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International Court of Arbitration: Final Award in TV NOVA Case

Jan Fučík
Broadcasting Council
Czech Republic

On 14 March 2003 the UNCITRAL (United Nations Commission on International Trade Law) International Court of Arbitration in Stockholm published its final award in the TV NOVA case. An international arbitration panel ordered the Czech Republic to compensate the company CME Czech Republic B.V. (CME) with the sum of USD 269,814,000.- and interest at a rate of 10 % on this sum from 23 February 2000 until the date of payment.

The Court of Arbitration in Stockholm had initiated the proceedings on the basis of an Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of The Netherlands and the Czech and Slovak Federal Republics of 1991. In September 2001 the Tribunal rendered a Partial Award, which stated that the Czech Republic had violated the provisions of the Treaty and was obliged to pay compensation for the loss CME suffered as a result of the violation of the Treaty in accordance with the fair market value of CME´s investment (regarding the factual background see IRIS 2001–10: 2). After resolving the issue of liability in the first phase of the proceeding, the remaining issue in the second phase of the arbitration was to determine the reparation for the "genuine value" of the CME´s investment in the Czech republic. The tribunal ruled that the appropriate form of relief would be full reparation corresponding to "the fair market value of CME´s investment as it was before the respondent breached the Treaty". CME itself estimated the value of its investment to be USD 500 million. ■

• **The Arbitration Award in TV NOVA Case, available at:**
http://www.cnts.cz/doc10/cz/pdf/FinalAwardQuantum.pdf

CS

EUROPEAN UNION

European Council: Conclusions of the Spring European Council 2003

On 20 and 21 March 2003, the European Council met in Brussels for its third annual Spring meeting. At its Spring meetings, the European Council concentrates on setting the direction for the EU's economic, social and environmental action in order to meet the goals of the strategy set out by the Lisbon European Council in 2000 (the Lisbon strategy) to make the European Union the world's most competitive and dynamic knowledge-based economy by 2010.

In its Conclusions, the European Council notes the considerable progress made on the Lisbon agenda, whilst

• **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
http://www.obs.coe.int/

• **Comments and Contributions to:**
IRIS@obs.coe.int

• **Executive Director:** Wolfgang Closs

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• **Documentation:** Edwige Seguenny

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also stressing that much remains to be done. The Conclusions identify the priority objectives for the Union with regard to the Lisbon reform programme and set out orientations and specific actions for the next twelve months in order to meet these objectives.

Amongst the actions to be carried out, the European Council stresses the need to consolidate the role of electronic communications as a powerful engine for growth, competitiveness and jobs, and maintain the momentum behind the information society. In line with the Commission's recent analysis of the telecommunications sector and the eEurope 2005 Action Plan (see IRIS 2003-3: 6 and *infra*), the Conclusions identify a number of actions needed in this respect. These include: full implementation by July 2003 of the new regulatory framework for electronic communications; the promotion of "e-Inclusion", removing barriers to the participation of persons with disabilities in the knowledge society; the exchange of experience and best practice in the development of broadband networks and on-line services; addressing new issues raised by the development of third-generation mobile communications; the adoption of the directive on the re-use of public sector documents and the setting up by end 2003 of a European Network and Information Security Agency. Member States are also called upon to put in place national strategies for high-speed Internet by end 2003, with an aim to substantially increasing high-speed connections by 2005. The Commission is asked to prepare guidelines by mid-2003 on the criteria and modalities of implementation of Structural Funds in support of the electronic communications sector and to report on developments in the telecommunications sector before the 2004 Spring European Council.

The European Council also urges the Commission and the Member States to strengthen measures to fight against counterfeiting and piracy, which discourage the development of a market for digital goods and services (see IRIS 2003-3: 8).

In addition to addressing the Lisbon strategy, the European Council also adopted conclusions on enlargement and a number of international issues. ■

Sabina Gorini
Institute for Information Law (IViR) University of Amsterdam

● **Presidency Conclusions of the Brussels European Council of 20 and 21 March 2003, available at:**
http://ue.eu.int/newsroom/related.asp?BID=76&GRP=5652&LANG=1

DA-DE-EL-EN-ES-FI-FR-IT-NL-PT-SV

Council of the European Union: Resolution on Implementation of eEurope 2005 Action Plan

On 18 February 2003, the Council of the European Union adopted a Resolution on the implementation of the eEurope 2005 Action Plan, following the Conclusions of the Seville European Council of June 2002, which call upon all the institutions of the European Union to ensure full implementation of the Action Plan by the end of 2005 (see IRIS 2002-7: 4 and IRIS 2003-3: 6). The eEurope Action Plan is part of the Lisbon strategy to make the European Union the most competitive and dynamic knowledge-based economy by 2010 (see *supra*) and focuses on the development of the on-line economy and on providing the necessary conditions for Europeans to live and work in the information society. A first Action Plan was launched in 2000 (eEurope 2002 – see IRIS 2003-3: 6) with the aim of increasing Internet connectivity in Europe. eEurope 2002 was then succeeded by the eEurope 2005 Action Plan which, building on the achievements of its predecessor, sets new targets to be attained by the end of 2005. The aim of the new Action Plan is to stimulate secure Internet "services, applications and content, based on a widely available broadband infrastructure".

In its Resolution, the Council underlines the need to ensure participation for all in the information society throughout the implementation of the eEurope 2005 Action Plan. The Council stresses the importance of the availability of high quality digital content for the development of interactive broadband services, as well as the importance of using access platforms such as digital television and third generation communications and of ensuring security of networks and information.

The Council urges the Member States to do their best to achieve the objectives of the Action Plan, working with all stakeholders towards effective implementation. The Member States are also invited to contribute by mid 2003 to a review of the national actions taken to achieve such objectives.

The Resolution also welcomes the Commission's intention to: establish a "steering group" to monitor progress of the Action Plan with an aim to improving its implementation; ensure that allocated Community funds contribute to achieving the Action Plan's objectives; prepare a mid-term review of the Action Plan prior to the 2004 Spring European Council and promote the exchange of good practice in co-operation with the Member States.

The Resolution also sets out (in its Annex) a list of indicators and guidelines for the carrying-out by the Commission of the benchmarking exercise envisaged for the Action Plan. In this regard, the Council agrees to the consistent involvement of the Candidate Countries in the benchmarking exercise and exchange of good practice as well as to consider in due course adjustments to the Plan to take account of their accession to the European Union. ■

Sabina Gorini
Institute for Information Law (IViR) University of Amsterdam

● **Council Resolution of 18 February 2003 on the implementation of the eEurope 2005 Action Plan, OJ C 048 of 28 February 2003, available at:**
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=52003XG0228(01)&model=guichett

DA-DE-EL-EN-ES-FI-FR-IT-NL-PT-SV

European Commission: Proposal for EU Offer in WTO GATS Negotiations

At the beginning of February 2003, the European Commission announced that it had prepared the European Union's initial offer on services in the current round of World Trade Organisation (WTO) negotiations, launched at the Fourth WTO Ministerial Conference in Doha in November 2001 ("the Doha Development Agenda").

Initiated in early 2000, the current services negotiations under the WTO General Agreement on Trade in Services (GATS), received new impetus from the Doha Agenda, which set 30 June 2002 as the date for the submission of initial requests for improved market access and 31 March 2003 as the date for the presentation of initial offers by WTO members. The European Union accordingly submitted its requests in July 2002 and received in turn initial requests from 27 countries.

The Commission's proposed offer responds to the requests made to the European Union, in particular to those from developing countries, also taking into account the input received by the Commission following the public consultation it launched on the subject in November 2002. The proposal contains offers to improve access for foreign competitors to a number of sectors, including telecommunication services, news agencies

services and computer services. For telecommunications services, the proposal is to guarantee foreign operators open access to the European internal market, while safeguarding the European Union's right to define its universal service objectives for such services. The offer provides for the removal of prohibitions on telecom companies to engage in non-telecom activities and to provide telecom services across borders.

The Commission stresses that the offer "has been designed to preserve all public services in the EU". Thus no commitments are proposed regarding education or health services. With regard to audiovisual services, the proposal maintains the position adopted by the European Union in the previous round of WTO negotiations (the Uruguay Round – see IRIS 1995-10: 3 and IRIS 1997-3: 4). This means that the proposal provides for no commitments to be made in this sector and for the maintenance of all the exceptions to the "Most Favoured Nation" clause listed by the EU for this sector in the Uruguay Round "to cover cultural policies such as co-production agreements and privileged treatment accorded to audio-visual works originating from the EU and other European countries". This approach is in line with the Commission's mandate (set by the Council in its Conclusions of 26 October 1999) to preserve freedom for Member States and the Community to maintain and develop measures in the areas of audiovisual and cultural policy in order to preserve their cultural diversity.

It should be noted that half of the requests received by the European Union from WTO members for improved market access include requests regarding audiovisual services, although the "level of ambition" of such requests varies (a document prepared by the Commission for the November 2002 public consultation contains an outline of the requests received).

The draft offer has been transmitted to the Council and the European Parliament for their consideration prior to being tabled in Geneva at the end of March. The Parliament adopted a Resolution on the subject on 12 March 2003 (see *infra*). The Council considered the proposal at its meeting of 18 -19 March 2003, at which it invited its competent Committee (the "Article 133 Committee") to make every effort to agree the best possible initial offer by the 31 March deadline.

