



EN

COUNCIL OF
THE EUROPEAN UNION

GENERAL SECRETARIAT
DG I
*Education and Youth—
Culture—Audiovisual Arts Unit*

Texts concerning culture at European Union level

1998-2001

Texts
concerning Culture
at European Union
level

1998 - 2001

Cataloguing data can be found at the end of this edition.

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CONTENTS

Decision of the Representatives of the Governments of the Member States responsible for culture, meeting within the Council, of 28 May 1998 on the designation of the cities of culture for the years 2001 to 2004	7
Commission Regulation (EC) No 1526/98 of 16 July 1998 amending Commission Regulation (EEC) No 752/93 laying down provisions for the implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods.....	11
Council Conclusions of 24 September 1998 concerning the European Audiovisual Conference: "Challenges and opportunities of the digital age"	23
Council Recommendation of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity	27
Council Decision of 3 November 1998 concerning the conclusion of a bilateral agreement between the Community and the Republic of Cyprus on the Republic of Cyprus' participation in a Community programme within the framework of Community audiovisual policy	37
Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 25 January 1999 concerning public service broadcasting	45
Council Resolution of 8 February 1999 on fixed book prices in homogeneous cross-border linguistic areas	49
Decision No 476/1999/EC of the European Parliament and of the Council of 22 February 1999 amending Decision No 2085/97/EC establishing a programme of support, including translation, in the field of books and reading (Ariane).....	53
Decision No 477/1999/EC of the European Parliament and of the Council of 22 February 1999 amending Decision No 719/96/EC establishing a programme to support artistic and cultural activities having a European dimension (Kaleidoscope).....	57
Council Decision of 26 April 1999 establishing a Community statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors	61
Decision 1419/1999/EC of the European Parliament and of the Council of 25 May 1999 establishing a Community action for the European Capital of Culture event for the years 2007 to 2019	67

Council Conclusions of 27 September 1999 concerning the results of the public consultation on the Convergence Green Paper (in particular the aspects relating to the media and the audiovisual sector)	75
Council Conclusions of 27 September 1999 on the role of self-regulation in the light of the development of new media services	79
Council Resolution of 28 October 1999 integrating history into the Community's cultural action.....	83
Council Resolution of 17 December 1999 on the promotion of the free movement of persons working in the cultural sector	87
Council Conclusions of 17 December 1999 on the protection of minors in the light of the development of digital audiovisual services	91
Council Conclusions of 17 December 1999 on cultural industries and employment in Europe	95
Council Decision of 17 December 1999 on the appointment by the Council of the members of the selection panel for the "European Capital of Culture" Community action.....	99
Decision No 508/2000/EC of the European Parliament and of the Council of 14 February 2000 establishing the Culture 2000 programme.....	103
Council Resolution of 26 June 2000 on the conservation and enhancement of European cinema heritage	115
Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 26 June 2000 concerning the communication from the Commission on principles and guidelines for the Community's audiovisual policy in the digital age	119
Corrigendum to Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus — Development, Distribution and Promotion) (2001-2005)	123
Decision No 163/2001/EC of the European Parliament and of the Council of 19 January 2001 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA-Training) (2001-2005)	135
Council Resolution of 12 February 2001 on national aid to the film and audiovisual industries.....	147

Council Resolution of 12 February 2001 on the application of national fixed book-price systems.....	151
Council Resolution of 12 February 2001 on architectural quality in urban and rural environments	155
Council Regulation (EC) No 974/2001 of 14 May 2001 amending Regulation (EEC) No 3911/92 on the export of cultural goods.....	159
Directive 2001/38/EC of the European Parliament and of the Council of 5 June 2001 amending Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State (text with EEA relevance).....	163
Council Resolution of 21 June 2001 on the need for a reinforced exchange of information and experience between the European Union and its Member States and the candidate countries within the audiovisual sector	167
Council Resolution of 23 July 2001 on exchange of information and experience concerning conditions for professional artists in the context of EU enlargement.....	171
Council Conclusions of 23 July 2001 on the Commission's Evaluation Report on the application of the recommendation concerning the protection of minors and human dignity.....	175
Council Resolution of 21 January 2002 on culture and the knowledge society.....	179
Council Resolution of 21 January 2002 on "The role of culture in the development of the European Union"	183
Council Resolution of 21 January 2002 concerning the Commission report on the implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods and Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State.....	187
Council Resolution of 21 January 2002 on the development of the audiovisual sector	191

ANNEXES

Decision No 276/1999/EC of the European Parliament and of the Council of 25 January 1999 adopting a multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks	199
--	-----

Communication from the Commission on the application of State aid rules to public service broadcasting213

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works223

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**Decision of the Representatives of the Governments of the Member States
responsible for culture,
meeting within the Council,
of 28 May 1998
on the designation of the cities of culture for the years 2001 to 2004**

**(Extract from 8538/1/98,
minutes of the Council meeting (Culture) on 28.05.1998)**

DECISION
OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER
STATES RESPONSIBLE FOR CULTURE,
MEETING WITHIN THE COUNCIL,
of 28 May 1998
on the designation of the cities of culture
for the years 2001 to 2004

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES
RESPONSIBLE FOR CULTURE, MEETING WITHIN THE COUNCIL,

HAVE DECIDED AS FOLLOWS:

- to designate as European Cities of Culture
 - for the year 2001 : Rotterdam and Oporto,
 - for the year 2002 : Bruges and Salamanca,
 - for the year 2003 : Graz,
 - for the year 2004 : Genoa and Lille,
- to invite the cities of Basle and Riga to organise a European Cultural Month in 2001,
- to invite the city of St Petersburg to organise a European Cultural Month in 2003;

NOTE:

- that the Commission has submitted to the European Parliament, the Council and the Committee of the Regions a Communication on the first European Community framework programme in support of culture (2000 - 2004), including a proposal for a European Parliament and Council Decision establishing a single financing and programming instrument for cultural cooperation, into which it is envisaged that the funding arrangements for European Cities of Culture will be incorporated,
- that from the date of adoption of the Decision of the European Parliament and of the Council establishing a Community action for "The European Capital of Culture" event for the years 2005 to 2019, Member States, as well as other relevant European countries, may avail themselves of the Guidance Panel to be set up under that decision.

**Commission Regulation (EC) No 1526/98
of 16 July 1998
amending Commission Regulation (EEC) No 752/93 laying down provisions
for the implementation of Council Regulation (EEC) No 3911/92
on the export of cultural goods**

(OJ L 201, 17.7.1998)

COMMISSION REGULATION (EC) No 1526/98

of 16 July 1998

amending Commission Regulation (EEC) No 752/93 laying down provisions for the implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods⁽¹⁾, as amended by Regulation (EC) No 2469/96⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee on Cultural Goods,

Whereas it is advisable, in order to eliminate unnecessary administrative work, to introduce the concept of open licences for the temporary export of cultural goods by responsible persons or organisations for use and/or for exhibition in third countries;

Whereas the Member States that wish to take advantage of such facilities should be able to do so in relation to their own cultural goods, persons and organisations, whereas the conditions to be fulfilled will differ from Member State to Member State; whereas the Member States should be able to opt for the use of open licences or not and lay down the conditions to be met for their issue;

Whereas it is necessary to lay down provisions as to the appearance of such licences so that they can be readily recognised and used anywhere in the Community;

Whereas the provisions of Article 10 relating to Common transit are no longer necessary;

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EEC) No 752/93⁽³⁾ shall be amended as follows:

1. Article 1 shall be replaced by the following:

'Article 1

1. There shall be three types of licences for the export of cultural goods which shall be issued and

used in accordance with Council Regulation (EEC) No 3911/92, hereinafter called the "Basic Regulation", and with this implementing Regulation:

- the standard licence,
- the specific open licence,
- the general open licence.

2. The use of export licences shall in no way affect obligations connected with export formalities or related documents.'

2. Article 2 shall become Article 1(3).

3. A new Article 2 shall be introduced:

'Article 2

1. A standard licence shall normally be used for each export subject to the Basic Regulation. However each individual Member State concerned may decide whether or not it wishes to issue any specific or general open licences which may be used instead if the specific conditions relating to them are fulfilled as set out in Articles 10 and 13.

2. A specific open licence shall cover the repeated temporary export of a specific cultural good by a particular person or organisation as set out in Article 10.

3. A general open licence shall cover any temporary export of any of those cultural goods that form part of the permanent collection of a museum or other institution, as set out in Article 13.

4. A Member State may revoke any specific or general open licence at any time if the conditions under which it was issued are no longer met. It shall inform the Commission immediately if the licence issued is not recovered and could be used irregularly. The Commission shall immediately inform the other Member States.

5. Member States may introduce whatever reasonable measures they deem necessary in their national territory to monitor the use of their own open licences.'

4. A new Section II shall be introduced containing the existing Articles 3 to 9:

⁽¹⁾ OJ L 395, 31. 12. 1992, p. 1.

⁽²⁾ OJ L 335, 24. 12. 1996, p. 9.

⁽³⁾ OJ L 77, 31. 3. 1993, p. 24.

SECTION II

The standard licence'

5. At the beginning of Article 3(1) the following shall be inserted:

'Standard licences shall be issued on the form, a model of which is in Annex I.'

6. A new Section III shall be added, the existing Article 10 shall be deleted and the existing Article 11 shall become Article 17:

SECTION III

Open licences

CHAPTER 1

Specific open licences

Article 10

1. Specific open licences may be issued for a specific cultural good which is liable to be temporarily exported from the Community on a regular basis for use and/or exhibition in a third country. The cultural good must be owned by, or be in the legitimate possession of, the particular person or organisation that uses and or exhibits the good.

2. A licence may only be issued provided the authorities are convinced that the person or organisation concerned offers all the guarantees considered necessary for the good to be returned in good condition to the Community and that the good can be so described or marked that there will be no doubt at the moment of temporary export that the good being exported is that described in the specific open licence.

3. A licence may not be valid for a period that exceeds five years.

Article 11

The licence shall be presented in support of a written export declaration or be available in other cases for production with the cultural goods for examination upon request.

The competent authorities of the Member State in which the licence is presented may ask for it to be translated into the language, or one of the official languages, of that Member State. In this case, the translation costs shall be met by the licence holder.

Article 12

1. The customs office authorised to accept the export declaration shall ensure that the goods

presented are those described on the export licence and that a reference is made to that licence in box 44 of the export declaration if a written declaration is required.

2. If a written declaration is required then the licence must be attached to copy 3 of the single administrative document and accompany the good to the customs office at the point of exit from the customs territory of the Community. Where copy 3 of the single administrative document is made available to the exporter or his representative, the licence shall also be made available to him for use on a subsequent occasion.

CHAPTER 2

General open licences

Article 13

1. General open licences may be issued to museums or other institutions to cover the temporary export of any of the goods that belong to their permanent collection that are liable to be temporarily exported from the Community on a regular basis for exhibition in a third country.

2. A licence may only be issued if the authorities are convinced that the institution offers all the guarantees considered necessary for the good to be returned in good condition to the Community. The licence may be used to cover any combination of goods in the permanent collection at any one occasion of temporary export. It can be used to cover a series of different combinations of goods either consecutively or concurrently.

3. A licence may not be valid for a period that exceeds five years.

Article 14

The licence shall be presented in support of the export declaration.

The competent authorities of the Member State in which the licence is presented may ask for it to be translated into the language, or one of the official languages, of that Member State. In this case, the translation costs shall be met by the licence holder.

Article 15

1. The customs office authorised to accept the export declaration shall ensure that the licence is presented together with a list of the goods being exported and which are also described in the export declaration. The list shall be on the headed paper of

the institution and each page shall be signed by one of the persons from the institution and named on the licence. Each page shall also be stamped with the stamp of the institution as placed on the licence. A reference to the licence must be made in box 44 of the export declaration.

2. The licence shall be attached to copy 3 of the single administrative document and must accompany the consignment to the customs office at the point of exit from the customs territory of the Community. Where copy 3 of the single administrative document is made available to the exporter or his representative the licence shall also be made available to him for use on a subsequent occasion.

CHAPTER 3

Forms for the licences

Article 16

1. Specific open licences shall be issued on the form, a model of which is in Annex II.

2. General open licences shall be issued on the form a model of which is in Annex III.

3. The licence form shall be printed in one or more of the official languages of the Community.

4. The licence shall measure 210 × 297 mm. A tolerance of up to minus 5 mm or plus 8 mm in the length shall be allowed. The paper used shall be white, free of mechanical pulp, dressed for writing purposes and weigh at least 55 g/m². It shall have a printed guilloche pattern background in light blue such as to reveal any falsification by mechanical or chemical means.

5. The second sheet of the licence, which shall not have a guilloche pattern background, is for the exporter's own use or records only.

The application form to be used shall be prescribed by the Member State concerned.

6. Member States may reserve the right to print the licence forms or may have them printed by approved printers. In the latter case, each must bear a reference to such approval. Each form must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or stamped, by which it can be identified.

7. Member States shall be responsible for taking any measure necessary in order to avoid the forging of licences. The means of identification adopted by Member States for this purpose shall be notified to the Commission, for communication to the competent authorities of the other Member States.

8. Licences shall be made out by mechanical or electronic means. In exceptional circumstances they may be made out by black ball point pen in block capitals. They shall not contain erasures, overwritten words or other alterations.

7. A new Section IV shall be added, containing Article 17:

'SECTION IV

General provisions'

8. The existing Annex shall become Annex I.

9. Annex I to this Regulation shall be inserted as Annex II.

10. Annex II to this Regulation shall be inserted as Annex III.

Article 2

This Regulation shall enter into force on the seventh day after its publication in the *Official Journal of the European Communities*.

It shall apply from 1 September 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 July 1998.

