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EDITORIAL

## New services for IRIS subscribers

This issue of IRIS is the last one before Summer break. We received many positive reactions following our publication of the state of signatures and ratifications of all European Conventions that are relevant to the audio-visual sector which we update regularly. For this reason, we decided to publish in this issue the state of signatures and ratifications of all other relevant international treaties. For the moment it is updated until 1 April 1995. However, the Media Section of the Council of Europe's Directorate of Human Rights will compile an update for publication in IRIS twice a year.

We are currently negotiating mutual assistance with major European magazines specialising in legal issues that are relevant to the audio-visual sector. The objective is to provide subscribers to IRIS with an even more complete, updated and reliable information service and to give direct access to even more original documents. So far there are three magazines with which we have agreed an exchange of information and documentation: *Légipresse*, *Revue du droit de la communication* in France, *Medialex*, a new magazine on Swiss media law which will be published as from September 1995 and *Signum Hungarian Media Newsletter*. Negotiations with other major national magazines are on their way. We will keep you informed of the results.

In IRIS 1995-2: 12 and IRIS 1995-3: 10 we reported on the Commission's proposals in regards to MEDIA II. The latest news is that the European Council will introduce some significant changes that are currently being discussed in the COREPER following the European Council meeting in Luxembourg. We will report on the changes in IRIS 1995-8 which will appear at the end of September. In the meantime, however, as a service to our subscribers, we will make available a binder in which all 1995 issues can be filed. An index to the 1995 IRIS issues will be provided at the end of the year. In addition, towards the end of the year, subscribers will receive a special issue of IRIS containing an analytical overview of the major 1995 legal developments at European level that are relevant to the audio-visual sector. The articles in this special issue will be written by some of Europe's most qualified legal experts in the different fields of law.

On behalf of the members of the editorial board I wish you all pleasant holidays.

Ad van Loon  
IRIS Co-ordinator

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## The global Information Society

### NETHERLANDS: Use of new electronic media by public broadcasters

In a letter dated 20 April 1995, the Dutch Media Authority (*Commissariaat voor de Media*) informed the public broadcasters that it will allow them to make use of the possibilities offered by new electronic media.

The *Commissariaat voor de Media* will *inter alia* allow the interactive use of television, the publication of electronic programme guides and the distribution of programmes on Internet.

While the Dutch Media Act is not clear on the question how the public broadcasting organisations may exploit the new electronic media, the permission of the Media Authority opens a wide range of new possibilities in regards to the exchange of information, the publication of programme guides and direct merchandising. Although this is not specified, the permission may include the provision of video on demand and pay per view services.

Possible revenues of the use of these new media are to be invested in their radio and television programmes.

Letter of the *Commissariaat voor de Media* to the *Nederlandse Omroep Stichting*, dated 20 April 1995, WM/1632/AdG. Available in Dutch through the Observatory.

## G7

### Communique of the "G-7" summit in Halifax

The Heads of State and Government of seven major industrialized nations and the President of the European Commission, have met in Halifax for their 21st annual Summit. They announced that they were committed to the successful completion of current negotiations in services sectors and, in particular, significant liberalization in financial and telecommunications services. They will proceed with follow-up work foreseen in the Uruguay Round Final Act. They encourage work in areas such as technical standards, intellectual property; an immediate priority is the negotiation in the OECD of a high standard multilateral agreement on investment. They will begin discussions with their partners in the WTO.

The full text of the final communique was published in *Europe Documents*, annexed to *Europe*, Agence internationale d'information pour la presse No 1941, 28 June 1995: 1-6.

## European Union

### European Court of Justice: Non-transposition in national law of the telecommunications directive

On 15 June 1995, the European Court of Justice condemned Luxembourg for not having transposed into national law the European directive of June 1992 (92/44) concerning the "supply of an open network of rented lines". Member States were to have implemented this directive by 5 June 1993, directive which obliges Member States to ensure that the telecommunications bodies supply a minimum of rented lines in conformity with harmonized technical characteristics. The Court recalls that to transpose directives, Member States have to provide a precise legal framework in the sector concerned to enable individuals to know their rights and be able to claim them in national jurisdictions. It thereby rejects the argument put forward by the Luxembourg Government by which access to the services concerned are governed by the "general conditions applicable to the telecommunications services" published by the new postal and telecommunications company under the law of 10 August 1992. The Commission considered that these "general conditions" did not allow for adequate transposition of the directive and the wording lacked precision and clarity.

Decision No C-220/94 of the 15 June 1995 of the Court of Justice of the European Communities, *Commission of the European Communities vs Luxembourg*. Available in English, French and German at the Observatory.

### European Parliament: Resolution on pluralism and media concentration

On 15 June 1995 the European Parliament has adopted another Resolution on pluralism and media concentration. The Parliament expresses its concern that divergences between national laws with regard to media concentration may harm the operation of the internal market, and it consequently approves any initiative designed to promote the convergence of these national rules. The European Parliament hopes that the initiatives of the Commission will provide the media and the information society with a stable legal framework, which will ensure a comparable level of protection for pluralism in the Member States. The Parliament furthermore impatiently awaits the results of the second round of consultation on the Green Paper on pluralism and media concentration in the internal market. The Commission is called upon to propose together with the parties concerned an action programme to promote pluralism in the media with a view to drawing up a Code of conduct for the media in Europe (including the countries in Central and Eastern Europe) with the aim of preserving professional ethics and guaranteeing the independence of information and of journalists.

European Parliament, *Resolution on pluralism and media concentration*, Minutes of the Sitting of Thursday 15 June 1995, Provisional Edition, PE 192.036: 69. Available in English and French at the Observatory.



#### European Parliament: Resolution on cable television and telecommunications services

The European Parliament has welcomed the European Commission's draft of a directive on cable television and telecommunications services, but warns the Commission against the tendency to underestimate the importance of public service tasks and the related constraints. It once again calls on the Commission to give a definition of the concept of "public service", in connection with the liberalization of various sectors. The Parliament opposes moves towards unilateral liberalization which would only affect the telecommunications sector, thereby giving cable network operators an unfair competitive advantage. Consequently the Parliament proposes a number of amendments to the Commission's.

**European Parliament, Resolution concerning the draft Commission directive amending Commission Directive 90/388/EEC regarding the abolition of the restrictions on the use of cable television networks for the provision of telecommunications services (C4-0120/95), Sitting of Thursday 15 June 1995, Provisional Edition, PE 192.036: 32-36. Available in English and French at the Observatory.**

#### European Commission: Modification of the "Television without Frontiers" directive

On 31 May 1995, the European Commission put forward a proposal to amend Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of broadcasting activities.

In its comments on the aforementioned amendment the European Radio and Television Union stressed the following points :

- a regulatory framework is necessary for the field of application of the directive
- the quota of independent productions should not be increased. Measures taken in favour of independent producers should not work against those broadcasters that do not belong to the major media groups.
- extra legislation governing the time needed before showing cinematographic works on the various media should not be needed. There should not be any unnecessarily discriminative restrictions as to people's right of access to television.
- for advertising, sponsoring and teleshopping on television, the differentiation between cinematographic films and those made for TV has not yet been confirmed, as regards intervals between commercial breaks. Advertising limits should not become so complicated as to be unworkable.
- minimum standards also need to be clarified as to the protection of minors and for obscenity and violence on the screen.

**Commission of the European Communities, Report on application of directive 89/552/EEC and Proposal for a European Parliament and Council directive amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, 31 May 1995, COM (95) 86 final. Available at the Observatory in English, French, German, Italian, Spanish, Dutch, Danish, Greek and Portuguese.**

**Complementary comments of the European Broadcasting Union on the Commission Proposal on the revision of the "Television without Frontiers" Directive. Available in English and French at the Observatory.**

## National

#### BULGARIA: Stricter measures against pirating

On 19 May, the National Assembly of Bulgaria passed an amendment to the Criminal Code, providing for stricter measures against the pirating of copyright works. The whole of Section VII of Chapter III of the relevant part of the Code (previously headed "Plagiarism") is now headed "Indictable offences against intellectual property". Under the new Article 172a, anyone who for commercial purposes copies, disseminates, uses technical means to reproduce or in any way exploits works of science, literature or art without first obtaining the rightsholder's permission, as required by law, faces imprisonment for up to three years and a fine of up to 200,000 leva (approx. £2,400). Paragraph 2 of the article introduces the same penalties for anyone who for commercial purposes records, copies, transmits or employs technical or other means to exploit sound recordings, videos, broadcasts and computer software and programmes without first securing the rightsholder's permission. In particularly serious cases, prison sentences ranging from one to five years or fines of up to 500,000 leva (approx. £4,900) can be imposed.