The offer, which is for the moment still confidential to allow Member States the opportunity to discuss it freely, will be made public as soon as it will be finalised, at which time it will also be communicated to the WTO. ■

Sabina Gorini
Institute for Information Law (IViR)
University of Amsterdam

● "WTO Services: Commission submits draft offer to Council and Parliament – public services fully defended", Press Release of the European Commission IP/03/186 of 5 February 2003, available at:
http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/186|0|RAPID&lg=EN&display=
DE-EN-ES-FR

● Summary of the Commission's Proposal for the EU's Services Offer, February 2003, available at:
http://europa.eu.int/comm/trade/services/servof.pdf
EN-FR

● Summary of the EC's Initial Requests to Third Countries in the GATS negotiations, 1 July 2002, available at:
http://europa.eu.int/comm/trade/services/gats_sum.htm
EN

● WTO Members' requests to the EC and its Member States for improved market access for services, Consultation Document, November 2002, available at:
http://europa.eu.int/comm/trade/services/imas.pdf
DA-DE-EL-EN-ES-FI-FR-IT-NL-PT-SV

● 1999 and 2000 Consultations launched by the Commission on audiovisual services and the GATS, available at:
http://europa.eu.int/comm/avpolicy/extern/gats2000/gats2000_en.htm
EN-FR

European Parliament: Resolution on GATS and Cultural Diversity

On 12 March 2003, the European Parliament adopted a Resolution on the General Agreement on Trade in Services (GATS) within the World Trade Organisation (WTO), including cultural diversity. The Resolution was adopted following the submission by the Commission to the European Parliament and the Council, at the beginning of February 2003, of its proposal for the EU's initial offer on services in the current round of WTO negotiations, "the Doha Development Agenda", launched in November 2001 (see *supra*).

The European Parliament welcomes the Commission's initial offer, supporting the further opening up of the sectors in respect of which commitments are proposed (including, for example, telecommunications, computer services, professional services and financial services).

The Resolution also welcomes the absence of commitments in the health, education and audiovisual sectors, calling on the Commission to maintain this position throughout the negotiations. In particular, the Parliament recalls the specific nature of cultural services, and underlines the role of the European audiovisual sector in promoting cultural pluralism, economic performance and freedom of expression. Stressing the importance of cultural diversity, the Parliament "supports the Commission in maintaining the possibility for the Community, its Member States and its regions to preserve and develop their capacity to define and implement policies in the cultural and audiovisual sectors, in order to preserve their cultural diversity".

Particular attention is also paid to the situation of developing countries. In this respect, Parliament stresses that pressure should not be put on developing and least developed countries to liberalise services – in particular public services – and that the Commission should act sensitively in sectors in which these countries have "genuine development-based objections".

While welcoming the Commission's efforts with regard to transparency in the negotiations, the Parliament calls for improvements in this area. The Parliament asks that full access to European Union negotiating documents be given to all its Members, for effective parliamentary scrutiny of offers to be allowed, and calls for greater information on requests and offers to be made public. Addressing the European Parliament, Trade Commissioner Pascal Lamy explained that the confidentiality of the details of the offer was necessary for the negotiating process.

The Resolution was welcomed by Pascal Lamy, who expressed his support for the European Parliament's desire to have a greater role in the elaboration of EU trade policy. ■

Sabina Gorini
Institute for Information Law (IViR)
University of Amsterdam

● European Parliament resolution on the General Agreement on Trade in Services (GATS) within the WTO, including cultural diversity, adopted on 12 March 2003, provisional text available at:
http://www3.europarl.eu.int/omk/omnsapir.so/pv2?PRG=CALDOC&FILE=030312&LANGUE=EN&TPV=PROV&LASTCHAP=11&SDOCTA=6&TXTLST=1&Type_Doc=FIRST&POS=1
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● " WTO Trade in Services: Pascal Lamy welcomes European Parliament Resolution", Press release of the European Commission IP/03/367 of 12 March 2003, available at:
http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/367|0|RAPID&lg=EN&display=
DE-EN-FR

● Speech of Mme Viviane Reding on "Cultural Diversity" at the European Parliament, Strasbourg, 10 March 2003, Press Release of the European Commission SPEECH/03/117 of 10 March 2003, available at:
http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=SPEECH/03/117|0|RAPID&lg=FR&display=
FR

REGIONAL AREAS

Common Declaration by European Film Institutes

Willemijn Heeringa
Institute for Information Law (IViR) University of Amsterdam

The national film institutes of the 15 Member States of the European Union have made a common declaration on the importance of State aid for European films. This is the first time the film institutes have made a common statement.

The national film institutes are publicly funded and were founded to support national and European film culture. In this common declaration the institutes express their concerns regarding the necessity for State aid for European films. The institutes are worried that the audiovisual sector in Europe will be left solely to the chances of free market forces. In the declaration, the institutes refer to the Commission's Cinema Communication of 26 September 2001 (see IRIS 2001-9: 6). The Communication examines, *inter alia*, State funding for cinema and its compatibility with EC competition law. The national film institutes emphasize that the rules for the approval of State aid, laid down in the Communication, undermine the effectiveness of State aid for film. For example, the current rules only allow State aid for films that are considered to be "cultural", and State aid is limited to a maximum of 50% of the costs of films. These regulations do not take into account the special character of the sector. Another problem that has been identified is the short duration of the Commission's approval of the current national State aid schemes, which is only valid until 2004. This makes it impossible for States to create a long-term policy.

The institutes claim that a powerful European film culture can only develop in the right conditions. The position of national film culture will have to be strengthened and expanded before a European film culture can ever exist. The institutes ask their national governments to work together with the European Commission to make sure that the future of European film is secured. ■

● European National Film Agencies Common Declaration of 17 March 2003, available at:
http://www.cnc.fr/b_actual/fr_declaration.htm (FR)
http://www.ffa.de/start/content.phtml?page=presse_detail&news=227&list=0 (DE)

FR-DE

NATIONAL

BROADCASTING

AL – Changes on the Law for Radio and Television

Hamdi Jupe
Albanian Parliament

On 20 February 2003 the Parliament of Albania approved changes to the Law No. 8410 of 30 September 1998 "On public and private radio and television in the Republic of Albania" (see IRIS 2003-3: 9 and IRIS 1999-2: 11).

According to the amendment of article 7 no. 19 of Law No. 8410, the Parliament is allowed to approve the Annual Report of the *Keshilli Kombetar i Radiotelevizionit* (National Council on Radio and Television – NCRT, state authority responsible for the licensing of private radio and television) by a simple majority of the votes. As to the former situation, the Parliament needed to have a majority of 2/3 of the votes to pass the NCRT's report, which has to be presented at the beginning of the year and contains the description of its activity and of the situation of electronic media in Albania. The NCRT – according to Art. 7 no. 19 – must be suspended immediately, if the Parliament does not adopt the report for two years in succession, and a new Council has to be elected by Parliament.

In 2002 the Albanian Parliament did not adopt the Council's Annual Report for 2001 and recently the Council presented its report for the year 2002. ■

● Law of 20 February 2003 on the amendment of Law No. 8410 of 30 September 1998 "On the public and private radio and television in the Republic of Albania"

SQ

AT – Decision on Frequency Sharing

Peter Strothmann
Institute of European Media Law (EMR), Saarbrücken / Brussels

On 19 January 2003, the Austrian broadcasting regulatory authority, *KommAustria*, decided to reallocate a frequency in the dispute between *Österreichischer Rundfunk* (the Austrian public-service broadcasting company - *ORF*) and the private channel, *PULS CITY TV*. From July onwards, when *PULS CITY TV* is due to start broadcasting, channel 34 – which is currently used for terrestrial broadcasting of *ORF 2*'s analogue programmes – will be used for most of the day in the Vienna area by *PULS CITY TV*. *ORF* will only be switched back to for a three-minute news slot and an evening news programme. *KommAustria* refused *ORF* the further broadcasting time it wanted to use for the parallel transmission of regional advertising on channel 34. It also held that special programmes which are of particular regional interest to the population of Vienna (e.g. reports on elections to the National Assembly and the *Landtag*), could still be broadcast by *ORF*. The equally vexed issue of the compensation to be granted for the joint use of *ORF*'s broadcasting installations by *PULS CITY TV* was decided on the basis of a report drawn up in the course of the proceedings.

KommAustria took its decision with reference to article 19, paragraph 3, read in conjunction with article 5 of the *Privatfernsehgesetz* (the Private Television Act). *ORF* is obliged at times to allow private operators to use certain frequencies on which *ORF* programmes are duplicated. In Vienna this affects *ORF 2*, which is currently broadcast on two channels in parallel (including channel 34). ■

● Press release by *KommAustria* of 24 January 2003 available at:
http://www.rtr.at/web.nsf/deutsch/Portfolio~Presseinfos~nach%20Datum~PresseInfo-Datum~PInfo240103RF?OpenDocument

DE

BA – CRA's Proposal for Licence Fee Structure

Dusan Babic
Media expert Sarajevo

On 20 March 2003 the Communications Regulatory Agency (CRA) announced the beginning of public consultations regarding its proposal on the possible structure of the licence fee.

The Law on Communications (see IRIS 2002–10: 13) stipulates that the CRA is financed by licence fees. Currently, the CRA relates the amount of the licence fee to the power of the emitter (CRA Rule 03/199). The proposed changes should bring the calculation basis into line with European standards and international obligations in relation to the use and allocation of the frequency spectrum. According to the new structure, the fees will be based on the population covered by a broadcaster. There shall be three categories of population range and the proposed fees are calculated accordingly. The lowest category states that broadcasters that cover up to only 2000 inhabitants shall not be obliged to pay any fee. Comments should be submitted to the CRA by 31 May 2003. ■

● CRA Licence Fee Structure Proposal, a Report offered for Public Consultation, 20 March 2003, available at:
http://www.cra.ba/en/broadcast/c-actvts/?cid=2481

EN

BA – Controversies over Broadcasting Fees

Dusan Babic
Media expert
Sarajevo

In March 2003, Radio-Television of the Federation of Bosnia and Herzegovina (RTV FBA) has filed 180 000 lawsuits against citizens who have failed to fulfil their legal obligation to pay subscription fees. The asserted claims cover a period of 18 months, i.e. the period during which RTV FBA that succeeded the former RTV Bosnia and Herzegovina, had been established. According to the law of obligations, the limitation period expires two years after the claim is made.