For the Commission

Mario MONTI

Member of the Commission

EUROPEAN COMMUNITY

EXPORT OF CULTURAL GOODS (Regulation (EEC) No 3911/92)

1	1. Exporter	A. Identification number	B. Expiry date	
	SPECIFIC OPEN LICENCE		<p>This space should be used for pre-printing the name and address of the issuing authority. A national symbol or logo can also be placed here</p>	
1			2. Description of the goods	3. Commodity code
		<p>This space is available for pre-printed information at the discretion of the Member States, including any conditions</p>		<p>C. For completion by issuing authority</p> <p>Signature: _____ Stamp</p> <p>Position: _____</p> <p>Place: _____</p> <p>Date: _____</p>

ANNEX II

ANNEX III

Model of form for general open licences and copies thereof

1	1. Exporter	<i>A. Identification number</i>	<i>B. Expiry date</i>		
GENERAL OPEN LICENCE	<p>This space should be used for pre-printing the name and address of the issuing authority. A national symbol or logo can also be placed here</p>				
1	<p>This is a general open licence which allows for the temporary export of cultural goods which are part of the permanent collection of</p> <p>.....</p> <p>It may be used to cover a number of different export consignments to different destinations during the period</p> <p>..... to</p> <p>It is only valid provided that it is presented together with a list of the cultural goods to be temporarily exported in a particular shipment made out on their headed notepaper and marked with this stamp</p> <p>and signed by one of the following.</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">Name</td> <td style="text-align: center;">Signature</td> </tr> </table>			Name	Signature
Name	Signature				
<p>This space is available for pre-printed information at the discretion of the Member States, including any conditions</p>		<p><i>C. For completion by issuing authority</i></p> <p><i>Signature:</i> _____ <i>Stamp</i></p> <p><i>Position:</i></p> <p><i>Place:</i></p> <p><i>Date:</i></p>			

**Council Conclusions
of 24 September 1998
concerning the European Audiovisual Conference:
"Challenges and opportunities of the digital age"
(OJ C 306, 6.10.1998)**

I

(Information)

COUNCIL

COUNCIL CONCLUSIONS

of 24 September 1998

concerning the European Audiovisual Conference: 'Challenges and opportunities of the digital age'

(98/C 306/01)

THE COUNCIL OF THE EUROPEAN UNION,

- 1) Welcomes the Presidency, Commission and British Screen Advisory Council (BSAC) joint initiative in holding in Birmingham on 6 to 8 April 1998 the European Audiovisual Conference entitled 'Challenges and opportunities of the digital age' (the 'Birmingham Conference');
 - 2) Recognises that issues covered by the four Working Groups at the Birmingham Conference are key audiovisual policy priorities;
 - 3) Welcomes constructive and innovative ideas for future orientations from the reports of the said four Working Groups;
 - 4) Accepts the need for further work by Member States, the Commission and the Council, within their respective responsibilities, to evaluate those ideas, prioritise them and decide on the need for further action;
 - 5) Urges the Commission and the Austrian Presidency to take forward the follow-up from the Birmingham Conference in that context;
 - 6) Notes in particular the opportunity presented by:
 - the planned half-term review of MEDIA II, which should explore ways of encouraging a strong and competitive programme industry, taking account of the European cultural diversity and the particular conditions in small language areas. The professionals expressed interest in the creation of financial tools for attracting private capital and in the promotion of European audiovisual productions on external markets,
 - the consultation on the Commission's Green Paper on convergence which will enable the Commission to formulate the announced action plan at the end of 1998, taking into account the existing regulatory framework, and the possible needs of developing digital services as they emerge.
-

**Council Recommendation
of 24 September 1998
on the development of the competitiveness of
the European audiovisual and information services industry
by promoting national frameworks aimed at achieving
a comparable and effective level of protection of minors and human dignity**

(OJ L 270, 7.10.1998)

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL RECOMMENDATION

of 24 September 1998

on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity

(98/560/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130 thereof,

Having regard to the Commission's proposal,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

- (1) Whereas the Commission adopted the Green Paper on the protection of minors and human dignity in audiovisual and information services on 16 October 1996 and the Council received it favourably at its meeting on 16 December 1996;
- (2) Whereas the European Parliament ⁽³⁾, the Economic and Social Committee ⁽⁴⁾ and the Committee of the Regions ⁽⁵⁾ have all adopted opinions on the Green Paper;
- (3) Whereas the conclusions of the consultation process were submitted by the Commission to the Council at its meeting of 30 June 1997 and unanimously welcomed;

(4) Whereas on 16 October 1996, the Commission adopted the communication on illegal and harmful content on the Internet; whereas on 17 February 1997 the Council and the representatives of the Governments of the Member States, meeting within the Council, adopted the resolution on illegal and harmful content on the Internet ⁽⁶⁾; whereas on 24 April 1997 the European Parliament adopted an opinion on the Commission communication on illegal and harmful content on the Internet; whereas this work is continuing in a manner complementary to the present recommendation since it deals with all forms of illegal and harmful content specifically on the Internet;

(5) Whereas the present recommendation addresses, in particular, issues of protection of minors and of human dignity in relation to audiovisual and information services made available to the public, whatever the means of conveyance (such as broadcasting, proprietary on-line services or services on the Internet);

(6) Whereas, in order to promote the competitiveness of the audiovisual and information services industry and its adaptation to technological development and structural changes, the provision of information, the raising of awareness and the education of users are essential; whereas this is also a condition

⁽¹⁾ Opinion delivered on 13 May 1998 (not yet published in the Official Journal).

⁽²⁾ OJ C 214, 10. 7. 1998, p. 25.

⁽³⁾ OJ C 339, 10. 11. 1997, p. 420.

⁽⁴⁾ OJ C 287, 22. 9. 1997, p. 11.

⁽⁵⁾ OJ C 215, 16. 7. 1997, p. 37.

⁽⁶⁾ OJ C 70, 6. 3. 1997, p. 1.

- of the European citizen's full participation in the information society; whereas, therefore, in addition to measures to protect minors and to combat illegal content offensive to human dignity, legal and responsible use of information and communication services should be encouraged, through the exercise, *inter alia*, of parental control measures;
- (7) Whereas Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽¹⁾, and in particular Articles 22, 22a and 22b of Directive 89/552/EEC, lays down a full range of measures aimed at the protection of minors with regard to television broadcasting for the purposes of ensuring the free movement of television broadcasts;
- (8) Whereas the development of audiovisual and information services is of vital importance for Europe in view of their significant potential in the fields of education, access to information and culture, economic development and job creation;
- (9) Whereas full achievement of this potential requires the existence of a successful and innovative industry in the Community; whereas it is in the first instance incumbent on businesses to ensure and improve their competitiveness with the support of public authorities where appropriate;
- (10) Whereas the establishment of the climate of confidence needed to achieve the potential of the audiovisual and information services industry by removing obstacles to the development and full competitiveness of the said industry is promoted by the protection of certain important general interests, in particular the protection of minors and of human dignity;
- (11) Whereas the general competitiveness of the European audiovisual and information services industry will improve through the development of an environment that favours cooperation between the enterprises in the sector on matters concerning the protection of minors and human dignity;
- (12) Whereas the existence of certain technological conditions enables a high level of protection of the abovementioned important general interests, in particular the protection of minors and human dignity, and, consequently, the acceptance by all users of these services;
- (13) Whereas it is important therefore to encourage enterprises to develop a national self-regulatory framework through cooperation between them and the other parties concerned; whereas self-regulation could provide enterprises with the means to adapt themselves rapidly to the quickening technical progress and to market globalisation;
- (14) Whereas the protection of general interests sought in this manner must be seen in the context of the fundamental principles of respect for privacy and freedom of expression, as enshrined in Articles 8 and 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and as recognised by Article F(2) of the Treaty on European Union and by the case-law of the Court of Justice as general principles of Community law;
- (15) Whereas any restriction of these rights and freedoms must be non-discriminatory, necessary to achieving the desired objective and strictly proportional with regard to the limitations it imposes;
- (16) Whereas the global nature of communications networks necessitates an international approach to the question of the protection of minors and human dignity in audiovisual and information services; whereas, in this context, the development of a common indicative framework at European level makes it possible both to promote European values and make a decisive contribution to the international debate;
- (17) Whereas it is vital to distinguish between questions relating to illegal content which is offensive to human dignity and those relating to content that is legal, but liable to harm minors by impairing their physical, mental or moral development; whereas these two types of problem may require a different approach and different solutions;
- (18) Whereas the national laws in which Member States have laid down rules and principles on the protection of minors and human dignity reflect cultural diversity and national and local sensitivities; whereas, in this regard, particular attention must be paid to the application of the principle of subsidiarity;
- (19) Whereas, in view of the transnational nature of communications networks, the effectiveness of national measures would be strengthened, at Community level, by coordination of national initiatives, and of the bodies responsible for their implementation, in accordance with the respective responsibilities and functions of the parties concerned and by the development of cooperation and the sharing of good practices in relevant areas;

⁽¹⁾ OJ L 202, 30. 7. 1997, p. 60.

- (20) Whereas, as a supplementary measure, and with full respect for the relevant regulatory frameworks at national and Community level, greater self-regulation by operators should contribute to the rapid implementation of concrete solutions to the problems of the protection of minors and human dignity, while maintaining the flexibility needed to take account of the rapid development of audiovisual and information services;
- (21) Whereas the contribution of the Community, the aim of which will be to supplement Member States' measures to protect minors and human dignity in audiovisual and information services, should be based on the maximum use of existing instruments;
- (22) Whereas there should be close coordination of the various relevant initiatives conducted in parallel with the follow-up to the Green Paper, particularly the work on the follow-up to the communication on 'Illegal and Harmful Content on the Internet', including the resolution adopted by the Council and the representatives of the Governments of the Member States meeting within the Council on 17 February 1997, the 1997 European Parliament resolution and the two working party reports submitted to the Council on 28 November 1996 and 27 June 1997, work carried out according to the provisions of Article 22b of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽¹⁾ and the work on cooperation on justice and home affairs;
- (23) Whereas the implementation of this recommendation will be closely coordinated with that of any possible new measure resulting from the work on the follow-up to the Commission communication on illegal and harmful content on the Internet,
- I. HEREBY RECOMMENDS that the Member States foster a climate of confidence which will promote the development of the audiovisual and information services industry by:
- (1) promoting, as a supplement to the regulatory framework, the establishment on a voluntary basis of national frameworks for the protection of minors and human dignity in audiovisual and information services through:
- the encouragement, in accordance with national traditions and practices, of the participation of relevant parties (such as users, consumers, businesses and public authorities) in the definition, implementation and evaluation of national measures in the fields covered by this recommendation,
 - the establishment of a national framework for self-regulation by operators of on-line services, taking into account the indicative principles and methodology described in the Annex,
 - cooperation at Community level in developing comparable assessment methodologies;
- (2) encouraging broadcasters in their jurisdiction to carry out research and to experiment, on a voluntary basis, with new means of protecting minors and informing viewers, as a supplement to the national and Community regulatory frameworks governing broadcasting;
- (3) taking effective measures, where appropriate and feasible, to reduce potential obstacles to the development of the on-line services industry while sustaining the fight against illegal content offensive to human dignity, through:
- the handling of complaints and the transmission of the necessary information about alleged illegal content to the relevant authorities at national level,
 - transnational cooperation between the complaints-handling structures, in order to strengthen the effectiveness of national measures;
- (4) promoting, in order to encourage the take-up of technological developments and in addition to and consistent with existing legal and other measures regarding broadcasting services, and in close cooperation with the parties concerned:
- action to enable minors to make responsible use of on-line audiovisual and information services, notably by improving the level of awareness among parents, educators and teachers of the potential of the new services and of the means whereby they may be made safe for minors,
 - action to facilitate, where appropriate and necessary, identification of, and access to, quality content and services for minors, including through the provision of means of access in educational establishments and public places.

⁽¹⁾ OJ L 298, 17. 10. 1989, p. 23. Directive as amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30. 7. 1997, p. 60).

II. RECOMMENDS that the industries and parties concerned:

- (1) cooperate, in accordance with national traditions and practices, with the relevant authorities in setting up structures representing all the parties concerned at national level, in order *inter alia* to facilitate participation in coordination at European and international level in the fields covered by this recommendation;
- (2) cooperate in the drawing up of codes of conduct for the protection of minors and human dignity applying to the provision of on-line services, *inter alia* to create an environment favourable to the development of new services, taking into account the principles and the methodology described in the Annex;
- (3) develop and experiment, as regards broadcasting services, on a voluntary basis, with new means of protecting minors and informing viewers in order to encourage innovation while improving such protection;
- (4) develop positive measures for the benefit of minors, including initiatives to facilitate their wider access to audiovisual and information services, while avoiding potentially harmful content;
- (5) collaborate in the regular follow-up and evaluation of initiatives carried out at national level in application of this recommendation.

III. INVITES the Commission to:

- (1) facilitate, where appropriate through existing Community financial instruments, the networking of the bodies responsible for the definition and implementation of national self-regulation frameworks and the sharing of experience and good practices, in particular in relation to innovative approaches, at Community level, between the

Member States and parties concerned in the various fields covered by this recommendation;

- (2) encourage cooperation and the sharing of experience and good practices between the self-regulation structures and complaints-handling structures, with a view to fostering a climate of confidence by combating the circulation of illegal content offensive to human dignity in on-line audiovisual and information services;
- (3) promote, with the Member States, international cooperation in the various fields covered by this recommendation, particularly through the sharing of experience and good practices between operators and other concerned parties in the Community and their partners in other regions of the world;
- (4) develop, in cooperation with the competent national authorities, a methodology for evaluating the measures taken in pursuance of this recommendation, with particular attention to the evaluation of the added value of the cooperation process at Community level, and present, two years after the adoption of this recommendation, an evaluation report on its effect to the European Parliament and the Council.

Done at Brussels, 24 September 1998.