The pirated items are subject to confiscation by the state, insofar as they belong to the offender. The authorities hope that the new regulations will curb the present massive copying and illegal dissemination of copyright works, audio and video cassettes, computer software and games, etc.

**Act amending and supplementing the Criminal Code of 1968 passed on 19 May 1995, Official Gazette of the Republic of Bulgaria (*Darzaven vestnik*) No. 50 of 1 June 1995. Available in Bulgarian at the Observatory.**

(Radomir Tscholakov,  
Legal Department Bulgarian National Television)



**BULGARIA: Act amending and complementing the Penal Code of 1968 adopted on 19 May 1995**

Para. 16. The heading of Section VII of Chapter III of the Special Part shall be reworded as follows: "Indictable offences against intellectual property".

Para. 17. A new Article 172a shall be incorporated:

Art. 172a

(1) Anyone who for commercial purposes copies, disseminates, uses technical means to reproduce or in any way exploits a work of science, literature or art produced by another person without securing the rightsholder's consent, as required by law, shall be liable to imprisonment for up to three years and a fine of up to 200,000 leva.

(2) The same penalty shall also apply to anyone who for commercial purposes records, copies, transmits, uses technical means to reproduce or otherwise exploits a sound recording, video, broadcast, software or computer programme without securing the rightsholder's consent, as required by law.

(3) If the offence defined in (1) and (2) is repeated, or if it has caused particularly serious damage, the offender shall be liable to imprisonment for a period of one to five years and to a fine of up to 500,000 leva.

(4) In relatively unimportant cases, the offender shall be punished in accordance with the administrative law provisions of the law on copyright and associated rights.

(5) Objects connected with the offence shall be confiscated by the state, insofar as they belong to the offender.

**Act amending and complementing the Penal Code of 1968 adopted on 19 May 1995. Available in English at the Observatory.**

(Radomir Tscholakov,  
Legal Department Bulgarian National Television)

**LATVIA: New radio and television legislation fails to be adopted**

For the time being, attempts to pass new legislation on radio and television have been unsuccessful. In the decisive debate on 15 June the Parliament ultimately rejected the second reading of the bill. The text is now to be revised by the appropriate committee.

**Information bulletin of the Latvian Exterior Ministry. Available in German through the Observatory.**

(Volker Kreutzer,  
*Institut für Europäisches Medienrecht - EMR*)

**TURKEY: New broadcasting law**

The new Turkish Law on broadcasting of 20 April 1994 is now also available in English.

A constitutional amendment on 8 July 1993 made private broadcasting stations legal and abolished the state monopoly on broadcasting which until then had been enforced in writing in article 133 of the Turkish constitution. The monopoly on broadcasting had until then been held by the state broadcasting station *Türkiye Radyo Televizyon kurumu* (TRT). Before the new broadcasting legislation had been passed, private broadcasting stations operated more or less as "pirate stations" since no legislation existed to control them.

The new broadcasting legislation establishes *principles* for radio and television programmes and sets up a *Supreme Council for Radio and Television* as the supreme regulatory body. The Broadcasting Council is made up of 9 members who are elected from among the representatives in the Turkish parliament for a period of six years. One third of the members are re-elected every two years. The Supreme Council is the only body which can grant licences and attribute broadcasting frequencies. A quarter of frequencies covering Turkey are given over to the state radio station TRT.

The legislation includes a quota of 50% for domestic productions which will be introduced gradually over a period of time. There is a ban on advertising for alcoholic beverages and tobacco as well as for prescription medicines. Other regulations covering advertising times, advertising content and sponsoring follow European standards to very great extent. The expression of opposing viewpoints and the right to correct false information have been guaranteed. Private broadcasting stations are obliged to operate under the form of a public limited company. Both foreign capital and capital of any one private individual is limited to a maximum of 20% of the shares.

The Broadcasting Council is responsible for the drawing up of frequency lists and the regulation of licence attributions.

**Law on the organisation and broadcasting of radio stations and television channels, published in the Official Gazette No. 21911 dated 20 April 1994. Available in English through the Observatory.**

(Andrea Schneider,  
*Institut für Europäisches Medienrecht - EMR*)

**SPAIN : Compensatory payment for private copies**

In May and June 1995, about 6 months after law 43/1994 was passed, incorporating into Spanish legislation EEC directive 92/100/CEE of 19 November 1992 on rental and lending rights and certain rights related to copyright, the Spanish rental sector issued a string of protests over the situation whereby Cultural Centres could rent videos without paying rental fees, while the Spanish Performing Rights Association (the SGAE) was appointed to collect royalties from the video rental companies. Spanish law defines compensatory payment for copies for private use as a single, fair payment made to compensate the intellectual property rights that had not been paid because of the copying. Authors and performing artists cannot give up this right. The law defines the debtors and the creditors of the legal obligation. An agreement will be drawn up each year to work out the exact individual and overall details of the compensatory payment.

**Law of incorporation into the Spanish legislation 43/1994 of 30 December 1994. Available in Spanish from the Observatory.**

#### PORTUGAL: Amendments to Advertising Legislation

The Law No 330/90 concerning advertising was amended by the Law No 6/95 enacted on 17 January 1995 to bring it in line with the European Directive 84/450 (misleading advertising) and 89/552 ("Television without Frontiers"). The changes redefine the concept of advertising and also concern state and official advertising, regulations governing health and safety and introduce new regulations for radio and television advertising.

Section 8, paragraph 2 has been rewritten and sets out that advertising on radio and television must be clearly separated from other programmes and can only be broadcast after being officially announced by a presenter. This announcement must be audible on radio and both audible and visible on television and use the word "advertising" in such a way that it is clearly understandable by the viewer.

Section 26 also sets out the scope of advertising in television and radio; the amount of advertising shown daily should not exceed 15% of scheduling time. In addition, the amount of advertising shown within 1 hour should not exceed 20%, regardless of the above-mentioned regulation. This second regulation applies to complete hours only.

Under Portuguese law, although the European Directive on "Television without Frontiers" only concerns television services, its conditions governing advertising must be adhered to by suppliers of radio services.

**Law no 6/95 of 17 January 1995, Amendments to the law no 330/90 of 23 October 1990 governing advertising legislation.**

#### SPAIN: New law on advertising

On 20 June 1995, the Parliament of Galicia passed a Bill on tobacco and spirits. The new law lays down severe restrictions on advertising for tobacco and spirits in magazines and newspapers published in Galicia, all such advertising is forbidden on the front pages as well as in the sports, leisure and children's sections. No advertising for alcoholic drinks can be shown on television between 8 and 10pm.

**Law of 20 June 1995 passed by the Parliament of Galicia. Available in Spanish through the Observatory.**

#### SPAIN: Entry into force of certain provisions of the Act of transposition of the Directive "Television without frontiers"

The 14 July 1995 is the date of expiration of the delay for the entry into force of the articles of the Act of transposition of the Directive "Television without frontiers", which regulate the advertisement breaks during long-run films as well as for information programmes, documentaries and children programmes.

**Act No 25/1994 of 12 July 1994 implementing the provisions of the EC Directive on "Television without Frontiers". Available in Spanish at the Observatory.**

#### NETHERLANDS: New sponsorship rules for public broadcasters

New sponsorship rules for the Dutch public broadcasters came into force on 1 July 1995. The amendment of the Media Act follows the obligation to implement the EEC Directive "Television without frontiers". The original proposal of the Government to change the sponsorship regime was rather strict: sponsoring of programmes of the public broadcasters would not be allowed except for programmes in the categories of sports, culture, information and education. Parliament turned the proposal around by allowing sponsoring, with the exception of news programmes, children's programmes and consumer information. As a result, the Media Act now *inter alia* allows the display of brand names (previously strictly prohibited), as long as their display is not "excessive".