By these means, the management of RTV FBA expects to collect 10 to 12 million Bosnian convertible marks (BAM, approximately EUR 5-6 million). The RTV subscription fee includes radio and TV, amounts to BAM 6 per month (*circa* EUR 3) and it is collected via the electricity bills. At the moment, many citizens – in order to avoid this obligation – pay their electricity consumption charges via bank money orders, by which the electricity charges can be paid separately. These orders are only given in the Federation of Bosnia and Herzegovina and not in the other entity, the *Republika Srpska*, or in *Brcko District*.

According to Article 17 of the Law on the Basis of the Public Broadcasting System and Service of Bosnia and Herzegovina, the broadcasting fees are to be distributed guaranteeing 58 percent to the respective public broadcasters of each entity and 42 percent to the public-service broadcasters on the state and on the *District Brcko* level. ■

BE – New Decree and new Management for RTBF

François Jongen
Professor at the Catholic University of Louvain

The RTBF (public-service radio and television service for the French-speaking Community in Belgium) has acquired a new management as a result of an original three-stage process, completed on 24 March.

The first stage was the adoption on 19 December 2002 of a decree amending the decree of 14 July 1997 on the status of the RTBF. This latest decree made a number of specific changes to the 1997 decree, particularly as regards the role of the regional production centres, the composition of the board of directors, negotiation of the management contract and the appointment of the general administrator. However, the most important feature of the new decree is that it sets up a scheme involving a six-year term of office with a public call for applications from candidates for the posts of directors-general, directors, senior editors and senior directors.

In the second stage, in January 2003, the RTBF called for applications from candidates to fill 42 posts at managerial level – not only in television, radio, human resources and legal services but also as managers of channels or in various editorial posts (applications for these last posts were only accepted from in-house applicants). More than 160 applications were received, and handed over to a group of experts for examination.

The third and final stage took place on 28 February 2003, when the board of directors decided on the list of successful candidates. Although the press highlighted a certain degree of interference on the part of the political parties in the appointment process, it was unanimous in viewing this new procedure as a form of renewal for the RTBF.

The new staff will be responsible for implementing the "Magellan Plan" drawn up by the RTBF's general administrator in order to straighten out its financial situation. The new directors have been appointed for a period of six years, but they could be dismissed after an assessment procedure that is to be carried out after three years. ■

● ***Décret du 19 décembre 2002 modifiant le décret du 14 juillet 1997 portant statut de la RTBF, publié au Moniteur belge du 28 décembre 2002*** **(Decree of 19 December 2002 amending the decree of 14 July 1997 on the status of the RTBF, published in the *Moniteur belge* (official gazette) of 28 December 2002), available at: www.moniteur.be**

FR-NL

● **Consolidated version of the decree on the status of the RTBF (incorporating the 2002 amendments into the 1997 text), available at: http://www.csa.cfwb.be/pdf/Decree%20RTBF.pdf**

FR

DE – Berlin Court's Emergency Ruling on "Saving Private Ryan"

Carmen Palzer
Institute of European Media Law (EMR), Saarbrücken / Brussels

In the dispute over the possible harm to minors caused by violent scenes in the film "Saving Private Ryan", the *Oberverwaltungsgericht Berlin* (Berlin Administrative Appeals Court - *OVG*) has overturned an emergency ruling by the *Verwaltungsgericht Berlin* (Berlin Administrative Court). The case concerns the granting of special permission to broadcast the film at 8.15 pm. Since the film was rated "16", it would have had to be shown after 10 pm unless such permission were granted. The body responsible for granting special permission is the *Medienanstalt Berlin-Brandenburg* (Berlin-Brandenburg Media Authority - *MABB*). Last year, the Berlin Administrative Court quashed two decisions by the *MABB*, in which the latter had refused to grant special permission (see IRIS 2002-8: 6). This time, it upheld the broadcaster's urgent application and ordered the *MABB* immediately to grant temporary permission for the film to be broadcast at 8.15 pm on 5 January 2003.

The *MABB* appealed against this decision by the Administrative Court. The *OVG* upheld the appeal and overturned the Court's verdict. Under German law, the special permission applied for may only be granted under particular circumstances in emergency proceedings. Since in such proceedings the Court's decision is anticipated, it must be highly probable, for example, that permission would be granted in later proceedings. In the *OVG's* view, this was not the case. It decided that the authority responsible should determine whether, in order to protect minors, even the edited version of the film should only be broadcast after 10 pm, bearing in mind the indisputably graphic violence shown in the first half-hour of the film. An assessment by an administrative body could not be replaced by a Court decision. Therefore, according to the *OVG*, the report by the *Freiwillige Selbstkontrolle Fernsehen* (Voluntary Self-Regulatory Authority for Television - *FSF*), which approved the broadcast before 10 pm, was not a decisive factor. Although the *FSF* report was not binding, the Administrative Court had set great store by it (see IRIS 2002-8: 6).

Meanwhile, the Administrative Court's first instance ruling has entered into force. Nevertheless, the dispute over whether the film is harmful to minors is expected to continue, since *ProSieben* showed the film on 5 January 2003 even though it had not been granted the necessary permission. The *MABB* said it would fine the broadcaster. ■

● ***Verwaltungsgericht Berlin*** **(Berlin Administrative Court), ruling of 12 December 2002, case no.: VG 27 A 392.03**

● ***Oberverwaltungsgericht Berlin*** **(Berlin Administrative Appeals Court), ruling of 23 December 2002, case no.: OVG 8 S 362.02**

DE

EE – Changes in the Estonian Broadcasting Act

Monika Silvia Valm
Norwegian Research Centre for Computers and Law
Faculty of Law
University of Oslo

The Broadcasting Act of 1994 (see IRIS 1995-1: 8) is still in force, but has been amended several times to keep pace with developments in the field (see also article *infra*).

During 2002 further amendments were made to the Act. Most of them were of minor importance, following changes in other legislation. Among those changes, it is worth highlighting the amendments regarding liability.

Estonia enacted a new Penal Code in 2002. This called for changes to be made to the Broadcasting Act. Accordingly, the Broadcasting Act has a new chapter 7^1 on liability. The new chapter was introduced by a law of 19 June 2002, which came into force on 9 September 2002. The chapter lays down fines for violations of the Broadcasting Act. Violations of broadcasting licences can be punished by fines of up to EEK 50 000 (*circa* EUR 3200) and violations of the Broadcasting Act with fines up to EEK 40 000 (*circa* EUR 2550). Under Article 43^1(2), licences can still be suspended or revoked by the Ministry of Culture, if the licensee continually fails to fulfil the conditions specified by the licence, repeatedly violates the requirements of the Act, or has submitted false information in order to obtain the licence. ■

- **Law of 19 June 2002, State Gazette RT I 2002, 63, 387**
- **Broadcasting Act (consolidated text July 2002) available at: http://www.legaltext.ee/en/andmebaas/ava.asp?m=022**

EE-EN

EE – The Rules on European Works Entered Fully into Force on 1 January 2003

Monika Silvia Valm
Norwegian Research Centre for Computers and Law
Faculty of Law
University of Oslo

The addition of Article 4^1(4) to the Broadcasting Act (see IRIS 1995-1: 8) on 19 April 2000 provided that a television broadcaster has to ensure that at least 51% of the transmission time in a calendar year, excluding the time appointed for news, sports events and games programmes and for advertising, teleshopping and teletext services, is reserved for the transmission of European works.

This provision was subject to a transition period of two years. From 1 January 2001, at least 40% of the transmission time had to be filled with European works; from 1 January 2002, at least 45%. As of 1 January 2003 the 51% requirement applies.

Another amendment of 16 June 1999, Article 4^1(5), provides that a television broadcaster has to ensure that at least 10% of the transmission time in a calendar year, excluding the time appointed for news, sports events and games programmes and for advertising, teleshopping and teletext services, is reserved for the transmission of European works created by producers who are independent of the broadcaster. Such works shall include works broadcast within five years of their production.

This provision was also subject to a transition period: as of 1 January 2000 the requirement was set to at least 5%; from 1 January 2001, at least 6.5%; from 1 January 2002, at least 8%. Now, as of 1 January 2003, the 10% requirement fully applies.

It should be noted that the main exception to the requirements of Articles 4^1(4) and (5) is that they will not apply to television programmes that are intended for local audiences and are broadcast by means of a broadcasting transmitter that is not part of the national transmission network.

The intention behind these amendments was to act in conformity with EC Directives 89/552/EEC and 97/36/EC (the "Television without Frontiers" Directive, as amended). ■

- **Amendment of 19 April 2000 to the Broadcasting Act, State Gazette RT I 2000, 35, 220**
- **Broadcasting Act (consolidated text July 2002) available at: http://www.legaltext.ee/en/andmebaas/ava.asp?m=022**

EE–EN

FR – CSA Recommendations on Covering the War in Iraq

Amélie Blocman
Légipresse

On 18 March the CSA (*Conseil supérieur de l'audiovisuel* – audiovisual regulatory body) adopted a six-point recommendation on audiovisual media coverage of the war in Iraq. Calling on all the television and radio services to be particularly vigilant in exercising their editorial responsibility, the CSA reminded them of the need to check that the information they broadcast was correct and, in the event of uncertainty, to use the conditional tense in its presentation, quoting the source and the date. If they did broadcast information that proved to be incorrect, it was important to broadcast a correction as soon as possible, giving this comparable exposure. Archive material should be clearly marked as such during broadcasting.

