carlton. These were referred to the Competition Commission, the main competition authority, by the Minister. The Commission decided that the two mergers involving Granada would not operate against the public interest and cleared them. That between Carlton and United News and Media was cleared conditionally on the divestment of one licence (Meridian, for the South of England). In fact, immediately after this decision it was agreed that the Meridian licence would be sold to Granada. As a result, two companies, Carlton and Granada, acquired effective control of the network. This did not break the statutory 15% limit, but the 25% limit on advertising revenue was lifted and the companies were allowed to exceed it. It is thought by many commentators that it will only be a matter of time until the network is controlled by a single company, although that will require statutory change to the 15% limit. ■

Tony Prosser
IMPS-School of Law University of Glasgow

Department of Trade and Industry, Carlton, Granada and UNM: Competition Commission Report and Decisions, Press Release P/2000/488, 14 July 2000, available at: http://213.38.88.195/coi/coipress.nsf/2b45e1e3ffe090ac802567350059d840/f778dba8e686a25b8025691c003cf12d?OpenDocument

IT – New Provisions on Copyright

On 18 August 2000 the *Italian Parliament* approved law no. 248 on Copyright (*Nuove norme di tutela del diritto d'autore, Legge* of 18 August 2000, no. 248, in *Gazzetta Ufficiale* of 4 September 2000, no. 206). After long discussions on the Government Draft (see IRIS 2000-7: 13), which has not been amended since the final approval by the *Camera dei Deputati* (Chamber of Deputies), the law eventually updates the almost sixty years old Copyright Act of 1941 (*Protezione del diritto d'autore e di altri diritti concessi al suo esercizio, Legge* 22 April 1941, no. 633, in *Gazzetta Ufficiale* of 16 July 1941, no. 166). ■

Maja Cappello
Autorità per le Garanzie nelle Comunicazioni

Legge of 18 August 2000, no. 248, *Nuove norme di tutela del diritto d'autore*, available over the Internet at http://www.camera.it/parlam/leggi/00248l.htm

SK

RU – Doctrine of Informational Security Adopted

On 9 September 2000, the President of the Russian Federation Vladimir Putin approved the *Doktrina informatsionnoi bezopasnosti Rossiyskoi Federatsii* (the national Doctrine of Informational Security), drafted by the Security Council. The Doctrine contains formal views on the aims, problems, principles and main directions for promoting data security in the Russian Federation.

Certain provisions of the Doctrine concern telecommunications and law. The Doctrine suggests that the parliament discuss and adopt acts to achieve data security in the telecommunications sector. In particular, Parliament shall make plans to:

establish a legislative basis for the priority development of the national networks as well as for the domestic production of communication satellites.

define the legal status of the organisations that provide global network services on the Russian Federation territory and pass regulations concerning their activity.

improve the certification process of telecommunication equipment systems and software for the automatic information processing systems in accordance with the requirements for data security.

define the legal status of all participants to relations concerning the information sphere, including users of data and telecommunication systems and to establish their liability for complying with the legislation of the Russian Federation.

Under the Doctrine, the development of modern information processing technologies, national industry

Natalie A. Budarina
Moscow Media Law and Policy Centre (MMLPC)

dealing with information, including telecommunication industry, is recognised as one of the national priorities. Among the existing threats to the national interests concerning the receipt and distribution of information is that telecommunication systems owned by domestic and foreign entities might establish a monopoly for these services. Therefore, the Doctrine stresses the significance of the state policies to give priority to the development of modern informational and telecommunications technologies, the production of hardware and software in order to improve the national telecommunications network. The Doctrine underlines that the national telecommunications network must become a part of the global network but, at the same time, has to take into consideration the vital interests of the Russian Federation. ■

***Doktrina informatsionnoi bezopasnosti Rossiyskoi Federatsii* (Doctrine of Informational Security of the Russian Federation), officially published in *Rossiyskaya gazeta* daily, on 29 September 2000.**

RU

RU - Mass Media Act Amended Again

Fjodor Kravtschenko
Moscow Media Law and Policy Center

On 5 August this year, the President of the Russian Federation, Vladimir Putin, signed a new Act, adding two new paragraphs to Section 41 of the 1991 *Zakon o sredstvach massovoj informazii* (Mass Media Act), the second time this year that new prohibitions have been added to the Act (see IRIS 2000-7: 14).

New paragraphs 3 and 4 of Section 41 of the Mass Media Act ban the dissemination in the mass media of information that identifies, directly or indirectly, a juvenile offender or victim of crime officially recognised as such during a criminal investigation or court proceedings. The only exception to this ban applies if the minor and/or his/her representative (parent or guardian) gives permission for their identity to be published. ■

***Federal'nyj Zakon O vnesenii dopolnenij v statju 41 Zakona Rossijskoj Federazii O sredstvach massovoj informazii no.110-FZ* of 5 August 2000 (Act of the Russian Federation on additions to Section 41 of the Russian Federation Mass Media Act), officially published in *Parlamentskaya gazeta* no.148, 8 August 2000 and *Rossiyskaya gazeta* no.152, 8 August 2000.**

RU

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