**Law of 18 May 1995, Staatscourant 320. Available in Dutch through the Observatory.**

#### FRANCE: Inapplicability of the Evin law to foreign publications sold in France

The judgement handed down by the commercial court of Paris on 8 June 1995 stated that the urgent action sought in the court by the magazines *Le Nouvel Observateur*, *VSD* and *l'Evènement du Jeudi* against certain German and American publications for unfair competition, was rejected and that the magazines would have to pay damages to the defendants. The three weeklies had argued that foreign publications could be sold in France, while they were in breach of the Evin law forbidding any advertising for tobacco and alcohol. The court did not deny that the foreign press was in breach of the law, but stated that the magazines did not have the capacity to act. The ruling went on to say that "in a recent official diplomatic agreement, the French Ministry of Justice had assured German publishers that they would not be prosecuted".

**Judgement of the Paris commercial court (Tribunal de commerce) of 8 June 1995. Available from the Observatory in French.**

#### ITALY: Amendment of the Law on cinema and the Boards of Censorship

The Law of 30 May 1995 amends the terms of the decree of 29 March 1995 on "the reorganisation of areas of jurisdiction with regard to Tourism, Sport and Entertainment." These responsibilities previously came under the responsibility of the Ministry of Tourism and Entertainment, which disappeared following the 1993 referendum, and will now be taken over by the Regions, under State supervision and control. The law also streamlines procedures for distribution of State-aided funds for cinematographic production. There will now be eight Boards of Censorship for television broadcasting between 7am and 11pm. They will each comprise 11 members, including representatives of parents' and animal welfare associations.

**Extracts from law no. 203 of 30 May 1995, Quattordicinale d'informazioni cinematografiche "Cinema d'oggi". Available in Italian from the Observatory.**

(Laurence Richard,  
Audiovisual affairs manager at the *Banque Saint Dominique*)



#### GREECE: Audiovisual Bill

In late April, the Greek government presented a Bill (see IRIS 1995-6:3) on the legal status of private television and local radio, the regulation of the broadcasting market and other articles.

The Bill comprises 4 chapters and 14 articles covering the following points :

Article 1 deals with the status of operating licences of private television stations. Those stations that hold the licence are expected to protect the public interest and the quality of their programming, to give out impartial information and news and to make sure the principles of pluralism are adhered to.

The stations are also obliged to uphold the technical standards of their broadcasts. This status affects all stations : national, regional and local, including satellite broadcasting stations that use a link on Greek soil, whether they use Hertzian, cable, encoded or any other form of transmission.

The frequencies used by the stations belong to GREEK TELECOM and the public television channel ERT.

Article 2 provides for the procedure for granting licences : the licence comes in the form of a ministerial decision, taken according to the recommendations of a National Audiovisual Board which are obligatory for the Minister. A station that wants to obtain a licence will have had to invest at least GDR 150 000 000 and offer good-quality programmes. These two criteria are duly weighed up.

Article 3 lays down a series of highly detailed general rules and standards for advertising.

Article 4 provides for civil and penal penalties for failure to comply with the standards and duties as laid down by the law.

Article 5 outlines transitional regulations concerning those stations that currently hold a licence.

Article 6 lays down the standards and procedure for granting licences for the setting-up of private radio stations.

Article 7 provides criteria governing the granting of private radio licences.

Article 8 lays down standards for advertising on private radio.

Article 9 lays down advertising standards for public audiovisual services.

Article 10 provides for the rights of producers of audiovisual works.

Article 11 lays down the status of audiovisual market research organisations.

Article 12 provides for standards of transparency with respect to advertising companies.

The Bill, in its initial form, included a number of provisions for multimedia and included 36 articles, but the Government finally decided to put an amended Bill before Parliament that left out these provisions.

**An outline of the Audiovisual Bill which will be put before Parliament in July is available from the Observatory in French and Greek.**

(Anastase N. Marinos,  
Vice-President of the State Council in Greece)

#### PORTUGAL: New decision on selective funding

Law no. 45-C/95, signed 18 January 1995 by the Prime Minister and referring to Legislative Decree No 350/93 of 7 October makes far-reaching amendments to the normative framework governing the cinematographic and audiovisual sectors. It would appear, beyond any legal necessities, that the funding systems for cinematographic production have been altered in order to come into line with the reality of the current situation. The main aim is to bring the public over to Portuguese cinema and to make optimum use of public financing by making the largest possible number of cinematographic works. Another objective is to streamline procedures and to give genuine empowerment to the people involved. The law contains a regulation concerning selective funding and general rules (definition, terms and conditions, funding ceilings, advertising, competition, jury) for cinematographic production. The second part of the law deals with selective funding for writing the scenario (applicants, documents to be supplied in 7 copies, such as, for example the outline of the project including production technical values, a synopsis of 6 - 12 pages, the opinion and decision of the jury, the granting of funding, the beneficiary's obligations). The third part of the law is given over to selective funding for production, while the fourth part refers to funding for the production of first-time films and feature-length cartoons. The fifth part deals with penalties in the event of failure to comply with regulations or for false representation.

**Decision no. 45-C/95 of 19 January 1995 from Legislative Decree no. 350/93 of 7 October 1993, published in the *Diario Da Republica* - Serie B of 19 January 1995. Available from the Observatory in Portuguese and French.**

#### PORTUGAL: Setting-up of a system of automatic funding for cinematographic feature-film production.

The regulation governing the automatic funding for cinematographic production lays out the rules relating to cinematographic activity and audiovisual production. It sets out a new funding procedure, the automatic funding system, aimed at producers whose works will be only seen by a very small proportion of the cinema-going public. The system aims to promote the creation of cinematographic works that enjoy high artistic and aesthetic qualities and which also earn the appreciation of the public. As all funding for this subvention is entirely written off, it is only granted to new cinematographic productions which comply with the formal conditions required for funding given by the Portuguese Institute for Cinematographic and Audiovisual Art (IPACA). In order to receive automatic funding, the audience figures, based on ticket sales, for previous films of the same producer are taken into consideration. Previous films must also have achieved minimum box-office levels which are worked out annually.

**Decision no. 45-D/95 of 19 January 1995, published in the *Diario Da Republica* - Serie B of 19 January 1995. Available from the Observatory in Portuguese and French.**

**PORTUGAL: New decision on the direct financial backing for cinematographic production**

This funding compliments the system of direct financial contributions to cinematographic production granted by the Portuguese Institute for Audiovisual and Cinematographic Art (set up by the Legislative Decree no. 25/94 of 1 February 1994 which considers that cinema, television and video should, in the present day, be considered interdependently rather than on a one-by-one basis) for the financing of a feature-film project. The law details requirements that have to be met by applicants.

**Decision No 45-E/95 of 19 January 1995, published in the *Diário Da Republica* - Series B of 19 January 1995. Available from the Observatory in Portuguese and French.**

**PORTUGAL: Financial backing for the distribution and showing of cinematographic works**

The decision of 27 April 1995 refers to the financial backing of the Portuguese Institute for Cinematographic and Audiovisual Art (IPACA) for the distribution and showing of cinematographic works and related cinematographic activities. The IPACA will be granting financial backing to the showing of the works through two annual competitions. This backing includes technical assistance and financial aid in the shape of direct funding and/or low-interest loans.

**Decision no. 366-A of 27 April 1995. Available in Portuguese and French from the Observatory.**

**FRANCE: Production contracts of original audiovisual works**

The *Société Civile des Auteurs Multimédia* (SCAM - the Association of Multimedia Authors), an association for the collective management of copyright, fights a daily battle on behalf of its members for their moral and financial rights. The Association gives out information on contracts negotiated by the authors and directors with production companies. The SCAM can also provide specimen writing contracts (for screenplays, texts, artwork, photographs, etc.), production contracts and a contract for a work on CD-ROM.

**Specimen contracts for the production of an audiovisual work are available at the Observatory or directly and without charge from the SCAM, Hôtel de Massa, 38, rue du Faubourg Saint-Jacques 75014 Paris, Telephone: +33 1 40 51 33 00, Fax +33 1 43 54 92 99.**

**FRANCE: Workings of the Comités Techniques Radiophoniques (CTR) (Radiophonic Technical Committees)**

The decisions of the *Conseil d'Etat* (State Council) of 17 March 1995 include the statement that "the fact that some elements of the enquiry have been entrusted to a rapporteur does not deprive the enquiry of its collegiate nature once all these elements have been submitted to the Radiophonic Technical Committee"; this is eminently sensible as if it were the other way round, it would turn the CTR into a kind of Kafka-like bureaucracy. These decisions give other useful details as to the manner in which the CTR's work; they show on the one hand that the enquiry should not be carried out within the framework of a hearing and, on the other hand, that the fact that no local commercial radio has been given a frequency in the zone under consideration does not render the CSA's decision voidable.