The CSA also calls on the audiovisual media to ensure that there is no indulgent exploitation of documents that are particularly traumatising. Thus they are not to broadcast documents that contravene the Geneva Convention on prisoners of war. As a result, the Paris representative of the Qatari channel Al-Jazira was called to the CSA less than a week after the recommendation had been adopted to explain why footage of American soldiers presented as prisoners of war held by the Iraqis had been broadcast on television, showing the soldiers being interrogated, which contravenes the Geneva Convention. Under Article 42 of the Act of 30 September 1986, the sanctions that could be inflicted on the channel, which holds an agreement with the CSA since 1999, renewed in 2001 and valid until 2006, range from a mere warning, through temporary suspension of broadcasting or a reduction in the duration of its agreement, to the obligation to broadcast a correction. Further to this incident, the CSA gave more details on 24 March of the terms of its recommendation, calling on the audiovisual media clearly to ensure firstly that it is not possible to identify the prisoners of war, and secondly that what they say is not broadcast. The CSA also said that it had contacted its counterparts in the European Union so that a joint position could be adopted on the issue.

The CSA also called on television and radio stations to act responsibly and adopt the necessary strictness when dealing with subjects likely to fuel tension and antagonism among the population or cause attitudes of rejection or xenophobia towards certain communities or certain countries. This vigilance should be applied to all programmes and more particularly to discussion or "freedom of speech" broadcasts in which invited guests and viewers or listeners had access to the airwaves. ■

- **CSA recommendation no. 2003-2 of 18 March 2003, supplemented by communiqué no. 526 of 24 March 2003, available at: http://www.csa.fr/infos/textes/textes_detail.php?id=11876**

FR

FR – Reorganisation of Frequencies for Terrestrially-broadcast Digital Television – CSA Appeals to the *Conseil d'État*

Implementing terrestrially-broadcast digital television requires a partial reorganisation of Hertzian frequencies. The CSA (*Conseil supérieur de l'audiovisuel* – audiovisual regulatory body) therefore decided, on 30 April 2002, to implement a first stage of seventeen rearrangements involving several television services authorised for terrestrially-broadcast analog television. This stage was to be carried out as an experiment in order to assess more particularly the cost of the operation that should in the end cover 1500 frequencies, so that 80% of the population will be able to receive terrestrially-broadcast digital television. The channels had been given a long period for substituting these frequencies, and the process was to be complete by 1 March 2003. The rearrangements have only been applied to the frequencies occupied by *France Télévisions*, however; neither *TF1* nor *M6* have made the slightest move to apply the rearrangement decisions concerning them.

This state of affairs has resulted in broadcasting since 1 March 2003 from five sites (Coulommiers, Fosses-Marly, Erquy, Guingamp and La Baule) on frequencies that are no longer attributed to them, and the CSA instructed its Chairman to lodge an application in an urgent matter with the *Conseil d'État* to have the companies obliged to carry out these frequency rearrangements which are necessary for the launch of terrestrially-broadcast digital television. Article 42-10 of the amended Act of 30 September 1986 does indeed allow the Chairman of the CSA, in the event of an audiovisual communication service failing to adhere to "the body of audiovisual legislation", to "apply to the Courts for the person responsible to be ordered to comply with such provisions, to put an end to the irregularity in question or to cancel out its effects". Application was therefore made to the presiding judge of the disputes section of the *Conseil d'État*, who deliberates in urgent matters; his decision is enforceable immediately. The presiding judge may, even on his own initiative, order any measure of compliance or coercive fine to be paid into the public revenue department in respect of enforcement of his order. This possibility of the CSA applying to the *Conseil d'État* should be emphasised; the last time this was done on the basis of Article 42-10 was as long ago as 1989!

The CSA asked the *Conseil d'État* to include in its order a coercive fine, the amount of which was intended to have a dissuasive effect on the channels, forcing them to apply the decision to reorganise the frequencies as quickly as possible. The CSA asked the judge to determine the amount of the daily coercive fine on the basis of the profits made by each company, claiming EUR 100 000 for *TF1* and EUR 75 000 for *M6*, payable starting one month after the Conseil d'État delivered its decision. The *Conseil d'État* delivered its decision on 27 March, ordering *TF1* and *M6* to stop broadcasting on the frequencies intended for terrestrially-broadcast digital television within a period of one month and to start broadcasting their programmes on the new frequencies allocated by the CSA. The order states that, beyond this deadline, they are liable to pay a coercive fine per day of delay amounting to EUR 15 000 for *M6* and EUR 30 000 for *TF1*. ■

Amélie Blocman
Légipresse

- **Conseil d'Etat, ord. réf., 27 mars 2003 - Métropole Télévision**
- **Conseil d'Etat, ord. réf., 27 mars 2003 - TF1**
- **CSA communiqué no. 523 of 4 March 2003, available at: http://www.csa.fr/actualite/communiques/communiques_detail.php?id=11682**

FR

FR – CSA Comments on Draft Decree on Broadcasting of Events of Major Importance

On 21 January 2003, the Ministry of Culture and Communication sent the CSA (*Conseil supérieur de l'audiovisuel* – audiovisual regulatory body) a draft implementing decree in respect of Article 20-2 of the amended Act of 30 September 1986, directed at organising the television broadcasting of events of "major importance". The TWF Directive was incorporated into the Audiovisual Communication Act on 1 August 2000, but the corresponding implementing decree has still not been adopted.

Before coming to a decision, the CSA wished to consult the editors of television services likely to apply to acquire the rights for broadcasting such events. Their comments focussed on the content of the list of events, numbering 21, drawn up in Article 3 of the draft decree. They pointed to a foreseeable divergence between editors of open-access services, who favoured an extensive list, and editors of restricted-access services, who preferred a shorter list. The CSA has always made it known that it feels it is not satisfactory to draw up a list that diverges from the guidelines established by the European Commission, according to which at least two of the four criteria adopted must be met for the event to count as being "of major importance". These are that the event attracts a wider audience than usual, participates in national cultural identity, involves a national team in a large-scale event, or traditionally attracts a large television audience. With this in mind, and regretting that the draft decree does not take up these criteria in defining an event of major importance, the CSA proposes in its comments to designate twelve sports competitions in which France participates, with a possible four others.

The CSA also noted that Article 5 of the draft decree gave it responsibility for assessing the fair, reasonable and non-discriminatory nature of the proposals to sell or purchase rights that television service editors could make when a restricted-access service editor has to renounce the exclusive broadcasting rights it holds. The CSA nevertheless feels it is desirable, to remove any ambiguity, for the method for applying to it to be set out in detail.

Lastly, although the draft touches on the matter of the reassignment of rights between service editors, it does not mention the matter of fruitless calls for tenders, when there is no response from an open-access television service to a call for tenders by the organiser of an event of major importance. To prevent a lacuna in the law, the CSA is proposing that in such a situation the decree should apply a scheme that responds to the same end result as that provided for in its Article 5; if the entire French public is not to be deprived of the broadcasting of an event of major importance, it must be possible for a restricted-access television service editor to be able to acquire exclusive broadcasting rights for such an event if no open-access service editor comes forward. The decree could give the CSA the task of working out with those concerned how to avoid such a situation, particularly by inviting open-access and restricted-access service editors to agree on the joint broadcasting of the event. It is now up to the government to take the next step. ■

Amélie Blocman
Légipresse

- **CSA opinion of 12 March 2003 on the draft decree on the television broadcasting of events of major importance, available at: http://www.csa.fr/infos/textes/textes_detail.php?id=11919**

FR

FR – CSA Details Arrangements for Broadcasting Violent or Pornographic Programmes

Amélie Blocman
Légipresse

After calling for a ban on broadcasting pornographic films on television (see IRIS 2002-8: 7 and IRIS 2002-10: 10) taking note of the recommendations contained in the Kriegel report on violence on television (see IRIS 2003-1: 9), the CSA (*Conseil supérieur de l'audiovisuel* – audiovisual regulatory body) has now adopted a deliberation that details and supplements the existing arrangements in order to restrict the broadcasting of programmes of this type on television (programmes that fall into the so-called "Category V", which covers "cinematographic works that may not be shown to young people under the age of 18 and pornographic or extremely violent programmes that may only be shown to informed adults and could possibly be damaging to the physical, mental or moral development of young people under the age of 18").

Based on this, the CSA stated that it would not authorise the broadcasting of such programmes except by services with the status of a "cinema" channel (XXL, TPS Star et Cinéma, etc) carrying specific investment undertakings, by encrypted channels having made substantial commitments contributing to production (Canal +), or by pay-per-view services (Kiosque, Multivision), subject to their presenting specific guarantees concerning the restriction of access by young people under the age of 18. The rule according to which such programmes may only be broadcast between the hours of midnight and 5 am, which is already included in all the agreements for services authorised to broadcast Category V programmes, is repeated here.

For services broadcasting these programmes in digital mode, the CSA is imposing, in addition to the arrangements for restricting access, the implementation of an effective mechanism blocking access to such programmes that requires a parental code to be entered, with the appropriate guarantees; the code would only be supplied to adult subscribers. This technical device will have to meet the criteria laid down by the CSA. In addition, the CSA will ensure that the number of broadcasts of Category V programmes on each of these services, established when examining each application individually, is limited and the limit included in each agreement.

Lastly, services including Category V programmes may not be included in basic offers and must be marketed as an option; furthermore, such options may not include services directed at children or young people. These programmes must only be accessible to the subscriber, and may not be used for promotional offers.

According to the CSA, these arrangements will fulfil the objective of protecting children and young people incumbent upon it by virtue of Article 15 of the Act of 30 September 1986. ■

● CSA deliberation of 25 March 2003 on the broadcasting of "Category V" programmes, available at:
http://www.csa.fr/infos/textes/textes_detail.php?id=11923

FR

GB – Proposed Merger Between Television Companies Referred to Competition Commission

David Goldberg
DeeJgee Research/Consultancy

On 11 March 2003, acting on the advice of the Director-General of Fair Trading, the Secretary of State for Trade and Industry referred the proposed merger between Carlton Communications Plc and Granada Plc to the Competition Commission.