For the Council
The President
J. FARNLEITNER

ANNEX

INDICATIVE GUIDELINES FOR THE IMPLEMENTATION, AT NATIONAL LEVEL, OF A SELF-REGULATION FRAMEWORK FOR THE PROTECTION OF MINORS AND HUMAN DIGNITY IN ON-LINE AUDIOVISUAL AND INFORMATION SERVICES

Objective

The purpose of these guidelines is to foster a climate of confidence in the on-line audiovisual and information services industry by ensuring broad consistency, at Community level, in the development, by the businesses and other parties concerned, of national self-regulation frameworks for the protection of minors and human dignity. The services covered by these guidelines are those provided at a distance, by electronic means. They do not include broadcasting services covered by Council Directive 89/552/EEC or radio broadcasting. The contents concerned are those which are made available to the public, rather than private correspondence.

This consistency will enhance the effectiveness of the self-regulation process and provide a basis for the necessary transnational cooperation between the parties concerned.

While taking into account the voluntary nature of the self-regulation process (the primary purpose of which is to supplement existing legislation) and respecting the differences in approach and varying sensitivities in the Member States of the Community, these guidelines relate to four key components of a national self-regulation framework:

- consultation and representativeness of the parties concerned,
- code(s) of conduct,
- national bodies facilitating cooperation at Community level,
- national evaluation of self-regulation frameworks.

1. CONSULTATION AND REPRESENTATIVENESS OF THE PARTIES CONCERNED

The objective is to ensure that the definition, implementation and evaluation of a national self-regulation framework benefits from the full participation of the parties concerned, such as the public authorities, the users, consumers and the businesses which are directly or indirectly involved in the audiovisual and on-line information services industries. The respective responsibilities and functions of the parties concerned, both public and private, should be set out clearly.

The voluntary nature of self-regulation means that the acceptance and effectiveness of a national self-regulation framework depends on the extent to which the parties concerned actively cooperate in its definition, application and evaluation.

All the parties concerned should also help with longer-term tasks such as the development of common tools or concepts (for example, on labelling of content) or the planning of ancillary measures (for example, on information, awareness and education).

2. CODE(S) OF CONDUCT

2.1. General

The objective is the production, within the national self-regulation framework, of basic rules which are strictly proportionate to the aims pursued; these rules should be incorporated into a code (or codes) of conduct covering at least the categories set out at 2.2, to be adopted and implemented voluntarily by the operators (i.e. primarily the businesses) concerned.

In drawing up these rules, the following should be taken into account:

- the diversity of services and functions performed by the various categories of operator (providers of network, access, service, content, etc.) and their respective responsibilities,
- the diversity of environments and applications in on-line services (open and closed networks, applications of varying levels of interactivity).

In view of the above, operators may need one or more codes of conduct.

Given such diversity, the proportionality of the rules drawn up should be assessed in the light of:

- the principles of freedom of expression, protection of privacy and free movement of services,
- the principle of technical and economic feasibility, given that the overall objective is to develop the information society in Europe.

2.2 The content of the code(s) of conduct

The code (or codes) of conduct should cover the following:

2.2.1. *Protection of minors*

Objective: to enable minors to make responsible use of on-line services and to avoid them gaining access, without the consent of their parents or teachers, to legal content which may impair their physical, mental or moral development. Besides coordinated measures to educate minors and to improve their awareness, this should cover the establishment of certain standards in the following fields:

(a) Information to users

Objective: within the framework of encouraging responsible use of networks, on-line service providers should inform users, where possible, of any risks from the content of certain on-line services and of such appropriate means of protection as are available.

The codes of conduct should address, for example, the issue of basic rules on the nature of the information to be made available to users, its timing and the form in which it is communicated. The most appropriate occasions should be chosen to communicate the information (sale of technical equipment, conclusion of contracts with user, web sites, etc.).

(b) Presentation of legal contents which may harm minors

Objective: where possible, legal content which may harm minors or affect their physical, mental or moral development should be presented in such a way as to provide users with basic information on its potentially harmful effect on minors.

The codes of conduct should therefore address, for example, the issue of basic rules for the businesses providing on-line services concerned and for users and suppliers of content; the rules should set out the conditions under which the supply and distribution of content likely to harm minors should be subject, where possible, to protection measures such as:

- a warning page, visual signal or sound signal,
- descriptive labelling and/or classification of contents,
- systems to check the age of users.

Priority should be given, in this regard, to protection systems applied at the presentation stage to legal content which is clearly likely to be harmful to minors, such as pornography or violence.

(c) Support for parental control

Objective: where possible, parents, teachers and others exercising control in this area should be assisted by easy-to-use and flexible tools in order to enable, without the former's educational choices being compromised, minors under their charge to have access to services, even when unsupervised.

The codes of conduct should address, for example, the issue of basic rules on the conditions under which, wherever possible, additional tools or services are supplied to users to facilitate parental control, including:

- filter software installed and activated by the user,
- filter options activated, at the end-user's request, by service operators at a higher level (for example, limiting access to predefined sites or offering general access to services).

(d) Handling of complaints ('hotlines')

Objective: to promote the effective management of complaints about content which does not comply with the rules on the protection of minors and/or violates the code of conduct.

The codes of conduct should address, for example, the issue of basic rules on the management of complaints and encourage operators to provide the management tools and structures needed so that complaints can be sent and received without difficulties (telephone, e-mail, fax) and to introduce procedures for dealing with complaints (informing content providers, exchanging information between operators, responding to complaints, etc.).

2.2.2. *Protection of human dignity*

Objective: to support effective measures in the fight against illegal content offensive to human dignity.

(a) Information for users

Objective: where possible, users should be clearly informed of the risks inherent in the use of on-line services as content providers so as to encourage legal and responsible use of networks.

Codes of conduct should address, for example, the issue of basic rules on the nature of information to be made available, its timing and the form in which it is to be communicated.

(b) Handling of complaints ('hotlines')

Objective: to promote the effective handling of complaints about illegal content offensive to human dignity circulating in audiovisual and on-line services, in accordance with the respective responsibilities and functions of the parties concerned, so as to reduce illegal content and misuse of the networks.

The codes of conduct should address, for example, the issue of basic rules on the management of complaints and encourage operators to provide the management tools and structures needed so that complaints can be sent and received without difficulties (telephone, e-mail, fax) and to introduce procedures for dealing with complaints (informing content providers, exchanging information between operators, responding to complaints, etc.).

(c) Cooperation of operators with judicial and police authorities

Objective: to ensure, in accordance with the responsibilities and functions of the parties concerned effective cooperation between operators and the judicial and police authorities within Member States in combating the production and circulation of illegal content offensive to human dignity in audiovisual and on-line information services.

The codes of conduct should address, for example, the issue of basic rules on cooperation procedures between operators and the competent public authorities, while respecting the principles of proportionality and freedom of expression as well as relevant national legal provisions.

2.2.3. *Violations of the codes of conduct*

Objective: to strengthen the credibility of the code (or codes) of conduct, taking account of its voluntary nature, by providing for dissuasive measures which are proportionate to the nature of the violations. In this connection, provision should be made, where appropriate, for appeal and mediation procedures.

Appropriate rules to govern this area should be included in the code of conduct.

3. NATIONAL BODIES FACILITATING COOPERATION AT COMMUNITY LEVEL

Objective: to facilitate cooperation at Community level (sharing of experience and good practices; working together) through the networking of the appropriate structures within Member States, consistent with their national functions and responsibilities. Such structures could also allow international cooperation to be extended.

Cooperation at European level means:

- cooperation between the parties concerned:
all the parties involved in the drawing up of the national self-regulation framework are asked to set up a representative body at national level to facilitate the sharing of experience and good practices and to work together at Community and international level,
- cooperation between national complaints-handling structures:
to facilitate and develop cooperation at European and international level, the parties involved in an effective complaint management system are asked to set up a national contact point to strengthen cooperation in the fight against illegal content, facilitate the sharing of experience and good practices, and improve legal and responsible use of the networks.

4. EVALUATION OF SELF-REGULATION FRAMEWORKS

The objective is to provide for regular evaluations of the self-regulation framework at national level, to assess its effectiveness in protecting the general interests in question, to measure its success in achieving its objectives and to adapt it gradually to changes in the market, technology and types of use.

The parties concerned are asked to set up an evaluation system at national level so that they can monitor the progress made in implementing the self-regulation framework. This should take into account appropriate European-level cooperation, *inter alia* on the development of comparable assessment methodologies.

**Council Decision
of 3 November 1998
concerning the conclusion of a bilateral agreement between the Community
and the Republic of Cyprus
on the Republic of Cyprus' participation in a Community programme
within the framework of Community audiovisual policy**

(OJ L 96, 18.4.2000)

COUNCIL DECISION
of 3 November 1998
concerning the conclusion of a bilateral agreement between the Community and the Republic of Cyprus on the Republic of Cyprus' participation in a Community programme within the framework of Community audiovisual policy

(2000/295/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 127(4) and Article 130(3), in conjunction with Article 228(3) first subparagraph, thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) The Resolution of the EU-Cyprus Association Council of 12 June 1995 established certain elements of a pre-accession strategy which include the participation of the Republic of Cyprus in Community programmes.
- (2) Pursuant to Decision 95/563/EC ⁽³⁾ and Decision 95/564/EC ⁽⁴⁾, the Community established a programme encouraging the development and distribution of European audiovisual works and a training programme for professionals in the European audiovisual programme industry (hereinafter together called MEDIA II programme).
- (3) The abovementioned Decisions provide in Articles 6 and 5 respectively that the MEDIA II programme shall be open to the participation of the Republic of Cyprus.
- (4) Successful cooperation in this field implies a general commitment by the Contracting Parties to make complementary efforts to stimulate the European dimension in the audiovisual sector.
- (5) The Republic of Cyprus has ratified the Council of Europe Convention on Transfrontier Television, which constitutes an important step in the process of legislative alignment.
- (6) The Commission has negotiated, on behalf of the Community, the Agreement between the European Community and the Republic of Cyprus establishing

cooperation in the audiovisual field including participation in the Media II programme to enable the Republic of Cyprus to participate in the Media II programme.

- (7) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Republic of Cyprus establishing cooperation in the audiovisual field including participation in the Media II programme is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The Commission shall represent the Community in the Joint Committee provided for in Article 6 of the Agreement.

Article 3

The President of the Council shall, on behalf of the Community, give the notification provided for in Article 14 of the Agreement.

Article 4

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 3 November 1998.

For the Council
The President
B. PRAMMER

⁽¹⁾ OJ C 162, 28.5.1998, p. 5.

⁽²⁾ OJ C 313, 12.10.1998, p. 28.

⁽³⁾ OJ L 321, 30.12.1995, p. 25.

⁽⁴⁾ OJ L 321, 30.12.1995, p. 33.

AGREEMENT

between the European Community and the Republic of Cyprus establishing cooperation in the audiovisual field including participation in the MEDIA II programme

THE EUROPEAN COMMUNITY,

of the one part, and

THE REPUBLIC OF CYPRUS,

of the other part,

WHEREAS pursuant to Council Decisions 95/563/EC of 10 July 1995 and 95/564/EC of 22 December 1995, a programme for the development and distribution of European audiovisual works and a training programme for professionals in the European audiovisual programme industry (hereinafter together called MEDIA II programme), were established;

WHEREAS the abovementioned Decisions provide in Articles 6 and 5 respectively that this programme shall be open to the participation of the Republic of Cyprus;

WHEREAS the participation of the Republic of Cyprus in the MEDIA II programme constitutes a significant step in the pre-accession strategy of the Republic of Cyprus;

WHEREAS, in particular, cooperation between the Community and the Republic of Cyprus, with a view to pursuing the objectives fixed for the MEDIA II programme, within the context of transnational cooperation activities involving the Community and the Republic of Cyprus, by its nature enriches the impact of the different actions undertaken pursuant to that programme and strengthens the skill levels of human resources in the Community and the Republic of Cyprus;

WHEREAS the Contracting Parties have a common interest in the development of the European audiovisual programme industry as part of wider cooperation between the Community and the Republic of Cyprus;

WHEREAS the Contracting Parties consequently expect to obtain mutual benefits from the participation of the Republic of Cyprus in the MEDIA II programme;

WHEREAS successful cooperation in the audiovisual field implies a general commitment by the Contracting Parties to take complementary efforts to stimulate the European dimension in this field,

HAVE AGREED AS FOLLOWS:

Article 1

Fields of cooperation

Cooperation between the Community and the Republic of Cyprus shall be established in all areas of actions of the MEDIA II programme in conformity, unless otherwise provided in this Agreement, with the objectives, criteria, procedures and deadlines as defined in Council Decision 95/563/EC of 10 July 1995 on the implementation of a programme encouraging the development and distribution of European audiovisual works (MEDIA II — Development and distribution) (1996 to 2000) and Council Decision 95/564/EC of 22 December 1995 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA II — Training).

Unless otherwise provided in this Agreement, conditions for the participation of organisations or individuals from the Republic of Cyprus in each of the actions shall be the same as those applicable to organisations or individuals from the Member States of the Community.

Article 2

Eligible institutions, organisations and individuals

The eligibility of institutions, organisations and individuals of the Republic of Cyprus shall be subject to the rules set out in Decisions 95/563/EC and 95/564/EC.

Article 3

Procedures

Eligible institutions, organisations and individuals of the Republic of Cyprus shall take part in the MEDIA II programme according to the conditions and rules set out in Decisions 95/563/EC and 95/564/EC. The terms and conditions for the submission, assessment and selection of applications related to eligible institutions, organisations and individuals of the Republic of Cyprus shall be the same as those applicable to eligible institutions, organisations and individuals of the Community.

Article 4

National structures

The Republic of Cyprus shall provide the appropriate structures and mechanisms at national level and shall take all other necessary steps to ensure national coordination and organisation of the implementation of MEDIA II, in conformity with the terms of the relevant provisions of Decisions 95/563/EC and 95/564/EC. In particular the Republic of Cyprus shall undertake to establish a MEDIA desk in collaboration with the Commission of the European Communities.