**Decisions (arrêts) of the *Conseil d'Etat* No. 137147 Radio 2000 and No. 712 P Radio 34 of 17 March 1995. Available from the Observatory in French.**

(Théo Hassler,  
LIENHARD - PETITOT, Attorneys at Law)

**FRANCE: The Audiovisual Supervisory Board and Canal Plus sign a Convention bringing the encrypted channel within the "general rules"**

On 1 June, The Audiovisual Supervisory Board (CSA - Conseil Supérieur de l'Audiovisuel), signed a 10-page convention with Canal Plus containing 34 articles and an appendix that will open the way to the renewal of the encrypted channel's licence. This licence, awarded by the Government in 1983, will be running out on 5 December 1995. The convention will come into effect as of 6 December and will run for 5 years. Canal Plus will therefore be brought under the same general rules as the other authorised Hertzian channels. Canal Plus can schedule 365 films per year to be broadcast between midday and midnight, each film being shown 6 times, including once in its original language if the film is foreign. The film may be shown a seventh time if it has subtitles specifically intended for deaf people and the hard-of-hearing. Rules on the protection of minors have been toughened up, although the convention expressly leaves pornographic films to one side; Canal Plus will only be broadcasting one pornographic film per month, which can be shown three times. The Olympic Games, the Tour de France cycle race and the final of the French Cup (football) can no longer exclusively be shown encrypted. World and European Nations Cup football matches and Five Nations rugby matches cannot be exclusively shown encrypted "if a French team is playing".

**Convention drawn up between the CSA and Canal Plus, published in the *Journal Officiel* of 13 June 1995, p 9071-9084. Available in French from the Observatory.**

**AUSTRIA: Newspaper Lotteries and Inciting Purchases**

A profound relationship is created between the price paid and the acquisition of an item not only when the acquisition of the item is the only way to obtain a free gift but also when this acquisition is considered to be an obligatory action, or at least the easiest way to obtain the free gift. Newspaper lotteries only exercise a psychological influence upon the general public when they believe the purchase of a second copy of a newspaper to be necessary or even obligatory for participation in the lottery. They thus believe that purchasing the newspaper is the simplest way to take part in the lottery. This psychological influence is also exercised when the newspaper claims it will publish the list of winners but without stating that it will, in fact, inform them directly.

**Decision by the Supreme Court of Vienna on 7 March 1995 "Win a million". Available in German from the Observatory.**





**GERMANY: Ruling by the *Bundesgerichtshof* (Federal Supreme Court) on video surveillance of a public footpath**

On 25 April 1995 the 4th senate for civil matters of the Federal Supreme Court (*Bundesgerichtshof*) issued a ruling concerning the surveillance of a public footpath using a private video camera.

The parties are neighbouring landowners who have joint access to their respective properties by a 1.2-metre wide public footpath.

The issue of the case was that the defendant had installed a camera on her land, the purpose of which was to survey part of the footpath over the whole of its width after rubbish had been thrown onto her land on frequent occasions from the said footpath. She used the programmable camera to make film of the path and hence also of the plaintiffs when they used the path to walk to and from their property.

The Federal Supreme Court established that the plaintiffs should *not have to tolerate* being surveyed by the defendant using a video camera as and when she pleased.

A summary of the Federal Supreme Court's findings is as follows:

The making of this type of video recording was considered to be an intrusion of the plaintiffs' privacy despite the reasons for the video recordings expressed by the defendant.

The defendant carried out deliberate surveillance on a part of a public footpath over a continued period of time in order to form a clear picture of the users of the footpath. The plaintiffs could not avoid being recorded when they used the footpath to go to and from their properties. The plaintiffs could not establish either when or whether the said video recordings were being made. For this reason, the plaintiffs had to assume that they were being filmed every time they used the footpath.

The intrusion which this constituted into the privacy of the plaintiffs could not be justified by any serious reasons which might emanate from the legally justifiable interests of the defendant. She had the right under constitutional law (art. 14 paragraph 1 of basic law) to take measures to protect her property but these should not however infringe in an over-exaggerated way upon important items of property protected by law and belonging to any third party.

**Ruling by the 4th senate for civil matters of the Federal Supreme Court on 25 April 1995. VI ZR 272/94, p. 13. Available in German from the Observatory.**

(Stefanie Junker,

*Institut für Europäisches Medienrecht - EMR*)

**GERMANY: The search for a new definition of the notion of broadcasting**

Amendments of the Inter-Länder Treaty on broadcasting have brought about debate on a new definition for the notion of broadcasting (IRIS 1995-6:10).

In a paper entitled "*Der Rundfunkbegriff als Hemmnis für das Wachstum der deutschen Telekommunikation*" ("The notion of broadcasting is a hindrance to the growth of telecommunications in Germany") the association of private network operators, ANGA, declared itself to be in favour of redefining as precisely as possible the notion of broadcasting.

According to them, tele-services such as pay-as-you-view, video on demand and online services should now be removed from the field of application of the Inter-Länder Treaty on broadcasting (*Rundfunkstaatsvertrag*), since they can be considered as individual services which can no longer really be qualified as broadcasting services. They claim that a precise definition of broadcasting services is as important to encouraging the growth of the German telecommunications sector as is the removal of the current monopoly and the setting up of fair competitive structures. Multimedia services require a legal structure which do justice to a differentiated system of the various means of communication.

The "changing notion of broadcasting" as it was legally defined by the Federal Constitutional Court (*Bundesverfassungsgericht*) should be made more functional and each new service should be evaluated individually according to its particular features.

According to the ANGA, the question of what broadcasting is and is not should be decided by a joint working party of cable and other network companies, services and programme suppliers as well as regional media bodies. In difficult cases, an independent telecommunications regulatory official should be asked to settle the matter.

**Position paper by the association of private network operators (ANGA) of June 1995: "*Der Rundfunkbegriff als Hemmnis für das Wachstum der deutschen Telekommunikation*" ("The notion of broadcasting is a hindrance to the growth of telecommunications in Germany"). Available in German from the Observatory.**

(Andrea Schneider,

*Institut für Europäisches Medienrecht - EMR*)

**BELGIUM : Conflict between Press and Justice**

The decision handed down on 16 June by the Court of Cassation (*Cour de Cassation*), following the considerable number of leaks over the last months in court cases, laid out in strong terms a reminder of the fundamental principles of the presumption of innocence and the respect for human dignity and honour that each person has the right to enjoy. On 23 June, several offices belonging to the *Le Soir* daily newspaper were searched. Mr. Maffei, the Brussels appeal court judge in charge of the investigation, spent three and a half hours interviewing René Haquin, the journalist covering the Agusta case and whose office and home were searched. Mr. Haquin was thought to be the recipient of leaks supposedly coming from Léon Giet, the Liège Attorney General and Armand Spirlet, the Solicitor General, themselves suspected by the Court of Cassation of being in breach of the enquiry secrecy in the Cools and Agusta cases. Mr. Haquin challenged the letter accusing him that was addressed to the Court of Cassation Attorney General and refused to reveal his sources, in accordance with his code of practice. The international code of practice for journalists claims the right to information, to freedom of expression and to criticise are fundamental liberties and have in fact been included in the Belgian Constitution since 1831. The secrecy of the investigation is not a notion that is explicitly set out in Belgian law, but comes from the Code of Criminal Procedure, along with article 458 of the Penal Code, which also punishes public officers who divulge a secret confided to them in the course of their official duties. What remains to be done is to combine the right to information with the right not to reveal sources of information, the secrecy of the investigation, the presumption of innocence and the judges' and journalists' codes of practice. Following the Court's decision, leaked cases will now be handed over to an Appeal Court judge.