The overall concern is whether the proposed merger may be expected to operate against the public interest. The main issue is that, if the proposed merger goes ahead, the new company will have more than 50% of television advertising revenue. Under the Fair Trading Act, section 64, references for investigation and report may be made in circumstances that "create or enhance a 25% share of supply in the UK (or a substantial part of the UK)". Secondary competition issues concern the impact on TV licences and the supply of studio space in one part of the UK.

Interested parties may write to the Competition Commission by 2 April 2003. The Report is to be delivered to the Secretary of State by 25 June 2003 and it will be published some time thereafter. ■

● "Hewitt refers Carlton/Granada merger", Department of Trade and Industry, Press Release P/2003/152 of 11 March 2003, available at:
http://www.gnn.gov.uk/gnn/national.nsf/TI/1394750D12F8C3E980256CE60049DFDC?opendocument

● Terms of Reference: Reference of Carlton Communications Plc/Granada Plc to the Competition Commission, available at:
http://www.competition-commission.org.uk/inquiries/refcarlton.htm

IT – DVB-T National Frequency Plan Adopted

Maja Cappello
Autorità per le Garanzie nelle Comunicazioni

On 29 January 2003 the *Autorità per le garanzie nelle comunicazioni* (Italian Communications Authority – *AGCOM*) adopted the frequency plan for digital terrestrial television broadcasting pursuant to article 1 para 1, of law no. 66/2001 of 20 March 2001 (see IRIS 2001-4: 9). Broadcasters licensed according to the regulation adopted by the *AGCOM* on 15 November 2001 (decision no. 435/01/CONS, see IRIS 2002-1: 9) will transmit according to this Plan from 2006. Until then, experimental transmissions will be allowed.

The Plan reflects the structure of the Italian regional territory (*Regioni*) and envisages 48 frequencies in the UHF band and 6 in the VHF band, which ensure a reception quality of 95%. In an annex to the Plan, tables and maps indicate the exact location of the frequencies with respect to the Italian territory. Given the number of frequencies provided and considering that each network requires 3 frequencies, the total amount of national networks will number 18: 6 of them (33.3%) will be reserved for local programmes and 12 for national ones.

Network operators are allowed to use sites other than those chosen by the Plan, provided that these are equivalent and that they do not cause interference to other operators.

An addition to the Plan in order to define the frequencies that are to be used at local level (so-called 2nd level frequency plan) will be adopted next May. ■

***● Delibera* (Decision) of 29 January 2003, no. 15/03/CONS, *Approvazione del piano nazionale di assegnazione delle frequenze per la radiodiffusione televisiva terrestre in tecnica digitale (PNAF-DVB)* (Approval of the national frequency plan for digital terrestrial television broadcasting), published in the *Gazzetta Ufficiale della Repubblica Italiana* (Official Gazette of the Italian Republic) no. 43 of 21 February 2003, available at:**
http://www.agcom.it/PNAF-DVB_2003/d_15_03_CONS.htm

IT

IT – New Self-Regulatory Code of Conduct on Television and Minors

Marina Benassi
Lawyer
Studio Legale
Benassi, Venice, Italy

On 29 November 2002, Italian public and private broadcasters signed a self-regulatory Code of Conduct and presented it to the Ministry for Communications in order to provide adequate protection for under-age viewers and to actively limit minors' exposure to harmful content on television. The Code, called "*Codice di autoregolamentazione TV e Minori*"' (Self- regulatory code of conduct on television and minors) is a provisional instrument, which will be applied until extensive legislation on this matter is adopted. The main objective of the Code is to protect minors from manipulative advertising and from unsuitable programming and exploitation. The Code also aims to stimulate broadcasting of programmes serving the educational and information needs of youngsters. The Code singles out two main broadcasting "bands": the first, "general" one, from 7 a.m. to 10.30 p.m. and the second one, the "specifically protected band", from 4 p.m. to 7 p.m. During these three hours, specifically devoted to "children's television", no advertising whatsoever is permitted for alcoholic drinks, added-value phone services and prophylactics, and several restrictions are imposed with regard to the kind of programming to be broadcast. In general, it is forbidden to broadcast advertisements which may mislead or deceive minors, or put undue pressure on them to ask their parents to purchase advertised material. Also, advertisements must accurately represent the advertised products or services.

The Code provides for the creation of a *Comitato di Controllo* (Supervisory Committee) to ensure correct application and due compliance with the new rules, which was set up on 28 January 2003. In case of non-compliance or incorrect application, the Committee will refer the matter to the *Autorità per le Garanzie nelle Comunicazioni* (Italian authority for communications). The enforcement measures range from fines ranging from EUR 5.000 for minor breaches to EUR 250.000 for more severe cases. Where extremely severe or repeated breaches occur, the Authority can suspend or revoke the broadcasting license. ■

● ***Nuovo codice di autoregolamentazione TV e Minori 2002*** **(New self-regulatory code of conduct on TV and Minors 2002) of 29 November 2002, *Ministero delle Comunicazioni*, (Ministry for Communications), available at:**
http://www.comunicazioni.it/it/index.php?IdPag=591

IT

NL – Limitation of the Competence of the Telecommunications Regulator Concerning Access of Broadcasters to Cable Networks

Willemijn Heeringa and Wilfred Steenbruggen
Institute for Information Law (IViR)
University of Amsterdam

On 26 February 2003, the district court of Rotterdam (the specialised court for telecommunications) issued a judgment that limits the judicial competence of the *Onafhankelijke Post en Telecommunicatie Autoriteit* (Independent Post and Telecommunications Authority – *OPTA*), the Dutch telecommunications regulator, concerning the access of broadcasters to cable networks.

Article 8.7 *Telecommunicatiewet 1998* (1998 Telecommunications Act - *Tw*) states that in the case where a broadcasting organisation and a cable network provider fail to reach an agreement on the access of the broadcaster's programmes to the cable network, *OPTA* can, at the broadcaster's request, give a binding judgment concerning the conditions of access.

In 1998, the broadcasting organisation *Canal+* asked *OPTA* to give a binding judgment in relation to Article 8.7 *Tw* concerning digital transmission of its programmes on the network of the cable provider *UPC* and the reasonable fee for this service. To clarify the meaning of Article 8.7, *OPTA* published guidelines (see IRIS 1999-9: 11), in which it gave an interpretation of the Article that followed the regulation of access to telecommunications networks as imposed by the European regulatory framework for telecommunications: A cable network provider having a dominant position in the local cable market, should give access to its network according to ONP (Open Network Provisions) principles, i.e. objective, transparent and non-discriminatory conditions. Furthermore, *OPTA* stated that the transmission fee should be cost-based.

In 1999, *OPTA* concluded, in a preliminary decision, that *UPC* did not give access on ONP-conditions and that the transmission fee was not cost-based. At that time *OPTA* could not determine the cost-based fee because *UPC*'s cost structure was not transparent and it was awaiting an accountant's report. Because *UPC* was still in the process of digitalising its network, it did not, at that stage, have to give *Canal+* digital access.

In 2000, OPTA gave its final judgment, in which it confirmed its earlier judgment and determined the cost-based fee that *UPC* could charge *Canal+*. Both *UPC* and *Canal+* raised objections against this judgment, which were rejected by *OPTA*. Meanwhile, *UPC* had made its network suitable for digital transmission and given a daughter company digital access without charging it. *Canal+* requested *OPTA* to uphold its earlier judgment, in which it had also stated that when the network was suitable for digital access, *UPC* had to give non-discriminatory access. Because *UPC* did not comply, *OPTA* ruled that no fee was to be charged on *Canal+*, as a sanction.

Both parties appealed the judgment in accordance with the objections procedure. On appeal, the Court of Rotterdam held that, in principle, the judicial competence of *OPTA* includes the right to determine a reasonable fee. However, the Court set two limitations on the extent of *OPTA*'s competence. The first limitation is that *OPTA* cannot determine the fee as a form of sanction. According to the Court, the competence of article 8.7 *Tw* does not include the power to impose sanctions.

The second limitation is that *OPTA* cannot oblige cable network providers to use cost-oriented or non-discriminatory fees when granting access for broadcasters. Article 6.6 *Tw* prescribes that in other sectors of telecommunications these conditions should be used to determine the fees. Since the Telecommunications Act does not provide explicitly for the possibility to impose such conditions on cable networks with regard to broadcasters' access, *OPTA* cannot use these conditions to determine the fees for access to cable networks for broadcasters. ■

● ***Rechtbank Rotterdam*** **(District Court of Rotterdam) 26 February 2003 (UPC v. OPTA) Case no. AF5123, available at:**
http://www.rechtspraak.nl/uitspraak/frameset.asp?ljn=AF5123

● **OPTA decision of 9 July 1999, available at:**
http://www.opta.nl/download/IBT996546.pdf

● **OPTA decision of 4 November 1999, available at:**
http://www.opta.nl/download/BCanal+KTA.pdf

● **OPTA decision of 31 July 2000, available at:**
http://www.opta.nl/download/beslissingbezwaar.pdf

● **OPTA decision of 20 March 2002, available at:**
http://www.opta.nl/download/besl_canal_upc_210302.pdf

NL

PL – Parliamentary Commission Investigating Allegations

Peter Strothmann
Institute of European Media Law, Saarbrücken / Brussels

On 10 January 2003, the *Sejm* (the Polish Parliament), set up a commission to investigate allegations by a newspaper concerning possible irregularities that may have occurred in the course of the revision of the Broadcasting Act.

A newspaper publishing company, which owns a daily, 20 local radio stations and 11 magazines, allegedly has been asked to pay a bribe for "lobbying" to achieve a more favourable media law allowing the publisher to acquire a private television station.