Article 5

Financial conditions

To cover the costs arising from its participation in MEDIA II, the Republic of Cyprus shall pay each year a contribution to the general budget of the European Communities according to the terms and conditions set out in the Annex hereto, which shall constitute an integral part of this Agreement.

Article 6

Joint Committee

1. A Joint Committee is hereby established.
2. The Joint Committee shall consist, on the one hand, of representatives of the Community and, on the other, of representatives of the Republic of Cyprus.
3. The Joint Committee shall be responsible for the implementation of this Agreement.
4. At the request of either Party the Contracting Parties shall exchange information and hold consultations within the Joint Committee on the activities covered by this Agreement and related financial aspects.

Article 7

Coordination meetings

The representatives of the Community in the Joint Committee shall take the appropriate steps to ensure coordination between the implementation of this Agreement and the decisions taken by the Community in respect of the implementation of MEDIA II. In order to facilitate this coordination and without prejudice to the procedures referred to in Article 5 of Decision 95/563/EC (MEDIA II — Development and Distribution) and Article 4 of Decision 95/564/EC (MEDIA II — Training), the Republic of Cyprus shall be invited to coordination meetings on any question concerning the implementation of this Agreement prior to the regular meetings of the Programme Committee. The Commission shall inform the Republic of Cyprus about the results of such regular meetings.

Article 8

Free movement

The Contracting Parties shall make every effort to facilitate the free movement and residence of all eligible persons to the programmes moving between the Republic of Cyprus and the Community for the purpose of participating in activities covered by this Agreement.

Article 9

Monitoring, evaluation and reports

Without prejudice to the responsibilities of the Commission and the European Court of Auditors in relation to the monitoring and evaluation of the programmes pursuant to Article 7 of Decision 95/563/EC (MEDIA II — Development

and Distribution) and Article 6 of Decision 95/564/EC (MEDIA II — Training) respectively, the participation of the Republic of Cyprus in the MEDIA II programme shall be continuously monitored on a partnership basis involving the Commission and the Republic of Cyprus. The Republic of Cyprus shall submit to the Commission, to assist the latter in drafting reports on the experience acquired in the application of the programme, a contribution describing the national measures taken by the Republic of Cyprus in this regard. It will take part in any other specific activities set out by the Community in this regard.

Article 10

Legislative alignment

The Commission and the Republic of Cyprus shall exchange information on, and monitor the progress of, legislative alignment in the audiovisual sector, with particular reference to Council Directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as amended by European Parliament and Council Directive 97/36/EC. The Republic of Cyprus shall be invited, where appropriate, to participate in the work of the Contact Committee set up by Directive 97/36/EC.

Article 11

Use of languages

The language to be used as regards the application process, contracts, reports to be submitted and other administrative arrangements for the MEDIA II programme, shall be one of the official languages of the Community.

Article 12

Territories

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other, to the territory of the Republic of Cyprus.

Article 13

Duration

1. This Agreement is concluded for the duration of the MEDIA II programme (until 31 December 2000).
2. Should the MEDIA II programme be revised, this Agreement may be renegotiated or terminated. The Republic of Cyprus shall be notified of the revised programme within one month of its adoption by the Community. Within a further two months, either Contracting Party may request a renegotiation or termination of this Agreement. In the event of termination the practical arrangements for dealing with outstanding commitments shall be the subject of negotiations between the Contracting Parties.

3. Either Contracting Party may, at any time, request a revision of this Agreement. To this end it shall submit a request to the other Contracting Party. The Contracting Parties may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening negotiations.

Article 14

Entry into force

This Agreement shall enter into force on the first day of the month following the notification by the Contracting Parties of the completion of their respective procedures.

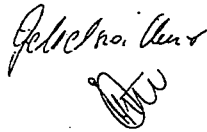
Article 15

Languages of the Agreement

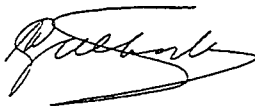
This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each of these texts being equally authentic.

Done at Brussels, on the ninth day of December in the year one thousand nine hundred and ninety-eight.

For the European Community



For the Republic of Cyprus



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ANNEX

FINANCIAL CONTRIBUTION OF CYPRUS TO THE MEDIA II PROGRAMME

1. The financial contribution of the Republic of Cyprus will cover:
 - financial support from the Programme to Cypriot participants,
 - financial support from the Programme to a MEDIA desk up to 50 % of its overall running costs,
 - supplementary costs of an administrative nature related to the management of the Programme by the Commission stemming from the participation of the Republic of Cyprus.

For every budget year, the aggregated amount of the financial support received from the Programme by Cypriot beneficiaries and by the MEDIA desk of Cyprus will not exceed the contribution paid by the Republic of Cyprus, after deduction of the supplementary costs of an administrative nature.

2. Should the contribution paid by the Republic of Cyprus to the budget of the Community, after deduction of the supplementary costs of an administrative nature, be higher than the aggregated amount of the financial support received by the Cypriot beneficiaries and by the MEDIA desk from the Programme, the Commission of the European Communities will transfer the balance to the next budgetary exercise, and it will be deducted from the following year's contribution. Should such a balance be left when the Programme comes to an end, the corresponding amount will be reimbursed to the Republic of Cyprus.

3. Cyprus's annual contribution for 1998 will be of ECU 140 832. From this sum, an amount of ECU 9 858 will cover supplementary costs of an administrative nature related to the management of the Programme by the Commission stemming from Cyprus's participation.

For 1999, Cyprus's annual contribution will be of ECU 172 290. From this sum, an amount of ECU 12 060 will cover supplementary costs of an administrative nature related to the management of the Programme by the Commission stemming from Cyprus's participation.

For 2000, the amount of Cyprus's contribution shall be the same as for 1999, provided the annual appropriation for the Programme shall be authorised by the budgetary authority in accordance with the relevant financial perspective.

4. The Financial Regulation applicable to the general budget of the European Communities shall apply, notably to the management of the contribution of Cyprus.

After the entry into force of the Agreement and at the beginning of each following year, the Commission shall send to the Republic of Cyprus a call for funds corresponding to its contribution to the costs under the Agreement.

This contribution shall be expressed in ecus and paid into an ecu bank account of the Commission.

The Republic of Cyprus shall pay its contribution to the annual costs under this Agreement according to the call for funds and at the latest three months after the call for funds is sent. Any delay in the payment of the contribution shall give rise to the payment of interest by Cyprus on the outstanding amount from the due date. The interest rate corresponds to the rate applied by the European Monetary Cooperation Fund, for the month of the due date, for its operations in ecus, increased by 1,5 percentage points.

**Resolution of the Council and
of the Representatives of the Governments of the Member States,
meeting within the Council of 25 January 1999
concerning public service broadcasting**

(OJ C 30, 5.2.1999)

I

(Information)

COUNCIL

RESOLUTION OF THE COUNCIL AND OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL

of 25 January 1999

concerning public service broadcasting

(1999/C 30/01)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITY, MEETING WITHIN THE COUNCIL,

- (A) referring to the Council's discussion on public service broadcasting;
- (B) considering the fact that public service broadcasting, in view of its cultural, social and democratic functions which it discharges for the common good, has a vital significance for ensuring democracy, pluralism, social cohesion, cultural and linguistic diversity;
- (C) stressing that the increased diversification of the programmes on offer in the new media environment reinforces the importance of the comprehensive mission of public service broadcasters;
- (D) recalling the affirmation of competence of the Member States concerning remit and funding set out in the Protocol on the system of public broadcasting in the Member States to the Treaty of Amsterdam;

NOTE AND REAFFIRM THAT:

- (1) the Amsterdam protocol confirms that it is the unanimous will of the Member States to stress the role of public service broadcasting;
- (2) thus the provisions of the Treaty establishing the European Community shall be without prejudice to the competence of Member States to provide for the funding of public service broadcasting insofar as such funding is granted to broadcasting organi-

sations for the fulfilment of the public service remit as conferred, defined and organised by each Member State, and insofar as such funding does not affect trading conditions and competition in the Community to an extent which would be contrary to the common interest, while the realisation of the remit of that public service shall be taken into account;

- (3) the fulfilment of the public service broadcasting's mission must continue to benefit from technological progress;
- (4) broad public access, without discrimination and on the basis of equal opportunities, to various channels and services is a necessary precondition for fulfilling the special obligation of public service broadcasting;
- (5) according to the definition of the public service remit by the Member States, public service broadcasting has an important role in bringing to the public the benefits of the new audiovisual and information services and the new technologies;
- (6) the ability of public service broadcasting to offer quality programming and services to the public must be maintained and enhanced, including the development and diversification of activities in the digital age;
- (7) public service broadcasting must be able to continue to provide a wide range of programming in accordance with its remit as defined by the Member States in order to address society as a whole; in this context it is legitimate for public service broadcasting to seek to reach wide audiences.

**Council Resolution
of 8 February 1999
on fixed book prices
in homogeneous cross-border linguistic areas**

(OJ C 42, 17.2.1999)

COUNCIL RESOLUTION

of 8 February 1999

on fixed book prices in homogeneous cross-border linguistic areas

(1999/C 42/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

RECOGNISING the dual character of books as the bearers of cultural values and as merchandise; strongly emphasising the importance of a balanced assessment of the cultural and economic aspects of books;

CONSIDERING the great importance placed by certain Member States on existing fixed book pricing systems, namely in homogeneous cross-border linguistic areas;

CONSIDERING the Commission statement that in the context of competition rules it wants to scrutinise only agreements between economic operators which could hamper trade within the Community;

CONSIDERING that the Commission indicated at the Council meeting on 17 November 1998 that it will consider sympathetically whether contractual arrangements in homogeneous linguistic areas serve cultural ends and contain provisions of a cultural nature such as might justify restrictions on competition;

CONSIDERING that the Commission is currently examining whether cross-border agreements comprising fixed book prices are compatible with the rules of Community law and can be exempted under Article 85(3) of the Treaty;

RECALLING the European Parliament's latest Resolution of 20 November 1998 in which it calls on the Commission to adapt its Community policy on international book price-fixing to cultural requirements and

to make it possible for current book price-fixing systems to continue to exist;

CONSIDERING that all Member States wish to promote a wide range of publications, particularly literary and scientific works, as well as works with a limited and specific readership, and also wish to promote cultural development and diversity in Europe, as well as provide cultural benefits to the consumer;

RECOGNISING that in the view of certain Member States, cross-border book-pricing systems in shared linguistic areas, whether on a legal or contractual basis, provide an effective means of achieving these objectives;

RECOGNISING that fixed book price systems must comply fully with Community law and having regard to the Council Decision of 22 September 1997 on cross-border fixed prices in European linguistic areas⁽¹⁾ and to the Commission's prerogatives,

CALLS ON THE COMMISSION:

- whilst applying European competition rules to agreements in cross-border linguistic areas, to take account of the provisions and implications of Article 128(4) of the Treaty, of the special cultural role of the book market and of the specific value of the book as a cultural object, as well as of relevant national cultural policies;
- accordingly to seek the solutions best suited to achieving these aims now and in the future.

⁽¹⁾ OJ C 305, 7.10.1997, p. 2.

**Decision No 476/1999/EC of the European Parliament and of the Council
of 22 February 1999
amending Decision No 2085/97/EC establishing a programme of support,
including translation, in the field of books and reading
(Ariane)**

(OJ L 57, 5.3.1999)

I

(Acts whose publication is obligatory)

**DECISION No 476/1999/EC OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL**

of 22 February 1999

amending Decision No 2085/97/EC establishing a programme of support,
including translation, in the field of books and reading (Ariane)

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 128 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Committee of the
Regions ⁽²⁾,

Acting in accordance with the procedure laid down in
Article 189b of the Treaty ⁽³⁾,

Whereas Decision No 2085/97/EC of the European
Parliament and of the Council ⁽⁴⁾ establishes a programme
of support, including translation, in the field of books and
reading (the 'Ariane programme') for the period 1 January
1997 to 31 December 1998;

Whereas the third paragraph of Article 8 of that Decision
provides for any suitable measure to be taken to avoid
interruption of the programme;

Whereas the Commission presented a proposal to the
European Parliament and the Council on 28 May 1998
for a Decision establishing a single financing and
programming instrument for cultural cooperation for the
period 1 January 2000 to 31 December 2004;

Whereas, pending adoption of that proposal, there is a
need to ensure the continuity of cultural action by the
European Community in the areas covered by the Ariane
programme,

HAVE DECIDED AS FOLLOWS:

Article 1

Decision No 2085/97/EC is hereby amended as follows:

1. in Article 1, '31 December 1998' shall be replaced by
'31 December 1999'.
2. in Article 6, 'ECU 7 million' shall be replaced by 'EUR
11,1 million'.

Article 2

This Decision shall enter into force on 1 January 1999.

Done at Brussels, 22 February 1999.

*For the European
Parliament*

The President

J. M. GIL-ROBLES

For the Council

The President

K.-H. FUNKE

⁽¹⁾ OJ C 319, 16. 10. 1998, p. 13, and OJ C 372, 2. 12. 1998, p. 28.

⁽²⁾ OJ C 51, 22. 2. 1999, p. 92.

⁽³⁾ Opinion of the European Parliament of 9 October 1998 (OJ C 328, 26. 10. 1998, p. 237), Council Common Position of 20 November 1998 (OJ C 404, 23. 12. 1998, p. 17) and Decision of the European Parliament of 17 December 1998 (not yet published in the Official Journal). Council Decision of 8 February 1999.

⁽⁴⁾ OJ L 291, 24. 10. 1997, p. 26.