**Decision of the 2nd Chamber of the Court of Cassation of 16 June 1995. Available in French from the Observatory**

#### BELGIUM: Access to public broadcasting during election campaigns

During the last general elections, several courts were called upon to make rulings as to the conditions of access of the campaigning parties to electoral broadcasts on state-owned radio and television channels. The RTBF board of governors had laid down a regulation restricting access to those parties with seats in all the Assemblies concerned by the elections of 21 May (Senate, the Lower House, the Regional Parliaments), in the avowed aim of blocking access to the extreme right-wing parties.

This system, which favoured the established parties, was of course criticised by the smaller parties that were not represented in the outgoing Assemblies. No fewer than 6 decisions were handed down, including four from the judge for urgent applications (*judge des référés*), in Brussels and two from the State Council (*Conseil d'Etat*). While the Brussels judge for urgent applications rejected an application from the Parti du Travail de Belgique, considering that the grounds laid down by the RTBF were objective, the State Council accepted the arguments of the *Union et renouveau démocratiques* and suspended the ruling of the RTBF, ordering them to broadcast a forum of the Party. The Council considered that such a measure went against the right held by all political parties, whether they held seats or not, to stand for election under equal conditions. This decision implicitly applied the principle of proportionality : while broadcasters might legitimately reserve more air time for the outgoing parties, they could not at the same time deny smaller parties access to air time.

**Decisions Nos 52 249 and 53 354 of 16 and 18 May 1995 of the *Conseil d'Etat* (Council of State), Administrative Affairs Department, Dumont Michel vs *Radio Télévision belge de la communauté française - RTBF* (Belgian Radio and Television of the French speaking community).**

**Decision No 95/804/c of 17 May 1995 of the Court of first instance of Brussels, public hearing before the judge for urgent applications (*référé*) : Rosso, Brouckaert, Bernard, Staquet, Chaen vs "RTBF".**

Available in French at the Observatory

(François Jongen,  
HAUMONT - SCHOLASSE & PAQUE, Attorneys at Law)

#### UNITED KINGDOM: Scottish court bans interview with Prime Minister before local elections

The BBC had planned to broadcast throughout the UK a 40-minute interview met the Prime Minister in its current affairs programme *Panorama* on 2 April. In Scotland, though not in the rest of the UK, local authority elections were due to be held on 6 April. Other political parties commenced proceedings in the Court of Session, the supreme court of Scotland, on the morning of 2 April to obtain an interim order prohibiting the broadcast until the elections had taken place. The court decided that the parties established a *prima facie* case that the broadcast would breach the BBC's duty of impartiality and so granted the temporary order. Immediately before the broadcast was due to take place, the Court heard an appeal but confirmed the order. Consequently, the interview was not broadcast in Scotland.

Proceedings for such interim orders are taken very quickly and have limited value as precedents for the future. In this case it was agreed by both sides that the duty to preserve 'due impartiality' in an undertaking made by the Corporation's Board of Governors was of legal force, a matter which had been doubtful in the view of earlier caselaw. The case created a considerable political controversy, and is likely to encourage further litigation attempting to enforce the impartiality duty in areas of political conflict.

**Houston and Chalmers v British Broadcasting Corporation, Court of Session (Inner House), 4 April 1995. The case is not yet fully reported, but the arguments are outlined in C. Munro, "The Banned Broadcasting Corporation", vol. 145 *New Law Journal* (1995): 518-520.**

(Prof. Tony Prosser,  
School of Law, University of Glasgow)

#### UNITED KINGDOM: Context and mode of publication relevant to libel action

In a recent libel case the House of Lords has held that, in order to determine the meaning of certain words, it is necessary to take into account the context in which the words were used and the mode of publication. Plaintiffs were two actors in a popular television series, whose faces were superimposed on pornographic pictures in a computer game. The *News of the World* published an article on the computer game with two photographs of the visual display, under the headline "Strewth! What's Harold up to with our Madge?". The text of the article explained that the plaintiffs were the unwitting victims of the publishers of the game. The plaintiffs brought proceedings for libel against the newspaper, alleging that its article suggested that they had posed for pornographic pictures. In dismissing the claim, the House of Lords held that a plaintiff could not select an isolated passage in an article and complain of that alone, if other parts of the article threw a different light on that passage.

**Charleston and another v News Group Newspapers Ltd. and another, House of Lords, 25-26 January, 30 March 1995. Available in English at the Observatory.**



#### UNITED KINGDOM: Government proposals on media ownership

The UK Government issued its long-awaited proposals on media ownership in May 1995. The proposals are for a reform of the currently highly complex rules governing concentration of ownership in broadcasting and cross-media ownership. The Government has accepted that it should retain special rules for the media rather than leaving control to ordinary competition law, but has aimed to introduce greater flexibility in order to reflect rapid technological change. The proposals deal separately with short and long term changes.

In the short term, new legislation will permit newspaper groups with less than 20% of national circulation to control television broadcasters constituting up to 15% of the total television market defined by market share, subject to a limit of two Channel 3 licences, and also to apply for a limited share of the radio market. The Independent Television Commission will be able to disallow such control where it would not be in the public interest. The 20% limit to the newspaper holdings is important in disallowing television ownership by Rupert Murdoch's News Corporation and the Mirror Group, with 37% and 26% respectively. In addition, newspaper groups will be banned from controlling regional television or radio licences where they already have more than 30% of regional or local newspaper circulation. The rules limiting cross-ownership between terrestrial television, satellite and cable will be abolished, again with the exception of owners of more than 20% of newspaper circulation. The rules on local radio licence ownership will also be considerably relaxed.

In the longer term, proposals are made for defining the total media market and shares within it and developing a 'media exchange rate' reflecting the relative influence of different media. Thresholds of market share will then be set above which ownership may be disallowed by a regulator applying public interest criteria such as promoting diversity and maintaining a strong media industry. The regulator will probably take the form of the existing competition authorities.

**"Media Ownership: The Government's Proposals"; Department of National Heritage, available from HMSO Books, PO Box 276, London SW8 5DT, tel. +44 171 8739090, fax: +44 171 8730011, price £ 6.75 or through the Observatory.**

(Prof. Tony Prosser,  
School of Law, University of Glasgow)

#### News

Information on law related policy developments which may have legal consequences but of which no documents or other texts are available yet.

#### EUROPEAN COMMISSION: Creation of a Guarantee Fund

Commissioner Marcelino Oreja presented to the Audiovisual/Culture Council his guidelines on the creation of a Guarantee Fund intended to stimulate the production of European programmes. This will be the complementary financial instrument to the Media programme. The project will be submitted by Mr Oreja to the European Commission in coming weeks with a view to formal proposal at the Council in the Autumn.

**Europe Nr. 6507, 23 June 1995, Agence internationale d'information pour la presse: 12.**

#### GERMANY/TURKEY: Regional media bodies inspect programmes broadcast in Germany by the Turkish state television broadcaster TRT-INT.

At their conference at the beginning of May 1995 the directors of the regional media bodies were called upon to make an inspection of the programmes broadcast by the Turkish state television channel TRT-International (TRT-INT). This Turkish station can be seen by cable or satellite in most of the Federal states.

The inspection was instigated by a special 56-hour programme broadcast at the end of April 1995 under the title "Rise up Turkey! Give courage to our soldiers" in which TRT-INT had called the population to support military forces deployed in Northern Iraq against the Kurdistan Workers' Party (PKK) by giving very generous donations.

Following this, the "media agency for human rights", Delmenhorst, lodged a complaint with the regional media bodies against this call for donations. The agency demanded that TRT-INT's licence to broadcast by cable be withdrawn. They accused TRT-INT of inciting racism and glorifying war.

Criticism also came from the journalists' association IG Medien in Stuttgart and from the "Federation of Kurdish Associations in Germany" (YEK-KOM).

At their session on 9 May and following the translation of 8 hours of this 56-hour programme into German, the conference of directors of the regional media bodies expressed their concern about the nationalist and warlike tone employed in the programme. The chairman of the Joint Observatory for Youth Protection and Programme Planning was requested to liaise with TRT-INT directly on this subject. The Federal government was also asked to express its doubts to Turkey to the effect that the programmes broadcast by TRT-INT had incited a considerable amount of protest from the German public. No other criticisms were expressed however.