As to the legal background, the government's draft media law – in particular its article 36 par. 3 – which had been forwarded to the Parliament in March 2002 (see IRIS 2002–3: 10, IRIS 2002–5: 6 and IRIS 2002–6: 10) and more recently – after public discussions – with less restrictive rules dating from mid-2002, would have banned the owner of a nationwide daily from obtaining a licence for nationwide broadcasting. ■

● ***Sejm* Resolution of 10 January 2003, *Uchwały w sprawie powołaniu Komisji śledczej do zbadadania ujawnionych w mediach zarzutów dotyczł przypadków korupcji podczas prac nad nowelizacj ustawy o radiofonii i telewizji* (Resolution concerning the creation of an Investigation Commission to alleged cases of corruption during the drafting of an amendment to the Broadcasting Act)**

PL

RO – New Regulations on Collection of Licence Fees in Romania

Mariana Stoican
Radio Romania International

Government Decree No. 18 of 30 January 2003 amends Article 40 of Act No. 41/1994 on the organisation and functioning of public service broadcasting in Romania.

According to the new rule, all natural and legal persons living or operating in Romania are obliged to pay broadcasting licence fees. Previously, licence fees in Romania only had to be paid by persons who declared ownership of a radio or television set and were therefore potential users of public service channels. Under the new provision, every family is obliged to pay the licence fee as part of their monthly electricity bill. The public service radio and television companies will sign separate agreements for this purpose with the electricity supplier *ELECTRICA*. Furthermore, all companies operating in Romania are obliged to pay the licence fee, irrespective of whether their premises are equipped with radios and TVs or not. Companies have to pay a fixed monthly fee of ROL 400,000 (EUR 11.13) – regardless of how many receivers they actually use. The actual fee has been reduced, with radio licence fees halved (to ROL 15,000, EUR 0.42 per family). Television fees were cut from ROL 45,000 to ROL 40.000 (EUR 1.11) from 1 February 2003. Despite the reduction in the fees, the Romanian public service broadcasters expect to receive more revenue in future, since the number of fee-payers is much higher. Exemptions are granted to ambassadors and members of the official diplomatic corps in Romania, old people's homes, hospitals and emergency departments, military installations, children's homes and kindergartens, schools, colleges and certain categories of persons with a disability. ■

● ***Ordonanța pentru modificarea art. 40 din Legea nr. 41/1994 privind organizarea și funcționarea Societății Române de Radiodifuziune și Societății Române de Televiziune, Nt. 18 din 30 iaunarie 2003*, (Government Decree No. 18 of 30 January 2003 amending Article 40 of Act No. 41/1994 on the organisation and functioning of public service broadcasting in Romania), *Monitorul Oficial al României* No. 61 of 1 February 2003**

RO

RO – New Advertising Restrictions

Mariana Stoican
Radio Romania International

Decision No. 38/2003 of 18 February 2003 of the regulatory authority for electronic media, the *Consiliul Național al Audiovizualului* (National Audiovisual Council – *CNA*), sets out new advertising restrictions for the broadcasting sector.

For example, political advertising on radio or television is banned, except during election campaigns. The decision also prohibits advertising for lawyers and solicitors' firms in the audiovisual media. Active lawyers (so-called "pleading lawyers") may no longer present or take part in programmes dealing with pending cases and proceedings until a definitive court decision is reached. Programmes dealing with health issues may not recommend particular medicines if the brand name or commercial trademark is clearly visible. Similarly, private therapies or doctor's practices may not be recommended or mentioned by name. If these rules are breached, fines of between ROL 25 million and ROL 250 million (EUR 695.60 and EUR 6956) will be imposed. ■

● ***Decizia privind publicitatea politică și cea referitoare la exercitarea unor profesii*, Nr. 38/2003, (Decision No. 38/2003 of 18 February 2003 of the National Audiovisual Council – *CNA*), available at: http://www.cna.ro/decizii/d03803.html**

RO

RO – *CNA* Sanctions Private Broadcaster

Mariana Stoican
Radio Romania International

On 18 February 2003, the regulatory authority for electronic media, the *Consiliul Național al Audiovizualului* (National Audiovisual Council – *CNA*), imposed a fine of ROL 250 million (EUR 6956) on private TV broadcaster *B1 TV* for breaches of Articles 2, 3, 4 and 10 of Decision No. 78/2002 on the protection of minors (see IRIS 2002–10: 11).

The programme "*Mașina adevărului*" ("Lie detector"), shown on 13 February 2003, contained video footage of a minor being asked by his mother to recount in great detail how he had supposedly been sexually abused by his father. "Recording this material caused extremely serious psychological trauma to the child", said the *CNA* in its decision. The broadcaster had breached the aforementioned provisions by repeatedly using clips from the recording in trailers shown during prime-time some hours before the programme was broadcast, - a "regrettable case without precedent", according to the *CNA*. ■

● ***CNA* press release of 19 February 2003, available at: http://www.cna.ro/comunic/2003/c0219a.html**

RO

FILM

AL – Cinematographic Co-production between Albania and Italy

Hamdi Jupe
Albanian Parliament

The Albanian Parliament has ratified the "Agreement of cinematographic co-production between the Government of the Republic of Albania and the Italian Government", being the first agreement the Albanian Government signed in this field.

According to the Agreement, the financial contribution of both countries for state-aided films shall be approximately at a rate of 20% - 80%. Thereby all categories of cinematographic production, including fiction, cartoons and documentary films, are suitable for financing. The competent state authorities from both countries will have to approve the proposed projects of the films. To obtain financial support, the directors of the films must be primarily from Italy and Albania, but film directors who are nationals of Member States of the European Union are also allowed to apply. The actors and other participating persons ought to be from the two signatory countries and the filming must take place mainly in Italy and Albania.

The contract period will initially last for 2 years and shall continue until either party gives notice of withdrawal. ■

● **Law No. 8967 of 7 November 2002 "On the ratification of the Agreement of cinematographic co-production between the Government of Republic of Albania and the Italian Government"**

SQ

DK – Realisation of Film Policy through the Film Agreement 2003-2006 and the Media Agreement 2002-2006

Elisabeth Thuesen
Law Department
Copenhagen
Business School

The Danish Government entered into a political Agreement of 3 June 2002, the *Mediepolitisk aftale for 2002-2006* (Agreement on Media Policy for 2002-2006, "the Media Agreement" – see IRIS 2002-7: 9). Consequently, in order to support the development of Danish film art, the Government has entered into a political agreement, *Filmaftalen* (the Film Agreement) of 1 November 2002, with the vast majority of members of the opposition parties, on the economic framework for film support based on the resources granted by the Finance Act, and on rules providing for the principles of film policy for 2003 – 2006. The Film Agreement provides for augmenting the flexibility of the existing systems of support.

According to the Film Agreement, *Det Danske Filminstitut* (the Danish Film Institute) shall ensure that 80 – 100 feature films will be produced during the four-year period of the agreement. The economic resources are to be supplied by the Film Institute and the Danish public service broadcasters, *Danmarks Radio* (DR) and TV2, which between them shall invest about DKK 920 million (approx. EUR 123.85 million) in this project.

The Film Institute, DR and TV2 shall between them set aside about DKK 217 million (approx. EUR 29.21 million) for the development, production and distribution of short films and documentary films during the period of the Film Agreement.

The conditions for spending the resources for feature films have to be laid down in contracts for public service with DR and TV2.

The Media Agreement lays down that 21% of the programmes broadcast by DR has to be provided by independent producers. The public service contracts shall provide for a system according to which a standard contract shall be drawn up between the Film Institute, the broadcasters and the association of producers. This standard contract shall constitute the framework for agreements between the broadcasters (DR and TV2) and the single independent producers on investment and/or purchase of broadcasting rights in concrete feature film projects.

The basis of the standard contract shall concern in particular the augmentation of the earning possibilities and reduction of the risks of the independent producers, the freedom of DR and TV2 to decide on their engagements and the regulation of earning possibilities for the exploitation of feature films in the commercial markets for cinema, video sale and lease, pay-television, Internet etc.

The standard contract has to be based on considerations concerning: the increase in the number of films in Danish language to be broadcast on television; broadcasting rights; the terms for the paying back of investments and regulation of the distribution of an eventual surplus between the investors.

Correspondingly, public service contracts will also provide for the spending of DR's and TV2's resources on short films and documentary films.

Based on a collaboration between DR, TV2 and the Film Institute, a system regarding the development of various talents also has to be established. An artistic director who has to decide on the support to be spent on the different projects has to be appointed. It is the purpose of the system to create possibilities for new talents and experienced film directors to start their first film production or to test new sides of their talent. The Film Institute shall spend DKK 75 million (approx. EUR 10.1 million) for the entire period 2003 - 2006 on talent development. The administration of the system shall be the responsibility of the Film Institute.

DR and TV2 shall continue their existing engagement in short story films by spending DKK 4 million (approx. EUR 540 000) each year during the period 2003 – 2006.

The Film Agreement also provides for the conservation of films (nitrate films), which are part of the Danish film heritage.

The relationship between the Media Agreement and the Film Agreement is outlined in the official note, *Sammenhængen mellem Medieaftale 2002-2006 og Filmaftale 2003-2006* (The relationship between the Media Agreement 2002-2006 and the Film Agreement 2002-2006). ■

● ***Mediepolitisk aftale for 2002 – 2006*** **(Agreement on Media Policy for 2002-2006), 3 June 2003, available at:**
http://www.kum.dk/sw3853.asp

● ***Filmaftalen 2003-2006*** **(the Film Agreement 2003-2006), 1 November 2002, available at:**
http://www.kum.dk/sw5556.asp

● ***Sammenhængen mellem Medieaftale 2002-2006 og Filmaftale 2003-2006*** **(The relationship between the Media Agreement 2002-2006 and the Film Agreement 2003-2006), 4 November 2002, available at:**
http://www.kum.dk/sw5013.asp

● ***Focuspunkter i ny filmaftale, 2003-2006*** **(Focus points in a new film agreement, 2003-2006) available at:**
http://www.kum.dk/sw5554.asp

DK

NEW MEDIA/TECHNOLOGIES

DE – Internet Pornography

In a criminal law ruling of 31 January 2003, the *Landgericht Düsseldorf* (Düsseldorf District Court - *LG Düsseldorf*) assessed the rules governing the dissemination of pornography on the Internet with regard to the protection of minors.