**Decision No 477/1999/EC of the European Parliament and of the Council
of 22 February 1999
amending Decision No 719/96/EC establishing a programme to support
artistic and cultural activities having a European dimension
(Kaleidoscope)**

(OJ L 57, 5.3.1999)

**DECISION No 477/1999/EC OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL**
of 22 February 1999
amending Decision No 719/96/EC establishing a programme to support artistic
and cultural activities having a European dimension (Kaleidoscope)

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 128 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Committee of the
Regions ⁽²⁾,

Acting in accordance with the procedure laid down in
Article 189b of the Treaty ⁽³⁾,

Whereas Decision No 719/96/EC of the European Parlia-
ment and of the Council ⁽⁴⁾ established a programme to
support artistic and cultural activities having a European
dimension (the 'Kaleidoscope programme') for the period
1 January 1996 to 31 December 1998;

Whereas the third paragraph of Article 8 of that Decision
provides for any suitable measure to be taken to avoid
interruption of the programme;

Whereas the Commission presented a proposal to the
European Parliament and the Council on 28 May 1998
for a Decision establishing a single financing and
programming instrument for cultural cooperation for the
period 1 January 2000 to 31 December 2004;

Whereas, pending adoption of that proposal, there is a
need to ensure the continuity of cultural action by the
European Community in the areas covered by the Kal-
eidoscope programme,

HAVE DECIDED AS FOLLOWS:

Article 1

Decision No 719/96/EC is hereby amended as follows:

1. in Article 1, '31 December 1998' shall be replaced by
'31 December 1999'.
2. in Article 6, 'ECU 26,5 million' shall be replaced by
'EUR 36,7 million'.

Article 2

This Decision shall enter into force on 1 January 1999.

Done at Brussels, 22 February 1999.

*For the European
Parliament*

The President

J. M. GIL-ROBLES

For the Council

The President

K.-H. FUNKE

⁽¹⁾ OJ C 319, 16. 10. 1998, p. 14, and OJ C 372, 2. 12. 1998, p. 30.

⁽²⁾ OJ C 51, 22. 2. 1999, p. 92.

⁽³⁾ Opinion of the European Parliament of 9 October 1998 (OJ C 328, 26. 10. 1998, p. 238), Council Common Position of 20 November 1998 (OJ C 404, 23. 12. 1998, p. 19) and Decision of the European Parliament of 17 December 1998 (not yet published in the Official Journal). Council Decision of 8 February 1999.

⁽⁴⁾ OJ L 99, 20. 4. 1996, p. 20.

**Council Decision
of 26 April 1999
establishing a Community statistical information infrastructure
relating to the industry and markets of the audiovisual and related sectors**

(OJ L 117, 5.5.1999)

COUNCIL DECISION

of 26 April 1999

establishing a Community statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors

(1999/297/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 213 thereof,

Having regard to the draft Decision submitted by the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

- (1) Whereas in order to implement Community policies on the industry and markets of the audiovisual and related sectors it is necessary to establish a Community statistical information infrastructure;
- (2) Whereas the European Council, in particular in the White Paper on growth, competitiveness and employment stresses the economic importance of the audiovisual sector and the Bangemann Group report, entitled 'Europe and the global information society — recommendations to the European Council', recognises the strategic importance of the audiovisual programme industry;
- (3) Whereas a reliable information infrastructure must be organised by means of individual statistical actions;
- (4) Whereas Council Decision 93/464/EEC of 22 July 1993 on a framework programme for priority actions in the field of statistical information 1993 to 1997⁽²⁾ specified that the audiovisual sector should be regarded as one of the priority service sectors at Community level and provided for the establishment of a new information system based on the 'enterprise' approach and functional statistics;
- (5) Whereas Annex I, Title III of the Community Statistical Programme 1998 to 2002⁽³⁾ refers to the carrying out of user requirement analyses, source assessment, data collection and testing of methods by pilot studies in the audiovisual sector;
- (6) Whereas these pilot studies should be reviewed to ensure they meet user requirements; whereas this should be undertaken within two and a half years; whereas the results of this review should be

communicated to the European Parliament and the Council; whereas at all stages additional burdens on small and medium-sized enterprises (SMEs) should be minimised;

- (7) Whereas individual statistical actions are governed by Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics⁽⁴⁾;
- (8) Whereas, by virtue of the principle of subsidiarity, the objective of the proposed individual statistical actions can be achieved only by a Community legal instrument, as only the Commission is in a position to coordinate the requisite harmonisation of information at Community level;
- (9) Whereas, within the framework of the Council of Europe, the European Audiovisual Observatory, of which the Commission is a member, constitutes *inter alia* an important source of information for its members and their professionals and whereas it is necessary to ensure complementarity between the work undertaken under this Decision and the work of the Observatory;
- (10) Whereas the statistical methodologies proposed for the audiovisual sector should be compatible and consistent with the existing European standards and methodologies;
- (11) Whereas the Statistical Programme Committee established by Decision 89/382/EEC, Euratom⁽⁵⁾, has been informed in accordance with Article 3 of that Decision,

HAS ADOPTED THIS DECISION:

Article 1

Objective

The objective of this Decision is to establish the Community statistical information infrastructure necessary for the development and implementation of a Community policy on the industry and markets of the audiovisual and related sectors.

⁽¹⁾ Opinion delivered on 9 March 1999 (not yet published in the Official Journal).

⁽²⁾ OJ L 219, 28.8.1993, p. 1.

⁽³⁾ OJ L 42, 16.2.1999, p. 12.

⁽⁴⁾ OJ L 52, 22.2.1997, p. 1.

⁽⁵⁾ OJ L 181, 28.6.1989, p. 47.

Article 2

Individual statistical actions

The objective described in Article 1 shall be implemented by individual statistical actions in accordance with Regulation (EC) No 322/97 as follows:

1. by the national authorities:
 - (a) analysis and evaluation of the demand for statistics (firms, functions and products) on the audiovisual sector from users (Community institutions, government departments, national sectoral bodies, international organisations, economic operators) and the effect on businesses, especially SMEs, of the collection of statistics in the audiovisual sector;
 - (b) analysis of existing statistics (firms, functions and products) and their sources;
 - (c) annual forwarding to Eurostat of statistics (firms, functions and products) already on hand or available from the competent national authorities;
 - (d) voluntary participation in pilot studies to test working methods in practice and promote the creation of Community statistics (firms, functions and products);
2. by Eurostat:
 - (a) preparation of a Community institutional and functional methodological framework (firms, functions and products);
 - (b) creation of a database for statistics forwarded in accordance with paragraph 1(c) and data gathered from international organisations;
 - (c) comparison of existing statistical systems in Member States and some non-Member States, especially the pre-accession States;
 - (d) assessment of the relevance of, and future needs for, statistics in the audiovisual sector, especially in terms of data needed for the development and follow-up of employment, training and equal opportunities policy.

Article 3

Implementation

The measures necessary for the implementation of the individual statistical actions set out in Article 2 shall be decided in accordance with the procedure referred to in Article 4.

Article 4

Procedure

1. The Commission shall be assisted by the Statistical Programme Committee.
2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.
3. (a) The Commission shall adopt measures which shall apply immediately.
 - (b) However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event:
 - the Commission shall defer application of the measures which it has decided for a period of three months from the date of the communication,
 - the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

Article 5

Reports

The Commission shall present an interim report and a final report to the European Parliament and the Council on the implementation of the measures provided for in Article 2. The interim report should be drawn up no later than two and a half years after the entry into force of this Decision. The final report shall be presented within five years of the entry into force of this Decision.

These reports shall consider, *inter alia*, the relevance of collecting statistics in the audiovisual sector in the light of the priorities set for the 1998 to 2002 Community Statistical Programme, and the resources available both at Eurostat and the national statistical offices.

Following these reports, the Commission may propose any changes necessary to improve the operation of this Decision.

Article 6

Budget

The appropriations to be allocated to carrying out the actions provided for in Article 2 shall be adopted by the budgetary authority as part of the annual budgetary procedure.

Article 7

Duration

This Decision shall expire five years after its adoption.

Article 8

This Decision is addressed to the Member States.

Done at Luxembourg, 26 April 1999.

For the Council

The President

J. FISCHER

**Decision 1419/1999/EC of the European Parliament and of the Council
of 25 May 1999
establishing a Community action for the European Capital of Culture event
for the years 2007 to 2019**

(OJ L 166, 1.7.1999)

I

(Acts whose publication is obligatory)

DECISION 1419/1999/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 May 1999

establishing a Community action for the European Capital of Culture event for the years 2005 to 2019

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 151 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

(1) Whereas, throughout its history, Europe has been the site of exceptionally prolific and varied artistic activity; whereas urban life has played a major role in the growth and influence of the European cultures;

(2) Whereas Article 151 of the Treaty grants powers to the Community in the cultural field; whereas all Community activity designed to promote cultural activities should therefore be undertaken on this legal basis, in accordance with the objectives and means assigned to the Community by the Treaty;

(3) Whereas, on 13 June 1985, the Ministers responsible for Cultural Affairs meeting within the Council, adopted a resolution concerning the annual event 'European City of Culture' ⁽⁴⁾, the main aim of which was to open up to the European public particular aspects of the culture of the city, region or country concerned, an event for which the Community has provided financial support;

(4) Whereas a study which has been carried out into the results achieved by European Cities of Culture shows that the event has a positive impact in terms of media resonance, the development of culture and tourism and the recognition by inhabitants of the importance of their city having been chosen;

(5) Whereas the positive impact has none the less not always produced results lasting beyond the duration of the project itself and whereas, while recognising their competence to decide about the content of their project, the attention of public decision-makers in the cities chosen should be drawn to the need to integrate the cultural project into a dynamic medium-term process;

(6) Whereas this initiative is important both for strengthening local and regional identity and for fostering European integration;

(7) Whereas, in the discussions leading up to its opinion of 7 April 1995 ⁽⁵⁾ on the Kaleidoscope programme established by Decision No 719/96/EC ⁽⁶⁾, the European Parliament asked the Commission to present a specific programme on the European City of Culture after the year 2000 on the basis of Article 151 of the Treaty;

(8) Whereas the importance and impact of the City of Culture event calls for the creation of a rotational system of designation which will ensure that each Member State will have one of its cities chosen at regular intervals; whereas a predictable, consistent and transparent rotational system is best achieved through a single decision whereby the order in which Member States will hold the event is decided;

⁽¹⁾ OJ C 362, 28.11.1997, p. 12.

⁽²⁾ OJ C 180, 11.6.1998, p. 70.

⁽³⁾ Opinion of the European Parliament of 30 April 1998 (OJ C 152, 18.5.1998, p. 55), Council Common Position of 24 July 1998 (OJ C 285, 14.9.1998, p. 5) and Decision of the European Parliament of 11 March 1999 (OJ C 175, 21. 6. 1999), Council Decision of 10 May 1999.

⁽⁴⁾ OJ C 153, 22.6.1985, p. 2.

⁽⁵⁾ OJ C 109, 1.5.1995, p. 281.

⁽⁶⁾ Decision No 719/96/EC of the European Parliament and of the Council of 29 March 1996 establishing a programme to support artistic and cultural activities having a European dimension (Kaleidoscope) (OJ L 99, 20.4.1996, p. 20).

- (9) Whereas it is appropriate for the Council to designate the Capitals of Culture in view of the great symbolic importance in the Member States of such a designation;
- (10) Whereas any Community initiative to promote the European City of Culture must satisfy predefined objectives and use the resources provided for by the Treaty;
- (11) Whereas the Community has in the past made a contribution to the European City of Culture and the European Cultural Month events under the Kaleidoscope Programme, which is due to expire in 1999;
- (12) Whereas on 22 September 1997 the Council adopted a Decision regarding the future of European cultural action⁽¹⁾ in which it called on the Commission, in accordance with Article 208 of the Treaty, to table proposals for a single programme for culture by May 1998, into which an action European Capital of Culture will be incorporated, including funding arrangements;
- (13) Whereas the Commission has submitted to the European Parliament and the Council a communication on the first European Community framework programme in support of culture, including a proposal for a decision establishing a single financing and programming instrument for cultural cooperation,

HAVE DECIDED AS FOLLOWS:

Article 1

A Community action entitled 'European Capital of Culture' shall be established. Its objective shall be to highlight the richness and diversity of European cultures and the features they share, as well as to promote greater mutual acquaintance between European citizens.

Article 2

1. One city of a Member State shall be designated as European Capital of Culture, in turn, as set out in Annex I. The chronological order set out in Annex I may be altered by mutual agreement between the Member States concerned. The nomination or nominations shall be notified to the European Parliament, the Council, the Commission and the Committee of the Regions by the Member State concerned, possibly accompanied by a recommendation from the latter, no later than four years before the event in question is due to begin.

2. The Commission shall each year form a selection panel which shall issue a report on the nomination or nominations judged against the objectives and characteristics of this action. The selection panel shall be composed of seven leading independent figures who are experts on the cultural sector, of whom two shall be

appointed by the European Parliament, two by the Council, two by the Commission and one by the Committee of the Regions. The selection panel shall submit its report to the Commission, the European Parliament and the Council.

3. The European Parliament may forward an opinion to the Commission on the nomination or nominations not later than three months after receipt of the report. The Council, acting on a recommendation from the Commission drawn up in the light of the opinion of the European Parliament and of the selection panel's report, shall officially designate the city in question as a European Capital of Culture for the year for which it has been nominated.

Article 3

The nomination shall include a cultural project of European dimension, based principally on cultural cooperation, in accordance with the objectives and action provided for by Article 151 of the Treaty.

The submission shall specify how the nominated city intends:

- to highlight artistic movements and styles shared by Europeans which it has inspired or to which it has made a significant contribution,
- to promote events involving people active in culture from other cities in Member States and leading to lasting cultural cooperation, and to foster their movement within the European Union,
- to support and develop creative work, which is an essential element in any cultural policy,
- to ensure the mobilisation and participation of large sections of the population and, as a consequence, the social impact of the action and its continuity beyond the year of the events,
- to encourage the reception of citizens of the Union and the widest possible dissemination of the various events by employing all forms of multimedia,
- to promote dialogue between European cultures and those from other parts of the world and, in that spirit, to optimise the opening up to, and understanding of others, which are fundamental cultural values,
- to exploit the historic heritage, urban architecture and quality of life in the city.