Turkey belongs to the states which ratified the European convention on cross-border television on 5 May 1989. As an approved broadcaster in Turkey, TRT requires no licence to broadcast its programmes in Germany. Even though the European convention forbids inciting racism and both the uncontrolled showing of violence and the disregard for human dignity, this infringement can only be penalised by action under article 24 of the convention. This means that the broadcasting signatory is given a warning and only in exceptional cases is the programme in question subject to a temporary ban (see article 24 of the TV convention).

(Andrea Schneider,  
Institut für Europäisches Medienrecht - EMR)

#### AUSTRIA: Appeal of the International Human Rights Tribunal on discrimination against homosexuals and transsexuals in the media

From 9 until 12 July 1995 an International Human Rights Tribunal was held in Vienna under the title "50 Years of the 2nd Republic, 50 Years of Gay and Lesbian Repression". 7 senates each dealing with a different field and made up of rotating teams of experts and other prominent members, heard the accusations and evidence given and pronounced their ruling. Freda Meissner-Blau, the candidate for the presidential elections of 1986 (defeated at the time by Kurt Waldheim) and who is the founding party leader of the Greens in Parliament presided over the court accompanied by the publisher of FORUM, Gerhard Oberschlick.

The 7th senate of the Court dealing with public affairs was made up of the authors Heimrad Backer, Josef Haslinger and Doron Rabinovici, the sex therapist and politics and current affairs critic Rotraud Perner, the journalist Trautl Brandstaller, the psychologist Jutta Zinnecker, the University Professor for Dogmatic Religious Sciences Kurt Luthi, and the essayist Claus Tieber.

The Tribunal chose to give its ruling in a quasi legal form and in which it decided that reparative action should be offered at a national level (for instance enacting the right to damages under media legislation in the case of libel, ridicule, provocation and other forms of discrimination which certain individuals have had to bear). If an individual does not exercise this right then this reparative action can be awarded to any group or organisation in whose undeniable interest it is to have the type of discrimination recognised.

**Ruling by the International Human Rights Tribunal "50 years of the 2nd republic, 50 years of gay and lesbian repression". VII Public affairs and other documents available in German in FORUM, an international review for cultural freedom, political balance and mutual co-operation, Museumstraße 5, A-1070 Vienna, telephone and fax n°: +43 1 523 83 68 or also from the Observatory.**

(Gerhard Oberschlick,  
Publisher of FORUM)

#### SPAIN: Expensive broadcasting rights for a sports event

No Spanish TV channel will be broadcasting the Wimbledon tennis tournament. The channels failed to reach agreement over paying more than 350 million pesetas for the rights. Right until the last moment TV-3 was trying to salvage the contract, which had been drawn up with UFA, the German production, distribution and broadcasting rights company, which held worldwide rights to Wimbledon.

Also, the International Olympic Committee (IOC) announced that the sale of TV broadcasting rights to the Atlanta Olympics in 1996 would generate a surplus of \$ 900 million, 47% up on the 1992 Barcelona Olympics.

#### SPAIN: An advertising self-regulatory Association is set up

The Advertising Self-Regulatory Association was set up by a hundred or so advertisers, advertising agencies and communications organisations in June 1995 with the aim of applying the codes of practice through a jury elected by the Association, although operating independently of the Association. Rafael Garcia Gutierrez was elected Chairman.

#### SPAIN: Tapping King Juan Carlos' phone conversations

The spokesman for the Judges of the Supreme Court declared on 15 June 1995 that the broadcasting of the contents of King Carlos' taped telephone conversations constituted an offence. Article 18 of the Spanish Constitution guarantees the right to privacy, an essential part of the individual's rights. Legal precedents were set in the decisions of the Constitutional Court of 22/1984 and 114/1984. The Institutional Act 1/1982 of 5 May 1982 states that breach of the civil right to honour, personal and family privacy and self-image can be compensated by the award of damages. Articles 192, 192a, 197 and 197a of the recently-amended Spanish penal code (Codigo Penal), punishes not only those who tap the conversations and then reveal what they heard, but also any party who acquires such information, knowing it to have been illegally obtained.

#### GERMANY: The German Association of Journalists demands new regulations governing copyright protection

The German Association of Journalists has called upon the Federal Parliament to enact new regulations concerning copyright protection. According to the association, these regulations have been needed for a long time and have now taken on new meaning in the age of multimedia. Above all, journalists claim that it is time to improve the status of the freelance worker. The current business constraints mean that journalists are practically forced to use their work for any imaginable purpose. In their opinion, copyright law must set down inalienable regulations guaranteeing freelance journalists a financial return on their work.

(Volker Kreutzer,  
*Institut für Europäisches Medienrecht - EMR*)

#### MONACO: Signature of a Treaty on transmission rights between France and Monaco

The Treaty, signed on 8 April by N.Sarkozy, the Minister of the Budget, with special responsibility for Communications, and A.Juppé, Minister of Foreign Affairs on the one hand and P.Dijoud, Minister of State for the Principality of Monaco, on the other, sets out the relationship between France and Monaco over transmission rights. The Treaty allows *Télé Monte-Carlo* (TMC) to continue broadcasting in French territory. The broadcasting licence held by TMC for broadcasting from three transmitters covering the south of France had run out. The decision to renew did not come within the Audiovisual Supervisory Board's jurisdiction, as the provisions of the law of 29 July 1982 concerning the regulation of "peripheral" media, in other words those located outside of French territory, had been annulled by subsequent laws on the audiovisual sector. A law approving this Treaty is due to come before the next session of Parliament and will be signed by the President of France and Prince Rainier of Monaco.



#### FRANCE: The Audiovisual Supervisory Board (CSA) replies to TV Carton Jaune

The Audiovisual Supervisory Board (*Conseil supérieur de l'audiovisuel - CSA*) came under questioning by TV Carton Jaune, an association of legal experts arguing for more honesty in TV news. The association asked why Patrick Poivre D'Arvor, the presenter of the 8pm news programme was being allowed to keep his job in the wake of his being found guilty of misappropriation of funds in the recent "Botton" case. The CSA re-stated its commitment to accurate news broadcasting and its opposition to any misleading reporting, but went on to say that whatever they might think of the affair, they could not become involved in the hierarchical relationships a broadcaster had with its employees and that it could not call upon the employers to take disciplinary measures.

#### GERMANY: Improved Protection for Young People - The Regional Media Bodies Co-operate with the Voluntary Television Review Body

Over the last few months the regional media bodies have expressed their doubts over the efficiency of work carried out by the voluntary Television Review Body. This led to a preliminary meeting between the regional media bodies' Youth Protection And Programme Planning Working Party and representatives of the review body in Berlin on 7 June 1995.

As was reported in IRIS 1995-3:7 and 5:9, the review body carries out pre-broadcast examinations on television programmes offered by private channels. To save time, not all the programmes proposed by a television channel are assessed. Only those programmes which could cause concern for youth protection are put before the review body by the youth protection officer of the member channel. In order to prevent certain programmes being slipped past, the review body also carefully watches programme listings and, if necessary, calls upon its independent board of trustees to intervene.

The first meeting between the two bodies served to discuss varying assessment criteria and bring evaluation standards into line with each other. For this purpose, seven representative films were assessed separately by both control bodies and discrepancies between results were studied.

It is proposed to continue collaboration between the two bodies and it is expected that this in turn will lead to improved youth protection in German television. Effective youth protection as it is set out in the State Radio Convention (based on the fundamental principle of organiser empowerment and limits on scheduling) can only be achieved by a meaningful combination of the two means of control (self-regulation by the voluntary review body and the supervisory control provided by the regional media bodies).

(Andrea Schneider,  
*Institut für Europäisches Medienrecht - EMR*)

#### State of Signatures and Ratifications of relevant international treaties (excluding European Conventions) on 1 April 1995

In IRIS 1995-1: 16-18 and IRIS 1995-3: 11-14 we provided overviews of the State of Signatures and Ratifications of European Conventions that are relevant to the audio-visual sector.

In this issue we provide an overview of the State of Signatures and Ratifications of other international treaties that are relevant to the audio-visual sector. The overview is updated by the Council of Europe's Media Section until 1 April 1995.

On 19 April 1995, Bulgaria became Party to the Rome Convention and the Convention for the protection of producers of phonograms against unauthorised duplication of their phonograms.