In Germany, prior to the entry into force on 1 April 2003 of reforms on youth protection in the media, pornographic content could be disseminated on the Internet, provided "technical precautions are taken to ensure that the content or its dissemination in Germany can be restricted to adult users" (Article 3.2.2 of the *Gesetz über die Verbreitung jugendgefährdender Schriften und Medieninhalte* (Act on the dissemination of written material and media content harmful to minors – *GjS*)). In the case in question, the provider's homepage referred unambiguously to the site's pornographic content and invited users to download a dialer. In order to download the dialer and therefore gain access to the pornographic content, users merely had to provide an identity card number. The number was checked digitally via a computer programme.

According to the *LG Düsseldorf*, this combination of a download, automatic verification of an identity card number and the fact that a charge was made for the service (DM 3.60 per minute), was sufficient to protect children and young people from Internet pornography. Until now, the law had not required that steps be taken to ensure that only adults could access such material; it was sufficient that it should merely be possible to restrict users in this way. For only after the aforementioned reforms entered into force (see IRIS 2002–6: 13) would the dissemination of pornography via telemedia be prohibited unless the provider "guaranteed" that the content could only be accessed by adults (see Article 4.2.2 of the *Staatsvertrag über den Schutz der Menschenwürde und den Jugendschutz in Rundfunk und Telemedien, Jugendmedienschutz-Staatsvertrag* (Inter-State agreement on the protection of human dignity and minors in broadcasting and telemedia – *JMStV*)). In the Court's view, charging a fee and verifying the user's age was "currently the most effective method of protecting minors". It should also be remembered that thousands of pornographic websites operating from abroad had no protection mechanisms whatsoever. Young people who had sufficient experience of using the Internet to obtain identity card numbers would also be aware of these sites and be able to bypass other protection mechanisms. In the Düsseldorf Court's opinion, the defendant had not committed an offence by advertising pornography. The references on the homepage were no different from the window displays of a sex shop. It should be borne in mind that, while people might be exposed to sex shop displays simply by walking past, it was unlikely that users would stumble across the website in question purely by chance.

The court of first instance, the *Amtsgericht Neuss* (Neuss District Court), disagreed. It had ruled on 19 August 2002 that the defendant had committed an offence by offering pornographic Internet content to under-18s and making it accessible to them. The automatic verification of identity card numbers was insufficient to meet legal requirements for the protection of minors, since such numbers were available on the Internet. This process provided only illusory protection and could easily be circumvented, even by children. The defendant had known that this system of verification was much less effective than human control measures used at kiosks or video shops, for example. ■

Carmen Palzer
Institute of European Media Law (EMR), Saarbrücken / Brussels

- ***Landgericht Düsseldorf*** **(Düsseldorf District Court), ruling of 31 January 2003, case no. XXXI 34/02**
- ***Amtsgericht Neuss*** **(Neuss District Court), ruling of 19 August 2002, case no. 7 DS 70 Js 6582/01 – 18/02**

DE

RELATED FIELDS OF LAW

DE – Constitutional Court Approves Order to Provide Information on Telephone Communications

In a decision of 12 March 2003, the *Bundesverfassungsgericht* (Federal Constitutional Court - *BVerfG*) dismissed constitutional appeals by journalists complaining that investigations had been made into their telephone communications data.

The investigating authorities presumed that certain journalists had been in telephone contact with persons under suspicion of committing serious crimes. At the request of the investigating authorities, the courts had ordered the relevant telecommunications companies to provide the authorities with information regarding communications data. In this way the authorities hoped to gather information about the wanted persons' whereabouts. The journalists lodged a constitutional complaint against these court orders.

The secrecy of telecommunications is protected by Article 10.1 of the *Grundgesetz* (Basic Law - *GG*). Under Article 10.2 of the Basic Law restrictions may only be introduced in accordance with a law. Article 5.1 of the Basic Law governs broadcasting and press freedom and Article 5.2 provides that it may be restricted in accordance with the provisions of a law. The *BVerfG* also recognises in its case-law that the constitutionally guaranteed freedom of broadcasting also implies the protection of information gathering. The confidential relationship between journalists and their sources as well as the confidentiality of editorial work are to be strictly observed.

The secrecy of telecommunications and the freedom of broadcasting and the press are restricted by the *Fermeldeanlagengesetz* (Telecommunications Installations Act), article 12 of which provides that in the course of criminal investigations a court may demand information from telecommunications companies about communications (replaced on 1 January 2002 by Articles 100g and 100h of the *Strafprozessordnung* (Code of Criminal Procedure – *StPO*).

The *BVerfG* emphasised that interferences with the secrecy of telecommunications and broadcasting and press freedom under article 12 of the Telecommunications Installations Act were justified only if they were used for the prosecution of a particularly serious crime. There also had to be firm grounds for suspicion and a sufficiently sound factual basis for the assumption that the person affected by the order was in contact with the accused via telecommunications installations.

In the cases before it, in which the criminal proceedings related to credit fraud amounting to thousands of millions of marks, fraudulent bankruptcy, tax evasion and multiple murder, the *BVerfG* considered the court orders justified and dismissed the constitutional appeals. ■

Jan Peter Müßig
Institute of European Media Law (EMR), Saarbrücken / Brussels

- **Decision of the *Bundesverfassungsgericht* (Federal Constitutional Court) of 12 March 2003, Case nos. 1 BvR 330/96 and 1 BvR 348/99, available at: http://www.bverfg.de/entscheidungen/rs20030312_1bvr033096.html**

DE

DK – Danish Implementation of Directive 2001/29/EC

By Act no. 1051 of 17 December 2002, by which the Danish Copyright Act was amended, Denmark implemented Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society ("the Directive" – see IRIS 2001-5: 3). The main purpose of the Directive is to harmonise the protection of copyrights and related rights within the European Community in light of the information society.

This article outlines the essential changes to the Danish legal position as a result of the Directive.

Fundamentally, Denmark considered the existing Danish Copyright Act to be already in concordance with the Directive. Thus, very few amendments were needed to ensure implementation. For example, Article 3 of the Directive, according to which copyright-protected works that are made available to the public "on demand" (e.g. on the Internet or a mobile platform) are comprised in the author's exclusive and unconditioned copyright, was already reflected in Danish law. Further, Article 5. para 1 of the Directive, which exempts certain temporary acts of reproduction from the rightsholder's exclusive reproduction right, was likewise considered to be in accordance with existing Danish law. Article 5, paras 2 to 4 of the Directive stipulates a number of optional exceptions to the rightsholder's exclusive reproduction right. In general, Denmark already has exceptions corresponding with the optional exceptions. Thus, Article 5, paras 2 to 4 has only led to minor adjustments to the Danish Copyright Act.

Consequently, the Directive has primarily resulted in a number of more explicit formulations of already existing provisions and only a few material amendments to the Act. Two material amendments are outlined in the following:

First, in consequence of Article 6 of the Directive, Denmark has introduced a prohibition against the circumvention of any effective technological measures to avoid the making of a copy.

Second, it follows from Article 4 of the Directive, that if the rightsholder has authorised the distribution of a copy of his/her work in one of the EC member states, the rightsholder's distribution right to that specific copy is exhausted within the Community. Article 4 expresses the principle of "regional exhaustion". However, Article 4 has as a consequence that the Member States are no longer permitted to maintain national provisions regarding so-called "international exhaustion", i.e. the right to re-distribute a copy of a work no matter where in the world the initial sale of the specific copy took place. Since Denmark has up until now to some extent upheld the principle of international exhaustion, the Danish Copyright Act has been amended in order to reflect that only regional exhaustion is in accordance with Article 4 of the Directive. The Act came into force on 22 December 2002. ■

Soren Sandfeld Jakobsen
Law Department
Copenhagen Business School

● ***Bekendtgørelse af lov om ophavsret, Lovbekendtgørelse nr. 618 af 27. juni 2001*** **(Act on Copyright, Consolidated Act No. 618 of 27 June 2001), available at:**
http://www.kum.dk/sw1549.asp (DA)
http://www.kum.dk/sw4550.asp (EN)

DA-EN

● ***Lov nr. 1051 af 17. december 2002 om ændring af ophavsretsloven*** **(Act No. 1051 of 17 December 2002, regarding amendments to the Copyright Act), available at:**
http://www.kum.dk/sw5381.asp

DA

EE – Changes Regarding Reservations to Article 12 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations

Monika Silvia Valm
Norwegian Research Centre for Computers and Law
Faculty of Law
University of Oslo

When the Estonian Parliament first ratified the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (the 1961 Rome Convention) on 9 December 1999, a reservation was introduced as regards Article 12 of the Convention which concerns remuneration for the use or reproduction of phonograms for broadcasting or communication to the public. Under Article 16(1)(a)(i) of the Convention, Estonia declared that it would not apply the provisions of Art 12.