Article 4

European non-member countries may participate in this action. Any such country may nominate one city as a European Capital of Culture and should notify its nomination to the European Parliament, the Council, the Commission and the Committee of the Regions. The Council, acting unanimously on a recommendation from the Commission, shall officially designate one of these nominated cities as a European Capital of Culture for each year, bearing in mind the desirability of four years' preparation time.

⁽¹⁾ OJ C 305, 7.10.1997, p. 1.

Article 5

Each city shall organise a programme of cultural events highlighting the city's own culture and cultural heritage as well as its place in the common cultural heritage, and involving people concerned with cultural activities from other European countries with a view to establishing lasting cooperation. In addition to the foregoing, the list indicating planning and evaluation criteria set out in Annex II should be taken into account to the greatest possible extent by the designated city in planning its programme. In principle this programme should last one year but as an exception designated cities may opt for a shorter period of time. Cities may choose to involve their surrounding region in their programme. A linkage between the programmes of the designated cities of the same year should be made.

Article 6

Each year the Commission shall produce a report evaluating the results of the previous year's event, including an analysis by the organisers of the latter. This report shall be presented to the European Parliament, the Council and the Committee of the Regions. The Commission may also make any proposals for revision of this Decision which it judges necessary for the smooth operation of this action and, in particular, with a view to the future enlargement of the Union.

Done at Brussels, 25 May 1999.

For the European Parliament

The President

J.M. GIL-ROBLES

For the Council

The President

H. EICHEL

ANNEX I

ORDER OF ENTITLEMENT TO NOMINATE A EUROPEAN CAPITAL OF CULTURE

2005	Ireland
2006	Netherlands
2007	Luxembourg
2008	United Kingdom
2009	Austria
2010	Germany
2011	Finland
2012	Portugal
2013	France
2014	Sweden
2015	Belgium
2016	Spain
2017	Denmark
2018	Greece
2019	Italy

ANNEX II

LIST INDICATING PLANNING AND EVALUATION CRITERIA

Possible elements of designated cities' programmes:

- promotion of shared artistic movements and styles in the development of which the city has played a particular role,
 - organisation of artistic events (music, dance, theatre, visual arts, cinema, etc.) and improvement of the promotion and management of the arts,
 - promotion of European public awareness of the figures and events which have marked the history and culture of the city,
 - organisation of specific activities designed to encourage artistic innovation and to generate new forms of cultural action and dialogue,
 - organisation of measures to increase access to and awareness of fixed and movable artistic assets and artistic productions specific to the city,
 - organisation of specific cultural projects designed to bring young people to the arts,
 - organisation of specific cultural projects designed to increase social cohesion,
 - taking the planned activities to a wider public, particularly through the use of multimedia and audiovisual means and a multilingual approach,
 - contribution to the development of economic activity, particularly in terms of employment and tourism,
 - need to develop high-quality and innovative cultural tourism with due allowance being made for the importance in this connection of managing the cultural heritage on a sustainable basis and reconciling the wishes of visitors with those of the local population,
 - organisation of projects designed to encourage the development of links between the architectural heritage and strategies for new urban development,
 - joint organisation of initiatives designed to promote dialogue between the cultures of Europe and the cultures of other parts of the world.
-

**Council Conclusions
of 27 September 1999
concerning the results of the public consultation
on the Convergence Green Paper
(in particular the aspects relating to the media and the audiovisual sector)**

(OJ C 283, 6.10.1999)

COUNCIL

COUNCIL CONCLUSIONS

of 27 September 1999

concerning the results of the public consultation on the Convergence Green Paper (in particular the aspects relating to the media and the audiovisual sector)

(1999/C 283/01)

THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING the Council Conclusions of 24 September 1998 concerning the European Audiovisual Conference: 'Challenges and Opportunities of the Digital Age' ⁽¹⁾;
2. RECALLING the Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council of 25 January 1999 concerning public service broadcasting ⁽²⁾;
3. RECALLING the Council Conclusions of 22 April 1999 on the results of the public consultation of the Convergence Green Paper;
4. AWARE OF the discussion on the possible scope and of the merits and risks of self-regulation in the media that have been highlighted by the participants of the Saarbrücken expert seminar on self-regulation in the media;
5. TAKES NOTE of the fact that the Commission, in its communication on the results of the public consultation of the Convergence Green Paper of 9 March 1999, presents several key messages of particular relevance to the audiovisual sector and ANNOUNCES ITS INTENTION to present a more detailed set of regulatory principles in an additional communication;
6. TAKES NOTE that a general message with regard to the role of regulation was the affirmation of the continuing need to meet a range of public interest objectives (such as the protection of minors and human dignity, cultural and linguistic diversity and pluralism) whilst recognising the need to promote investment, in particular in new audiovisual services;
7. TAKES NOTE that a general message with regard to content was the recognition that actions aimed at promoting premium European content could play an important role;
8. STRESSES that, in addition to technical and economical aspects, social, cultural and democratic aspects are of great importance for the development of the Information Society;
9. CONVINCED OF the need for continuous assessment and possible adaptation of the regulatory framework on national and European level taking into account the principle of subsidiarity;
10. TAKES NOTE of the fact that separation of infrastructure and content regulation was recommended; this implies with regard to infrastructure regulation the need to safeguard the access of the public to a wide variety of media content;
11. TAKES NOTE that such separation implies with regard to content regulation:
 - taking full account of the specificity of the audiovisual sector, in particular through a vertical and sectoral approach where necessary, building on current regulatory structures as well as the public policy objectives,
 - application of an appropriate regulatory regime for new services, after due consultation and debate, recognising the unpredictability of the marketplace and the need for the large initial investments involved in their launch while at the same time maintaining adequate protection of minors, consumer safeguards and other important public interests,
 - self-regulation could usefully complement regulation and contribute to the achievement of the right balance between facilitating the development of open and competitive markets and securing public interest objectives;

⁽¹⁾ OJ C 306, 6.10.1998, p. 1.

⁽²⁾ OJ C 30, 5.2.1999, p. 1.

12. STRESSES that the consultation also produced, in response to the three options put forward by the Commission in the Green Paper ⁽¹⁾, a clear majority in favour of an evolutionary approach to content regulation, building on existing structures;

13. STRESSES, with a view to the development of new technologies, that a balanced and transparent solution as to how public service broadcasting can best continue to play its role in full in this new environment should in particular:

- reaffirm Member State competence to confer, define and organise the public service remit in each Member State in accordance with the Protocol on the system of public broadcasting in the Member States annexed to the Treaty of Amsterdam,

⁽¹⁾ The three options are:

1. build on current structures;
2. develop a separate regulatory model for new activities, to coexist with telecommunications and broadcasting regulation;
3. progressively introduce a new regulatory model to cover the whole range of existing and new services.

- encourage those organisations vested with a public service broadcasting remit to exploit new technologies and, by doing so to find new ways of maintaining and expanding their audiences, in order to fulfil that remit;

14. INVITES the Commission, without prejudice to its Treaty prerogatives:

- to take account of these conclusions in drawing up the communication mentioned in point 5, recognising and addressing the specificity of the audiovisual sector and taking account of democratic, social and cultural needs,

- to take account of the outcome of the consultation if and when drawing up proposals for measures for the strengthening of the European audiovisual industry, including the multimedia industry;

15. TAKES NOTE that the Commission's immediate actions in relation to content will include verification of the implementation and application by the Member States of the amended 'television without frontiers' Directive.

**Council Conclusions
of 27 September 1999
on the role of self-regulation in the light
of the development of new media services**

(OJ C 283, 6.10.1999)

COUNCIL CONCLUSIONS

of 27 September 1999

on the role of self-regulation in the light of the development of new media services

(1999/C 283/02)

THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity⁽¹⁾ and the multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks adopted by Decision No 276/1999/EC of the European Parliament and of the Council⁽²⁾;
2. RECALLING the fact that the Commission, in its communication of 9 March 1999 on the results of the public consultation on the Convergence Green Paper, has noticed the relevance that self-regulation could have;

⁽¹⁾ OJ L 270, 7.10.1998, p. 48.

⁽²⁾ OJ L 33, 6.2.1999, p. 1.

3. RECOGNISING that while self-regulation will continue usefully to complement regulation in all media forms in a number of Member States, it is appropriate here to consider the role of self-regulation in new media services;

4. TAKES NOTE

- that self-regulation systems have been developed for the media in most European countries some of which cover all media (press, broadcasting — sound radio, tv and advertising in all media), while others are restricted to individual media or new information and communication services,
- that there are significant differences between the ways in which different self-regulation systems are organised and complement or contribute to State regulation which reflect Europe's democratic, regional and cultural diversity,

- that self-regulation could usefully complement regulation in the context of the future development of new media services;

5. RECOGNISES

- that the definition of the public interest objectives and the choice of the best way to reach these objectives in this field remains inherently the responsibility of Member States, without prejudice to Community law,
- that media self-regulation systems, in accordance with national cultural and legal traditions and practices, may however make a contribution to safeguarding public interests;

6. WELCOMES the fact:

- that the Commission intends to present a more detailed set of regulatory principles in a communication in addition to its communication of 9 March 1999 on the results of the public consultation on the Convergence Green Paper,
- that the Saarbrücken expert seminar on self-regulation in the media organised by the German presidency has started the debate at European level on the possible contribution self-regulation systems may make to the achievement of public interest objectives, in particular in the light of the development of new media services;

7. TAKING INTO ACCOUNT the experience with existing self-regulation systems in media policy, STRESSES the need:

- to analyse possible contributions, of self-regulatory systems on the new media services,
- to balance the strength and weakness of self-regulation systems,
- to deepen this analysis of possible contributions in particular by public consultations,
- to take into account the interests of third parties, in particular users, when considering self-regulation in the new media services;

8. INVITES the Commission, without prejudice to its Treaty prerogatives:

- to take account of the present state of discussion on the role of self-regulation in the light of the development of new media services when drawing up the communication mentioned under point 6, bearing in mind that it is up to each Member State to determine the possible complementary role of self-regulation to legislation,
- to facilitate future discussion on this subject by presenting, if necessary, updated information to the European Parliament and the Council.

**Council Resolution
of 28 October 1999
integrating history
into the Community's cultural action**

(OJ C 324, 12.11.1999)

COUNCIL

COUNCIL RESOLUTION

of 28 October 1999

integrating history into the Community's cultural action

(1999/C 324/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Whereas:

- (1) European cooperation and integration should be based on awareness and protection of cultural diversity and mutual understanding between Europe's peoples; this is especially relevant in view of the future enlargement of the European Union;
- (2) The everyday lives of the peoples of Europe have been shaped by diverse historical experiences; knowledge of the shared experiences and memories strengthens the bonds between European citizens and contributes to the development of a European awareness;
- (3) Europe is also a community of shared values; European integration building on the fundamental principles of human rights, the rule of law and democracy is the consequence of historical experiences which constitute our common heritage today; knowledge of the history of Europe's peoples helps to ensure that those political principles and their attendant values are firmly anchored in the minds of its citizens;
- (4) In addition to history and arts teaching in schools — which is the responsibility of the Member States — books, television, new media, museums, libraries, archives and film museums play an increasingly important role in communicating historical knowledge;
- (5) The expert meeting on the culture of European history in the twenty-first century held in Bonn on 25 and 26 January 1999 considered a wide range of positive measures for fostering an awareness of the history of European peoples, for instance by:

— the promotion of the translation of historical works,

— the encouragement of the exchange of historical documentaries between European radio and television providers,

— the fostering of Europe-wide cooperation between history museums;

AGREES ON

— the need to contribute to a better mutual understanding of the history and diverse historical experience of Europe's peoples through closer cooperation between Member States and other relevant bodies,

— the need for history to be taken into account not only in measures that promote culture but also in other support programmes, for instance in the field of education and research, having regard to the need for consistency and complementarity between Community support measures;

INVITES THE COMMISSION

— when implementing the single financing and programming instrument for cultural cooperation, once adopted, as well as other relevant instruments, to give appropriate consideration to projects in the historical field,

— to ensure that such projects are as pan-European as possible in order to improve the knowledge and understanding of the history of the European peoples and thereby making a significant contribution to European cooperation and integration,

— to strive for close collaboration with the Council of Europe and Unesco on historical projects,

— to ensure coordination between existing programmes and activities in relevant fields.

**Council Resolution
of 17 December 1999
on the promotion of the free movement of persons
working in the cultural sector**

(OJ C 8, 12.1.2000)

COUNCIL RESOLUTION

of 17 December 1999

on the promotion of the free movement of persons working in the cultural sector

(2000/C 8/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the first report of the Commission of the European Communities of 17 April 1996 on the consideration of cultural aspects in European Community action,

Having regard to the Council Resolution of 20 January 1997 on the integration of cultural aspects into Community actions ⁽¹⁾,

⁽¹⁾ OJ C 36, 5.2.1997, p. 4.