#### A. World Intellectual Property Organisation (WIPO)

##### *Berne Convention for the protection of literary and artistic works*

Berne Convention (1886), revised at Berlin on 13 November 1908 (Berlin Act), revised at Rome on 2 June 1928 (Rome Act), revised at Brussels on 26 June 1948 (Brussels Act), revised at Stockholm on 14 July 1967 (Stockholm Act), revised at Paris on 24 July 1971 (Paris Act) and amended in 1979 (Berne Union).

(1) - date on which the State became Party to the Convention

(2) - latest Act of the Convention to which the State is party and date on which the State became party to that Act

(Council of Europe Member States)

Austria: (1) 1 October 1920, (2) Paris: 21 August 1982

Belgium: (1) 5 December 1987, (2) Brussels: 1 August 1951; Stockholm, Articles 22 to 38: 12 February 1975

Bulgaria: (1) 5 December 1921, Paris: 4 December 1974

Cyprus: (1) 24 February 1964, (2) Paris: 27 July 1975

Czech Republic: (1) 1 January 1993, (2) Paris: 1 January 1993

Denmark: (1) 1 July 1903, (2) Paris: 30 June 1979

Estonia: (1) 26 October 1994, (2) Paris: 26 October 1994

Finland: (1) 1 April 1928, (2) Paris: 1 November 1986

France: (1) 5 December 1887, (2) Paris, Articles 1 to 21: 10 October 1974; Paris, Articles 22 to 38: 15 December 1972

Germany: (1) 5 December 1887, (2) Paris, Articles 1 to 21: 10 October 1974; Paris, Articles 22 to 38: 22 January 1974

Greece: (1) 9 November 1920, (2) Paris: 8 March 1976

Hungary: (1) 14 February 1922, (2) Paris, Articles 1 to 21: 10 October 1974; Paris, Articles 22 to 38: 15 December 1972

Iceland: (1) 7 September 1947, (2) Rome: 7 September 197; Paris, Articles 22 to 38: 28 December 1984

Ireland: (1) 5 October 1927, (2) Brussels: 5 July 1959; Stockholm, Articles 22 to 38: 21 December 1970

Italy: (1) 5 December 1887, (2) Paris: 14 November 1979  
Liechtenstein: (1) 30 July 1931, (2) Brussels: 1 August 1951; Stockholm, Articles 22 to 38: 25 May 1972  
Lithuania: (1) 14 December 1994, Paris: 14 December 1994  
Luxembourg: (1) 20 June 1988, (2) Paris: 20 April 1975  
Malta: (1) 21 September 1964, (2) Rome: 21 September 1964; Paris, Articles 22 to 38: 12 December 1977  
Netherlands: (1) 1 November 1912, (2) Paris, Articles 1 to 21: 30 January 1986; Paris, Articles 22 to 38: 10 January 1975  
Norway: (1) 13 April 1896, (2) Brussels: 28 January 1963; Paris, Articles 22 to 38: 13 June 1974  
Poland: (1) 28 January 1920, (2) Rome: 21 November 1935; Paris, Articles 1 to 21: 22 October 1994  
Portugal: (1) 29 March 1911, (2) Paris: 12 January 1979  
Roumania: (1) 1 January 1927, (2) Rome: 6 August 1936; Stockholm, Articles 22 to 38: 29 January or 26 February 1970  
Slovakia: (1) 1 January 1993, (2) Paris: 1 January 1993  
Spain: (1) 5 December 1887, (2) Articles 1 to 21: 10 October 1974; Paris, Articles 22 to 38: 19 February 1974  
Sweden: (1) 1 August 1904, (2) Paris, Articles 1 to 21: 10 October 1974; Paris, Articles 22 to 38: 20 September 1973  
Switzerland: (1) 5 December 1887, (2) Brussels: 2 January 1956; Stockholm, Articles 22 to 38: 4 May 1970; Paris: 25 September 1993  
Turkey: (1) 1 January 1952, (2) Brussels: 1 January 1952  
United Kingdom: (1) 5 December 1887, (2) Brussels: 15 December 1957; Stockholm, Articles 22 to 38: 29 January or 26 February 1970

Treaty on the International Registration of Audiovisual Works  
(Geneva, 20 April 1989; entry into force: 27 February 1991)

(S=signature, R=ratification)

(Council of Europe Member States)  
Austria: 20 April 1989 (S), 27 February 1991 (R)  
Czech Republic: 1 January 1993 (R)  
France: 20 April 1989 (S), 27 February 1991 (R)  
Greece: 29 December 1989 (S)  
Hungary: 20 April 1989 (S)  
Poland: 29 December 1989 (S)  
Slovakia: 1 January 1993 (R)  
Switzerland: 30 September 1993 (S)

## B. UNESCO

### *Universal Copyright Convention*

Adopted at Geneva (1952), revised at Paris (1971); entry into force of the 1952-text: 16 September 1955 and of the 1971-text: 10 July 1974

('1952'=1952-text, '1971'=1971-text; R=ratification, A=accession, D=declaration)

(Council of Europe Member States)  
Austria: 2 April 1957 (1952-R), 14 May 1982 (1971-A)  
Belgium: 31 May 1960 (1952-R)  
Bulgaria: 7 March 1975 (1952-A), 7 March 1975 (1971-A)  
Cyprus: 19 September 1990 (1952-A and 1971-A)  
Czech Republic: 6 October 1959 (1952-D), 17 January 1980 (1971-D)  
Denmark: 9 November 1961 (1952-R), 11 April 1979 (1971-R)  
Finland: 16 January 1963 (1952-R), 1 August 1986 (1971-R)  
France: 14 October 1955 (1952-R), 11 September 1972 (1971-R)  
Germany: 3 June 1955 (1952-R), 18 October 1973 (1971-R)  
Greece: 24 May 1963 (1952-A)  
Hungary: 23 October 1970 (1952-A), 15 September 1972 (1971-R)  
Iceland: 18 September 1956 (1952-A)  
Ireland: 20 October 1958 (1952-R)  
Italy: 24 October 1956 (1952-R), 25 October 1979 (1971-R)  
Liechtenstein: 22 October 1958 (1952-A)  
Luxembourg: 15 July 1955 (1952-R)  
Malta: 19 August 1968 (1952-A)  
Netherlands: 22 March 1967 (1952-R), 30 August 1985 (1971-R)  
Norway: 23 October 1962 (1952-R), 7 May 1974 (1971-R)  
Poland: 9 December 1976 (1952-A), 9 December 1976 (1971-A)  
Portugal: 25 September 1956 (1952-R), 30 April 1981 (1971-A)  
Slovakia: 6 October 1959 (1952-D), 17 January 1980 (1971-D)  
Slovenia: 11 February 1966 (1952-D), 3 July 1973 (1971-D)  
Spain: 27 October 1954 (1952-R), 10 April 1974 (1971-R)  
Sweden: 1 April 1961 (1952-R), 27 June 1973 (1971-R)  
Switzerland: 30 December 1955 (1952-R)  
United Kingdom: 27 June 1957 (1952-R), 19 May 1972 (1971-R)



#### C. WIPO-UNESCO

*Convention relating to the distribution of programme-carrying signals transmitted by satellite / Convention concernant la distribution de signaux porteurs de programmes transmis par satellite*

(Brussels, 21 May 1974, entry into force: 25 August 1979)

(Council of Europe Member States; date on which the State became Party to the Convention; R=ratification, A=acceptance, D=declaration)

Austria: 6 August 1982 (R)  
Germany: 25 August 1979 (R)  
Greece: 22 October 1991 (A)  
Italy: 7 July 1981 (R)  
Slovenia: 25 June 1991 (D)  
Switzerland: 24 September 1993 (R)

Council of Europe Member States that have signed but not ratified the Satellite Convention:  
Belgium, Cyprus, Czechoslovakia, Denmark, Finland, France, Hungary, Luxembourg, Spain, Sweden and the United Kingdom.