On 6 November 2002, the Estonian Parliament made changes to this reservation. Estonia has now declared that it will apply Article 16(1)(a)(iv) of the Convention, whereby Article 12 will be applied on the basis of reciprocity. According to the Convention's Article 16(2), this amendment will become effective six months from the date of deposit of the instrument. ■

● **Law of 9 December 1999 ratifying the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, published in the State Gazette on 29 December 1999, reference RT II 1999, 27, 165**

● **Law of 6 November 2002, published in the State Gazette on 4 December 2002, reference RT II 2002, 35,167. Both acts are available at:**
www.riigiteataja.ee

EE

GB – Easyinternetcafe Ltd Found Liable for Facilitating "Burning" of CDs

David Goldberg
deeJgee Research/Consultancy

On 28 January 2003, the High Court of Justice decided, in a summary judgement, that Easyinternetcafe Ltd (owners and operators of a chain of cybercafés, part of the EasyGroup, owners and operators of EasyJet) was liable for copyright infringement. The action was brought by Sony Music and the British Phonographic Industry (BPI), representing a variety of labels – Universal, Virgin, Polydor and EMI.

At issue was the legality of customers using CD "burners" on computers in the cafés in order to "burn", or copy into blank CDs copyrighted music that they had downloaded from the Internet. Easyinternet charged GBP 5 for this service, though it had been withdrawn in September 2001. After the BPI had complained, Easyinternet removed the CD burners and offered access to the servers so that the BPI could assess the amount of copyrighted material that had been downloaded.

Easyinternet argued that it should not be held liable because some of its customers had downloaded and burned copyrighted materials, which, it argued, they were entitled to do. Easyinternet advanced the "time-shift" argument, namely that people may legitimately copy copyrighted material in order to view or listen to it at a personally convenient time.

The company has announced that it intends to appeal the decision. It says it will base any appeal on Section 70 of the 1988 Copyright Design and Patents Act. This states that: "The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable programme or in any work included in it."
Whilst being given leave to appeal the judge's decision, it has been reported, on 9 April, that Easyinternet Cafe has agreed to an out-of-court settlement of the case, for a sum of GBP 210 000 (GBP 80 000 damages plus BPI's legal fees). ■

● **Sony Music Entertainment (UK) Limited; Sony Music Entertainment Inc.; Polydor Limited; UMG Recordings Inc.; and Virgin Records Limited v. Easyinternetcafe Limited, [2003] EWHC 62 (Ch), 28 January 2003, available at:**
http://www.courtservice.gov.uk/View.do?id=1528

● **Copyright, Designs and Patents Act 1988, available at:**
http://www.hmso.gov.uk/acts/acts1988/Ukpga_19880048_en_1.htm

GR – Implementation of Directive 2001/29/EC

Maria Kostopoulou
Attorney at Law – Media Expert
Law Office V. Costopoulos & Partners

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (see IRIS 2001-5: 3) was implemented in Greece by Article 81 of Law no. 3057/2002, which regulates questions regarding the Ministry of Culture. The above Law entered into force in October 2002. The new provisions are incorporated into Law no. 2121/1993 on copyright and related rights, which is the main legal instrument governing all issues regarding the field of copyright. The above Law has been amended several times since 1993, in order to implement the Community directives relating to this subject.

The new provisions take into account all new forms of exploitation of works (including Internet) and their distribution or transmission on demand. They provide that the economic right shall confer upon the authors, among other rights, the right to authorise or prohibit the communication to the public of their works by wire or wireless means or by any other means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them. A parallel right is recognised for performers or performing artists, phonogram producers and radio and television organisations. As regards the producers of audiovisual works, the above right concerns the original and the copies of their films. Modifications are also introduced concerning the right of distribution. It is interesting to note that, within the framework of Article 5 of Directive 2001/29/EC (exceptions and limitations), the new Greek legislation provides that the reproduction of a work is allowed for the benefit of blind and deaf-mute persons, for uses of a non-commercial nature, which are related to the disability, to the extent required by the specific disability. The specific conditions of application of this provision may be determined by virtue of a decision published by the Minister of Culture. By the same decision other categories may also be determined to which the above exception may be applied. Additional exceptions and limitations to the protection of copyright and related rights are introduced, in conformity and within the spirit of the provisions of Directive 2001/29/EC. Moreover, Article 81 of Law no. 3057/2002 introduces provisions relating to "technological measures" (Article 6 of the Directive) and "Rights management information" (Article 7 of the Directive). The legislator reinforces the protection of copyright and related rights in the information society, providing not only a strict regulatory framework, but also providing for the protection of technological measures to prevent any illegal exploitation of works. ■

● Law no. 2121/1993 of 4 March 1993 on copyright, related rights and cultural matters, available at:
http://www.culture.gr/6/64/law2121.html

● Article 81 of Law no. 3057/2002, Official Gazette A 239/10 October 2002, available at:
http://www.culture.gr/8/84/e8401.html

EN-GR

RU – Regulation on Access to Information

Olga Motovilova,
Moscow Media Law and Policy Center

On 12 December 2003, the Government Regulation "About providing access to information on the activity of federal executive bodies" was adopted. With a view towards protecting the rights of citizens and organizations in accessing information, the Regulation approves the "List of data on the activity of the Government of the Russian Federation and of federal executive bodies to be published on information systems of general use". It excludes data considered as state secrets or limited access information .

Access to information (among this are details of bills of federal laws, public service vacancies and job criteria, conditions regarding the protection of the population and territories in emergencies, open public competitions, auctions, tenders, expert examinations; etc., 53 categories in total), shall be provided by creating information resources to be regularly placed on information systems of general use, including Internet.

In addition, federal executive bodies are obliged to regularly inform citizens and organizations on their activity by other ways. Financing of all these actions shall be provided from the federal budget.

The governmental Regulation comes into effect on 15 May 2003. ■

● *Postanovlenie Pravitelstva Rossiyskoi Federatsii "Ob obespechenii dostupa k informatsii o deyatelnosti Pravitelstva Rossiyskoi Federatsii i federalnih organov ispolnitelnoi vlasti"* (Regulation of the government of the Russian Federation "About providing access to the information on activity of the Government of the Russian Federation and federal executive bodies") #98 of 12 February 2003 was officially published in *Rossiyskaya gazeta* governmental daily on 15 February 2003 and is available at:
http://www.mptr.ru/user/index.cfm?tpc_type=2&msg_id=1731&tpc_id=24
http://www.rg.ru/oficial/doc/postan_rf/98.shtm

RU

YU – Restrictions on Media due to State of Emergency

Following the assassination of Serbian Prime Minister Zoran Djindjic on 12 March 2003, the acting President of the Republic of Serbia has proclaimed a state of emergency. Pursuant to Article 83 item 8 of the Serbian Constitution and Articles 1 and 5 of the Serbian Law on Measures in the State of Emergency (Official gazette of Serbia nr. 19/1991), the acting President has issued two Orders: the Order on Special Measures to be Applied During the State of Emergency (hereinafter: the first Order) and the Order on Prevention of Public Information, Distribution of Press and other Information on the Reasons for Proclaiming the State of Emergency and on the Implementation of Measures during a State of Emergency (hereinafter: the second Order).

The first Order contains a provision (Item 9) forbidding the dissemination of information on the reasons for proclaiming the state of emergency, apart from disseminating the positions and statements of official authorities. The Ministry of Culture and Public Information, along with the Police, is in charge of the implementation of this ban. The second Order is entirely devoted to prevention of dissemination of information, not only about the reasons for proclaiming the state of emergency, but also about the measures taken by the authorities during such an occurrence. The decision on the ban shall be made by the Ministry of Culture and Public Information, and there is no legal remedy against such decision. The second Order also enables the said Ministry to impose monetary fines on media outlets (ranging from approx. EUR 781 to EUR 7812) and their responsible editors (ranging from approx. EUR 156 to EUR 1562).

Both Orders limit the right to freedom of expression as guaranteed by Article 19 of the ICCPR (International Covenant on Civil and Political Rights), as well as the right

Miloš Živković,
Assistant Professor, Belgrade University School of Law
Legal counsel, Živković & Samardžić Law offices

to freedom of public information (freedom of the media) as guaranteed by Article 46 of the Constitution of the Republic of Serbia. However, both the ICCPR and the Constitution allow derogation from the right to freedom of expression during a state of emergency – Article 4 ICCPR requires the limitations to be proportionate, as well as stipulating some notification formalities (which have been met, as reported by the Minister of Foreign Affaires of Serbia and Montenegro), and the same is the case with Article 83 of the Serbian Constitution and Serbian Law on Measures in a State of Emergency. Given the strict wording of both Orders, under which only information on reasons for proclaiming the state of emergency and on measures undertaken during the state of emergency, as well as the fact that proper notification has been given to both the UN Secretary General, as the depository of the ICCPR, and the OSCE, it seems that the legality of the Orders is satisfied. However, some of the international organizations involved with the protection of press freedoms (IPI – the International Press Institute, SEEMO – the South-East European Media Organization, RSF – The *Reporters sans frontières*) have on 20 March 2003 expressed their concern with the fact that the second Order has in fact been applied to close down one weekly ("*Identitet*"), one daily paper ("*Nacional*"), one radio-television station ("*RTV Marsh*"), and to ban the distribution of one Montenegrin daily ("*Dan*") in Serbia.

Both Orders shall remain in force until the state of emergency is revoked. The same applies to the bans issued to specific media in accordance with the Orders. ■

- **Order on Special Measures to be Applied During a State of Emergency, Official gazette of Serbia no. 22/2003-1 of 12 March 2003**
- **Order on Prevention of Public Information, Distribution of Press and other Information on the Reasons for Proclaiming a State of Emergency and on the Implementation of Measures during a State of Emergency, Official gazette of Serbia no. 24/2003-1 of 13 March 2003**

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AGENDA

Procurement and Distribution of Digital Content: Rights Protection, Licensing and Management
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Organiser: Verlag Dr. Otto Schmidt KG
Venue: Munich
Information & Registration:
Tel.: +49(0)221 93738-656
Fax: +49(0)221 93738-969
E-mail: seminare@otto-schmidt.de