Having regard to the report of the high-level panel on the free movement of persons of 18 March 1997, the action plan for the single market of 4 June 1997 issued on the basis of the report, the more specific action plan for the free movement of workers of November 1997, and the Commission communication on the follow-up to the recommendations of the high-level panel on the free movement of persons of 1 July 1998,

Having regard to the Commission communication on the first European Community framework programme in support of culture (2000 to 2004) of 6 May 1998 and the Commission orientation document on the explicit integration of cultural aspects into community action,

RECALLS that in accordance with Article 151 of the Treaty establishing the European Community, the Community shall contribute to the flowering of the cultures of the Member States while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore and that the Community shall take cultural aspects into account in its action under other provisions of the Treaty, in particular in order to respect and to promote the diversity of its cultures;

RECALLS that, in accordance with Article 3(1)(c) of the Treaty the internal market is characterised by the abolition, as between Member States of obstacles, *inter alia* to the free movement of persons;

CONSIDERS that, without prejudice to the agreements established in the context of the Schengen acquis, owing to the principle of the free movement of persons, the European Economic Area enables persons working in the cultural sector to reach wider audiences and provides them with access to a labour market which is substantially larger and more diverse than the national labour markets; also considers that the future enlargement of the European Union should provide further opportunities;

FIRMLY BELIEVES that the free movement of persons working, studying or training in the cultural sector promotes and diversifies the citizens' access to the arts and culture, deepens cooperation and interaction between operators in the cultural sector, stimulates cultural life, promotes the diversity of European cultures, and promotes active citizenship and European awareness;

NOTES that one of the aims of the proposed Culture 2000 programme is to promote the mobility of professionals in the cultural sector and to increase cultural exchanges, and that certain Community programmes, for example, in the audiovisual and educational fields, also provide opportunities for mobility;

FIRMLY BELIEVES that more active and efficient use of the opportunities inherent in the single market will create new jobs and enhance work opportunities for persons working, studying or training in the cultural sector, and thereby promote employment in the cultural sector and employment as a whole;

EMPHASISES that information and advice provided for persons working, studying or training in the cultural sector concerning the work opportunities offered by the single market should be improved at the Community level and within the Member States;

WELCOMES the affirmation of the Commission in its communication on the first European community framework programme in support of culture (2000 to 2004) of 6 May 1998 that the Commission will produce a detailed list of the obstacles to free movement of artists and others working in the cultural sector and the factors impeding cultural creativity and dissemination, and will, if necessary, take appropriate measures to remove such obstacles;

INVITES the Commission to undertake a study in consultation with artists and other professionals in the cultural field, including:

- a general assessment of mobility of persons working, studying or training in the cultural sector,
- a comprehensive review of legal, administrative and practical obstacles currently impeding the implementation of the principle of free movement in the cultural sector,

and, in the light of this study, to consider, if appropriate, proposals for actions for removing obstacles to free movement and rectifying the shortcomings identified;

INVITES the Member States:

- to cooperate with the Commission in the preparation of the study,
- to consider actions at the national level, in the light of the Commission study, to promote free movement, in cooperation with other Member States, where applicable,
- to enhance advice and information provided for artists and other professionals in the cultural sector with regard to the work opportunities in the single market, where applicable,
- to develop internal cooperation in the Member States with a view to facilitating the mobility of artists and other persons working, studying or training in the cultural sector.

**Council Conclusions
of 17 December 1999
on the protection of minors in the light of the development
of digital audiovisual services**

(OJ C 8, 12.1.2000)

COUNCIL CONCLUSIONS

of 17 December 1999

on the protection of minors in the light of the development of digital audiovisual services

(2000/C 8/06)

THE COUNCIL OF THE EUROPEAN UNION,

(1) RECALLING Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity ⁽¹⁾ and Decision No 276/1999/EC of the Parliament and of the Council of 25 January 1999 adopting a multiannual

⁽¹⁾ OJ L 270, 7.10.1998, p. 48.

Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks ⁽²⁾;

(2) RECALLING also the Council Conclusions of 27 September 1999 concerning the results of the public consultation on the Convergence Green Paper (in particular the aspects relating to the media and the audiovisual sector) ⁽³⁾;

⁽²⁾ OJ L 33, 6.2.1999, p. 1.

⁽³⁾ OJ C 283, 6.10.1999, p. 1.

- (3) BEARING IN MIND the Council Conclusions of 27 September 1999 on the role of self-regulation in the light of the development of new media services ⁽¹⁾;
- (4) NOTING the outcome of the experts seminar on self-regulation in the media organised by the German Presidency, which began the debate on the possible contribution of self-regulation systems to the achievement of public interest objectives;
- (5) RECOGNISING that digital transmission systems are developing rapidly in the Member States and that it is therefore necessary to address the implementation of relevant protective measures for minors at this stage;
- (6) BEARING IN MIND the findings of the study on parental control of television broadcasting, carried out for the Commission in accordance with the requirements of Article 22(b)(2) of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (the 'Television Without Frontiers Directive') ⁽²⁾, and outlined in the Commission's communication to the Council, the European Parliament and the Economic and Social Committee on this study;
- (7) RECOGNISES the need to adapt and complement current systems for protecting minors from harmful audiovisual content, in the light of ongoing technical, social and market developments;
- (8) RECOGNISES that the development of new technical means for parental control must not reduce the respective responsibilities of the various categories of operators, such as broadcasters, providers of network, access, service, content etc., regarding the protection of minors from harmful content, and therefore;
- (9) CALLS ON Member States to:
- keep the effectiveness of current systems for protecting minors under review and to intensify their efforts with regard to educational and awareness measures,
-
- bring together the industries and parties concerned such as broadcasters and operators, regulatory and self-regulatory bodies in the audiovisual sector, software and Internet rating organisations and consumer associations, in order to examine ways to achieve greater clarity in the way audiovisual content is evaluated and rated, both within and between the various sectors concerned,
 - continue their work to further implement the Recommendation cited in point 1 hereof;
- (10) INVITES the Commission, without prejudice to existing systems in the Member States, and where appropriate through existing Community financial instruments to:
- bring together the industries and parties concerned such as broadcasters and operators, regulatory and self-regulatory bodies in the audiovisual sector, software and Internet rating organisations and consumer associations at European level, in order to examine ways to achieve greater clarity in the way audiovisual content is evaluated and rated in Europe, both within and between the various sectors concerned, and to support the exchange of information and best practice regarding the protection of minors,
 - encourage the industry to develop user-friendly products for parents and educators which enable them to benefit from the technological means to protect minors,
 - examine possible Community actions to support and supplement Member State activities aimed at protecting minors from harmful audiovisual content through improved levels of media literacy and through measures to raise awareness,
- whilst taking full account of the work being done under the Community action plan on promoting safe use of the Internet and of developments and experience gained in the rest of the world.

⁽¹⁾ OJ C 283, 6.10.1999, p. 2.

⁽²⁾ OJ L 298, 17.10.1989, p. 23. Directive as amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

**Council Conclusions
of 17 December 1999
on cultural industries and employment in Europe**

(OJ C 8, 12.1.2000)

COUNCIL CONCLUSIONS

of 17 December 1999

on cultural industries and employment in Europe

(2000/C 8/07)

THE COUNCIL OF THE EUROPEAN UNION,

- (1) RECALLING the Council Resolution of 4 April 1995 on culture and the multimedia ⁽¹⁾;
 - (2) RECALLING the Council Resolution of 20 November 1995 on the promotion of statistics on culture and economic growth ⁽²⁾;
 - (3) RECALLING the Council Resolution of 20 January 1997 on the integration of cultural aspects into Community actions ⁽³⁾;
 - (4) RECALLING the Commission staff working paper 'Culture, cultural industries and employment' of 14 May 1998 in which the Commission analysed the employment impact of the cultural sector and employment prospects in the sector;
 - (5) NOTES the new emphasis on employment in the Amsterdam Treaty, and, in particular, the importance of employment in other Community policies and activities, and the possibilities afforded by the creation of an employment strategy;
 - (6) RECALLS that the most important cultural industries include, *inter alia*, cinema and audiovisual production, the performing arts, music, visual arts, architecture publishing and press, multimedia, recording industries, design and industrial arts and cultural tourism and that the cultural heritage is an important basis for the creation of new cultural products;
 - (7) NOTES that according to data available, the cultural sector provided employment for some three million persons in the EU countries in 1995, which represented about two per cent of all the jobs in the EU, and that in the course of the 1990s employment has been growing significantly faster in the cultural sector than overall;
 - (8) STRESSES that progress in communication technology and the information society has substantially increased the number of distribution channels, which has boosted demand for new programme content, and that commodities and services in other sectors are increasingly developed and marketed with the help of cultural input, such as design;
 - (9) STRESSES that it is vital for European competitiveness and for cultural diversity to strengthen the cultural industries and that the cultural industries have substantial growth potential in the single market and the global market;
 - (10) NOTES that cultural industries, which rely heavily on human resources, constitute a labour-intensive sector, that people working in the cultural sector are often highly educated and qualified, that a significant part of the jobs are project-specific, short-term and part-time engagements in small and medium-sized enterprises and that the sector employs men and women in almost equal numbers;
 - (11) ESTIMATES that the growing demand for cultural services and commodities and especially the development of the information society and hightech branches will continue to create jobs;
 - (12) NOTES that cultural industry enterprises are often dependent on local partnerships and that cultural industries help local innovations to reach international markets;
 - (13) RECALLS that cultural industries are important for the future in terms of regional policies, such as Structural Funds; in addition to job creation, investment in the cultural industries enhances knowledge and know-how in their region, promotes social interaction and makes the region more attractive for enterprises and for citizens, it also contributes to making knowledge more accessible to the public;
 - (14) EMPHASISES that artistic and other creative work is the foundation for the viability and renewal for cultural industries;
 - (15) IS AWARE that it is difficult to obtain reliable and comparable statistics on cultural industries and their employment impact both at the national and the European level,
- INVITES the Commission:
- to take into account the importance of cultural industries in current and future Community action and programmes,
 - to pay attention to the important role of cultural industries for cultural diversity and for actions concerning employment,

⁽¹⁾ OJ C 247, 23.9.1995, p. 1.

⁽²⁾ OJ C 327, 7.12.1995, p. 1.

⁽³⁾ OJ C 36, 5.2.1997, p. 4.

- to encourage the dissemination of information about opportunities for the cultural industries in the Structural Funds, and to undertake studies to this end,
- to continue work on the preparation of cultural statistics, in particular as regards cultural industries and their impact on employment, and to facilitate exchange of information between Member States;

INVITES the Member States:

- to consider the role of the cultural sector in creating sustainable jobs within the context of their national employment action plans,

- to recognise the importance of the further training of creative artists and other persons working in the cultural field,

- to encourage cooperation in the promotion of cultural industries between the public and private sectors and to recognise the importance of training in the rapidly changing operational environment,

- to intensify coordination, cooperation and exchange of information between national authorities in questions relating to the promotion of cultural industries.



**Council Decision
of 17 December 1999
on the appointment by the Council of the members of the selection panel
for the "European Capital of Culture" Community action**

(OJ C 9, 13.01.2000)

I

(Information)

COUNCIL

COUNCIL DECISION

of 17 December 1999

on the appointment by the Council of the members of the selection panel for the 'European Capital of Culture' Community action

(2000/C 9/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 1419/1999/EC of the European Parliament and of the Council of 25 May 1999 establishing a Community action for the European Capital of Culture event for the years 2005 to 2019 ⁽¹⁾, and in particular Article 2(2) thereof,

Whereas Article 2(2) of Decision No 1419/1999/EC provides that the Commission is to form each year a selection panel which is to issue a report on the nomination or nominations judged against the objectives and characteristics of the action and that the said panel is to be composed of seven leading independent figures who are experts on the cultural sector, of whom two are to be appointed by the Council,

HAS DECIDED AS FOLLOWS:

Article 1

1. With a view to designating a city as 'European Capital of Culture' from the year 2005, during the first half of each year and for the first time in the year 2000 the two States holding the Council Presidency during the ongoing year shall each nominate a leading figure affording the guarantees of independence and expert knowledge required to form part of the selection panel referred to in Article 2(2) of Decision 1419/1999/EC.
2. During the second half of each year and for the first time in the year 2000 the Council shall appoint by a simple majority the two leading figures who are to form part of the selection panel for the following year.
3. The Presidency shall inform the Commission of the appointment.

Article 2

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 17 December 1999.

For the Council
The President
K. HEMILÄ

⁽¹⁾ OJ L 166, 1.7.1999, p. 1.

**Decision No 508/2000/EC of the European Parliament and of the Council
of 14 February 2000
establishing the Culture 2000 programme**

(OJ L 63, 10.3.2000)

(Acts whose publication is obligatory)

DECISION No 508/2000/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 14 February 2000
establishing the Culture 2000 programme

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first indent of Article 151(5) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty, in the light of the joint text approved by the Conciliation Committee on 9 December 1999 ⁽³⁾,

Whereas:

- (1) Culture has an important intrinsic value to all people in Europe, is an essential element of European integration and contributes to the affirmation and vitality of the European model of society and to the Community's influence on the international scene.
- (2) Culture is both an economic factor and a factor in social integration and citizenship; for that reason, it has an important role to play in meeting the new challenges facing the Community, such as globalisation, the information society, social cohesion and the creation of employment.
- (3) With a view to meeting the needs of the cultural dimension in the European Union, the Community has to take cultural aspects into account in its action under provisions of the Treaty other than Article 151, in particular in order to respect and to promote the diversity of its cultures; in this context, the Commission should encourage the dissemination of information about the opportunities for the cultural industries in the Structural Funds, in accordance with Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽⁴⁾, and undertake studies to that end.

⁽¹⁾ OJ C 211, 7.7.1998, p. 18.

⁽²⁾ OJ C 51, 22.2.1999, p. 68.

⁽³⁾ Opinion of the European Parliament of 5 November 1998 (OJ C 359, 23.11.1998, p. 28), Council Common Position of 28 June 1999 (OJ C 232, 13.8.1999, p. 25) and Decision of the European Parliament of 28 October 1999 (not yet published in the Official Journal). Council Decision of 24 January 2000 and Decision of the European Parliament of 3 February 2000.

⁽⁴⁾ OJ L 161, 26.6.1999, p. 1.