#### D. WIPO-UNESCO-ILO

*International Convention for the protection of performers, producers of phonograms and broadcasting organisations*

(Rome 26 October 1961, entry into force: 18 May 1964)

(Council of Europe Member States, date of entry into force, R=ratification, A=acceptance, D=declaration)

Austria: 9 June 1973 (R)  
Czech Republic: 1 January 1993 (D)  
Denmark: 23 September 1965 (R)  
Finland: 21 October 1983 (R)  
France: 3 July 1987 (R)  
Germany: 21 October 1966 (R)  
Greece: 6 January 1993 (A)  
Hungary: 10 February 1995 (A)  
Iceland: 15 June 1994 (A)  
Ireland: 19 September 1979 (R)  
Italy: 8 April 1975 (R)  
Luxembourg: 25 February 1976 (A)  
Netherlands: 7 October 1993 (A)  
Norway: 10 July 1978 (A)  
Slovakia: 1 January 1993 (D)  
Spain: 14 November 1991 (R)  
Sweden: 18 May 1964 (R)  
Switzerland: 24 September 1993  
United Kingdom: 18 October 1964 (R)

(Council of Europe Member States having signed but not ratified the Rome Convention: Belgium and Portugal)

*Convention for the protection of producers of phonograms against unauthorised duplication of their phonograms*

(Geneva 29 October 1971, entry into force: 18 April 1973)

(Council of Europe Member States, date of entry into force, R=ratification, A=acceptance, D=declaration)

Austria: 21 August 1982 (R)  
Chypre: 30 September 1993 (A)  
Czech Republic: 15 January 1985 (D)  
Denmark: 24 March 1977 (R)  
Finland: 18 April 1973 (R)  
France: 18 April 1973 (R)  
Germany: 18 May 1974 (R)  
Greece: 9 February 1994 (A)  
Hungary: 28 May 1975 (A)  
Italy: 24 March 1975 (R)  
Luxembourg: 8 March 1976 (R)  
Netherlands: 12 October 1993 (A)  
Norway: 1 August 1978 (R)  
Slovakia: 15 January 1985 (D)  
Spain: 24 August 1974 (R)  
Sweden: 18 April 1973 (R)  
Switzerland: 30 September 1993 (R)  
United Kingdom: 18 April 1973 (R)

## PUBLICATIONS

Cripi; Y. *The Legal Implications of Disclosure in the Public Interest: An analysis of Prohibitions and Protections with Particular Reference to Employers and Employees*. 2nd ed. Sweet & Maxwell, Andover; Hants, 1995. ISBN 0-421-50200-2, £58.00.

Edelman, B. *La CJCE, le droit moral de l'auteur et le principe de non-discrimination en raison de la nationalité*, Recueil Dalloz Sirey, Paris, 1995. J. 133.

Frayssinet, J. *L'édition d'annuaires professionnels et les règles de la concurrence*, La Semaine Juridique, 1995. II.22403.

Greffe, F. *La publicité et la loi: En droit français, Union européenne et Suisse*. Litec, Paris, 1995. 1021p., FF 400.

*Index 95: Das systematische Verzeichnis des geltenden Bundesrechts*. Ed. Juristische Literatur der österreichischen Staatsdruckerei, Wien, 1995. 1048p., öS598.

Kresse, H. (Hrsg.). *Pluralismus, Markt und Medienkonzentration: Positionen*. Vistas, Berlin, 1995. ISBN 3-89158-146-7.

*Legicom. Revue trimestrielle d'actualité juridique en droit de la communication d'entreprise*. Victoires Editions, Paris, n°7/1<sup>er</sup> trimestre 1995. 164p., FF 450.

Marcelin, Y. *Protection pénale de la propriété intellectuelle*, SARL Cedat ed., Paris, 1995. Disponible par souscription à CEDAT, B.P. 399607, 75327 Paris Cedex 07, 380 p., FF 550.

Martin y Pérez de Nanclares, J. *La Directiva de televisión. Fundamento jurídico, análisis y transposición al derecho de los estados miembros de la Unión Europea*. Editorial COLEX, Madrid 1995. 605p. ISBN84-7879-212-0.

Mayer, D. *L'information du public par la presse sur les affaires en cours d'instruction*, Recueil Dalloz, Paris, 1995. Chron.80-81.

Nelson, V. *The Law of Entertainment and Broadcasting*. Sweet & Maxwell, Andover; Hants, 1995. ISBN 0-421-50150-2, £79.

Pontier, J.M. *Centième "première". Le cinéma a fait son droit*. Recueil Dalloz, Paris, 1995. chron.83-87.

Robson, J.; Griffiths, D. *Law and Regulation in European Multimedia*. Financial Times, London, 1995. £ 495.00.

Van Putten, A.J.; Leeflang, L. *Intellectuele eigendom en ontwikkelingsvraagstukken in Suriname*. Otto Cramwinkel Uitgever te Amsterdam, 1995. ISBN 90-71894-79-7

Wachsmann, P. *La seconde mort du monopole public de la radiodiffusion*, Recueil Dalloz, Paris, 1995. J.161.

## AGENDA

**The 1995 International Digital Audio Broadcasting Conference**  
London, 6-7 July 1995  
Venue: The London Marriott Hotel, London W1;  
Day 1: A revolution in broadcasting  
Day 2: Developing the Market  
Organised by Information Technology Division, IBC Technical Services Ltd,  
Tel.: (+44) 171 637 4383  
Fax: (+44) 171 636 1976 or (+44) 171 631 3214  
Bookings Department: IBC Technical Services Ltd, Gilmoora House, 57-61 Mortimer Street, London, W1N 8JX.

**Setting up a Commercial Presence on The Internet: a new place to do business and extend your markets in the globally networked 21st century**  
6-7 July 1995  
St. James Court Hotel Westminster, London SW1 (Underground: St. James Park)  
Tel.: +44 171 582 2423  
Fax: +44 171 793 8544

**International Congress on Intellectual Property Rights for Specialized Information, Knowledge and New Technologies: KnowRight'95**  
Vienna, 21 - 25 August 1995  
organized by: Austrian Computer Society, Austrian Ministry for Science, Research and Arts, Austrian National Commission for UNESCO, TermNet, Vienna University of Technology.

Information:  
Austrian Computer Society,  
Wollzeile 1-3  
A-1010 Vienna  
Tel.: +43 1 51 20 235 9  
e-mail: ocg@vm.univie.ac.at

**Post-Soviet Media in Transition. An East-West Symposium**  
25-27 August 1995, John Logie Baird Centre (Universities of Glasgow and Strathclyde), the Stirling Media Research Institute (University of Stirling) and the Department of Slavonic Languages and Literatures (University of Glasgow),  
Information and registration:  
Dr. Brian McNair, Stirling Media Research Institute, University of Stirling, Stirling FK9 4LA, Scotland, ph.: +44 786 467525, fax: +44 786 466855, e-mail address on the internet: brian.mcnaire@stirling.ac.uk.

**Direct response television**  
London, 4-5 September 1995  
Information: IBC Technical services, tel.: +44 171 6374383, fax: +44 171 636197.6/6313214, 57-61 Mortimer Street, London W1N 8JX

**Philantropy and the media**  
International Conference, Malta, 13-15 September 1995, Selmun Castle. Information and registration: Interphil, CIC Case 20, CH-1211 Geneva 20, tel.: +41 22 3776717, fax: +41 22 7347082, US\$ 250.

**Networked Multimedia '95 Summit**  
Legal briefing London (Churchill Inter-Continental),

19 Septembre 1995  
Summit 20-21 September 1995 (The Waldorf)  
Applications seminar 22 September 1995 (The Waldorf)  
Information: IIR Ltd., tel.: +44 171 9155000, fax: +44 171 9155001, 29 Bressenden Place (6th floor), London SW1E5DR

**Worldwide Approvals 95, Harmonisation, testing and regulation of fixed and mobile terminal equipment**  
London (the Langham Hilton), 20-21 September 1995  
Information: IBC Technical services, tel: +44 171 6374383, fax: +44 171 6361976/6313214, 57-61 Mortimer Street, London W1N 8JX

**Rights and Remedies in regulated industries, Challenging the Regulators: Following the recent House of Lords decision in Mercury v. Director General of Telecommunications and British Telecom**  
Friday 29 September 1995, London  
London Marriot Hotel, Organised by IBC Legal Studies and Services Limited  
Registration form and payment direct to:  
The Bookings Department, IBC Legal Studies and Services Limited, Gilmoora House, 57-61 Mortimer Street, London W1N 8JX, England, Tel.: +44 171 637 4383 (Philippa Hartnall or Linda McKay), Fax: +44 171 631 3214 (Philippa Hartnall)