(4) In view of the growing importance of culture for European society and the challenges facing the Community at the dawn of the 21st century, it is important to increase the effectiveness and consistency of Community measures in the cultural field by proposing a single guidance and programming framework for the period 2000 to 2004, bearing in mind the need for the Community policies concerned to take greater account of culture; in this respect, the Council Decision of 22 September 1997 regarding the future of European cultural action ⁽⁵⁾ calls on the Commission to make proposals with a view to establishing a single instrument for programming and financing aimed at the implementation of Article 151 of the Treaty.

(5) If citizens give their full support to, and participate fully in, European integration, greater emphasis should be placed on their common cultural values and roots as a key element of their identity and their membership of a society founded on freedom, democracy, tolerance and solidarity; a better balance should be achieved between the economic and cultural aspects of the Community, so that these aspects can complement and sustain each other.

(6) The Treaty confers responsibility on the European Union for creating and ever-closer union among the peoples of Europe and for contributing to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore; special attention should be devoted to safeguarding the position of Europe's small cultures and less widely-spoken languages.

(7) The Community is consequently committed to working towards the development of a cultural area common to the European people, which is open, varied and founded on the principle of subsidiarity, cooperation between all those involved in the cultural sector, the promotion of a legislative framework conducive to cultural activities and ensuring respect for cultural diversity, and the integration of the cultural dimension into Community policies as provided for in Article 151(4) of the Treaty.

⁽⁵⁾ OJ C 305, 7.10.1997, p. 1.

- (8) To bring to life the cultural area common to the European people, it is essential to encourage creative activities, promote cultural heritage with a European dimension, encourage mutual awareness of the culture and history of the peoples of Europe and support cultural exchanges with a view to improving the dissemination of knowledge and stimulating cooperation and creative activities.
- (9) There is a need, in this context, to promote greater cooperation with those engaged in cultural activities by encouraging them to enter into cooperation agreements for the implementation of joint projects, to support more closely targeted measures having a high European profile, to provide support for specific and innovative measures and to encourage exchanges and dialogue on selected topics of European interest.
- (10) The Kaleidoscope, Ariane and Raphael cultural programmes set out, respectively, in Decision No 719/96/EC⁽¹⁾, in Decision No 2085/97/EC⁽²⁾ and in Decision No 2228/97/EC⁽³⁾ of the European Parliament and of the Council marked the first positive stage in the implementation of Community action on culture; however, the Community's cultural endeavours should be simplified and reinforced on the basis of the results of the evaluation and achievements of the abovementioned programmes.
- (11) In accordance with the Commission's communication 'Agenda 2000', the effectiveness of measures at Community level should be increased, notably by concentrating the resources available for internal policies, including cultural action.
- (12) Considerable experience has been acquired, particularly through the evaluation of the first cultural programmes, the wide-ranging consultation of all interested parties and the results of the Cultural Forum of the European Union held on 29 and 30 January 1998.
- (13) The Community's cultural activities should take account of the specific nature, and hence the specific needs, of each cultural area.
- (14) The conclusions of the European Council at Copenhagen on 21 and 23 June 1993 called for the opening of Community programmes to the countries of central and eastern Europe which have signed Association Agreements; the Community has signed, with some third countries, Cooperation Agreements which contain a cultural clause.
- (15) This Decision therefore establishes a single financing and programming instrument for cultural cooperation, entitled the 'Culture 2000 programme', for the period from 1 January 2000 to 31 December 2004.
- (16) This Decision lays down for the entire duration of the programme a financial framework constituting the principal point of reference, within the meaning of point 33 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure⁽⁴⁾.
- (17) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾.
- (18) In accordance with the subsidiarity and proportionality principles established by Article 5 of the Treaty, as the objectives of this action cannot be sufficiently achieved by the Member States, they can therefore, by reason of the scale or effects of the proposed action, be better attained by the Community; this Decision is limited to the minimum required for the attainment of those objectives and does not go beyond what is necessary to that end.
- (19) The Culture 2000 programme should be the only programme operating from the year 2000 in the field of culture; therefore Decision No 2228/97/EC should be repealed,

HAVE DECIDED AS FOLLOWS:

Article 1

Duration and objectives

A single financing and programming instrument for cultural cooperation, hereinafter referred to as the 'Culture 2000 programme', is hereby established for the period from 1 January 2000 to 31 December 2004.

The Culture 2000 programme shall contribute to the promotion of a cultural area common to the European peoples. In this context, it shall support cooperation between creative artists, cultural operators, private and public promoters, the activities of the cultural networks, and other partners as well as the cultural institutions of the Member States and of the other participant States in order to attain the following objectives:

- (a) promotion of cultural dialogue and of mutual knowledge of the culture and history of the European peoples;
- (b) promotion of creativity and the transnational dissemination of culture and the movement of artists, creators and other cultural operators and professionals and their works, with a strong emphasis on young and socially disadvantaged people and on cultural diversity;
- (c) the highlighting of cultural diversity and the development of new forms of cultural expression;

⁽¹⁾ OJ L 99, 20.4.1996, p. 20.

⁽²⁾ OJ L 291, 24.10.1997, p. 26.

⁽³⁾ OJ L 305, 8.11.1997, p. 31.

⁽⁴⁾ OJ C 172, 18.6.1999, p. 1.

⁽⁵⁾ JO L 184, 17.7.1999, p. 23.

- (d) sharing and highlighting, at the European level, the common cultural heritage of European significance; disseminating know-how and promoting good practices concerning its conservation and safeguarding;
- (e) taking into account the role of culture in socioeconomic development;
- (f) the fostering of intercultural dialogue and mutual exchange between European and non-European cultures;
- (g) explicit recognition of culture as an economic factor and as a factor in social integration and citizenship;
- (h) improved access to and participation in culture in the European Union for as many citizens as possible.

The Culture 2000 programme shall further an effective linkage with measures implemented under other Community policies which have cultural implications.

Article 2

Types of cultural actions and events

The objectives listed in Article 1 shall be achieved by the following means:

- (a) specific innovative and/or experimental actions;
- (b) integrated actions covered by structured, multiannual cultural Cooperation Agreements;
- (c) special cultural events with a European and/or international dimension.

The actions and their implementing measures are described in Annex I. They are either vertical (concerning one cultural field) or horizontal (associating several cultural fields).

Article 3

Budget

The financial framework for the implementation of the Culture 2000 programme for the period referred to in Article 1 is hereby set at EUR 167 million.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 4

Implementation

1. The measures necessary for the implementation of this Decision relating to the matters listed below shall be adopted in accordance with the management procedure referred to in Article 5(2):
 - (a) the priorities and general guidelines for all the measures described in Annex I and the annual programme resulting therefrom,
 - (b) the general balance between all the actions,
 - (c) the selection rules and criteria for the various types of project described in Annex I Actions I.1, I.2 and I.3,
 - (d) the financial support to be provided by the Community amounts, duration, distribution and beneficiaries,

- (e) the detailed procedures for monitoring and evaluating this programme, together with the conclusions of the assessment report provided for in Article 8 and any other measure readjusting the Culture 2000 programme arising from the assessment report.

2. The measures necessary for the implementation of this Decision relating to all other matters shall be adopted in accordance with the advisory procedure referred to in Article 5(3).

Article 5

Committee

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period referred to in Article 4(3) of Decision 1999/468/EC shall be set at two months.

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
4. The Committee shall adopt its rules of procedure.

Article 6

Consistency and complementarity

In the implementation of the Culture 2000 programme, the Commission shall, in cooperation with the Member States, ensure the overall consistency and complementarity with relevant Community policies and actions having an impact on the field of culture. This could involve the possibility of including complementary projects financed through other Community programmes.

Article 7

Third countries and international organisations

The Culture 2000 programme shall be open to participation by the countries of the European Economic Area and also to participation by Cyprus and the associated countries of central and eastern Europe in accordance with the conditions laid down in the Association Agreements or in the additional Protocols to the Association Agreements relating to participation in Community programmes concluded or to be concluded with those countries.

The Culture 2000 programme shall also permit cooperation with other third countries which have concluded Association or Cooperation Agreements containing cultural clauses, on the basis of additional funds made available in accordance with procedures to be agreed with the countries in question.

The Culture 2000 programme shall permit joint action with international organisations competent in the field of culture, such as Unesco or the Council of Europe, on the basis of joint contributions and in accordance with the various rules prevailing in each institution or organisation for the realisation of the cultural actions and events listed in Article 2.

Article 8

Evaluation and monitoring

Not later than 31 December 2002 the Commission shall present to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions a detailed assessment report on the results of the Culture 2000 programme, having regard to its objectives, and accompanied if necessary by a proposal for the amendment of this Decision.

On completion of the Culture 2000 programme, the Commission shall present a report on its implementation to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. Moreover, the Commission shall present annually a short report monitoring the situation of the implementation of the Culture 2000 programme to the European Parliament, the Council and the Committee of the Regions.

These assessment reports shall emphasise in particular the creation of added value, particularly of a cultural nature, and the socioeconomic consequences of the Community's financial support.

Article 9

Repeal

Decision No 2228/97/EC shall be repealed with effect from 1 January 2000.

Article 10

Entry into force

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 2000.

Done at Brussels, 14 February 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

J. GANA

ACTIVITIES AND IMPLEMENTING MEASURES FOR THE CULTURE 2000 PROGRAMME

I. Description of actions and events

I.1. *Specific innovative and/or experimental actions*

Each year the Community will support events and projects carried out in partnership or in the forms of networks. These projects must involve operators from at least three States participating in the Culture 2000 programme, on the basis of priorities defined after consultation of the Committee referred to in Article 5, without prejudice to offering the associated countries participation in the programme in accordance with the procedures envisaged in Article 7. These actions will cover in principle a period of one year which may be extended to two supplementary years. These vertical actions (concerning one cultural field) or horizontal actions (associating several cultural fields) should be innovative and/or experimental and aim primarily to do the following:

- (i) place the main emphasis on facilitating access to culture and wider cultural participation by the people in Europe, in all their social, regional and cultural diversity, in particular young people and the most underprivileged;
- (ii) encourage the emergence and spread of new forms of expression, within and alongside traditional cultural fields (such as music, the performing arts, the plastic and visual arts, photography, architecture, literature, books, reading, the cultural heritage including the cultural landscape and children's culture);
- (iii) support projects aimed at improving access to books and reading, as well as training professionals working in the field;
- (iv) support projects of cooperation aimed at conserving, sharing, highlighting and safeguarding, at the European level, the common cultural heritage of European significance;
- (v) support the creation of multimedia products, tailored to meet the needs of different publics, and thus make European artistic creation and heritage more visible and more accessible to all;
- (vi) encourage initiatives, discussions and cooperation between cultural and sociocultural operators working in the field of social integration, especially integration of young people;
- (vii) foster an intercultural dialogue and mutual exchange between European and other cultures, in particular by encouraging cooperation on subjects of common interest between cultural institutions and/or other operators in the Member States and those in third countries;
- (viii) promote the dissemination of live cultural events using the new technologies of the information society.

Community support may not exceed 60 % of the budget for a specific action. In most cases this support may not be less than EUR 50 000 or more than EUR 150 000 a year.

I.2. *Integrated actions covered by structured, multiannual transnational cultural cooperation agreements*

The Culture 2000 programme shall encourage closer relations and joint working by supporting cultural networks and, in particular, networks of operators, cultural bodies and cultural institutions, involving in particular professionals in different participating States with a view to realising structured cultural projects both within and outside the Community. This measure relates to significant quality projects with a European dimension, involving at least five States participating in the Culture 2000 programme.

The cultural Cooperation Agreements will be aimed at carrying out structured, multiannual cultural actions, between operators of several Member States and those of other States participating in the Culture 2000 programme. These Agreements will concern transnational actions concerning one cultural field, (vertical actions) such as music, the performing arts, the plastic and visual arts, literature, books and reading including translation and cultural heritage. They will moreover promote, also by using new media, the achievement of trans-sectoral integrated actions (horizontal actions based on synergy), i.e. associating several cultural fields.

The Cooperation Agreements proposed in this way for up to three years shall comprise some or all of the following activities:

- (i) co-productions and circulation of works and other cultural events in the European Union (e.g. exhibitions, festivals, etc.), making them accessible to as many citizens as possible;
- (ii) mobility of artists, creators and other cultural operators;
- (iii) further training for professionals in the cultural field and exchange of experience both in academic and practical terms;

- (iv) enhancement of cultural sites and monuments within the Community with a view to raising awareness of European culture;
- (v) research projects, public awareness campaigns, activities for teaching and the dissemination of knowledge, seminars, congresses, meetings on cultural topics of European importance;
- (vi) use of new technologies;
- (vii) projects aimed at the highlighting of cultural diversity and of multilingualism, promoting mutual awareness of the history, roots, common cultural values of the European peoples and their common cultural heritage.

Following consultation of the Committee referred to in Article 5(1) of the Decision, the Community will grant support for the implementation of cultural Cooperation Agreements. It will be intended to cover not only part of the funding of the project, but also expenses relating to the initial establishment of lasting cooperation, which may be multiannual, in a legal form recognised in one of the Member States of the Union.

In order for the agreement to be eligible, the activities it covers must involve operators from at least five States participating in the Culture 2000 programme.

Those responsible for multiannual cultural Cooperation Agreements receiving Community support for more than one year must submit to the Commission at the end of each year a summary of activities undertaken and of the expenditure on each activity, in order for the Community support to be carried over for the period of the project.

Community support may not exceed 60 % of the cultural Cooperation Agreement's budget. It may not be more than EUR 300 000 a year.

This support may be raised by a maximum of 20 % in order to cover the relevant costs incurred in the management of the cultural Cooperation Agreements.

1.3. *Special cultural events with a European or international dimension*

These events, substantial in scale and scope, should strike a significant chord with the people of Europe and help to increase their sense of belonging to the same community as well as making them aware of the cultural diversity of the Member States, as well as intercultural and international dialogue.

These events include in particular:

- (i) the European Capital of Culture and the European Cultural Month;
- (ii) organising symposia to study questions of common cultural interest in order to foster cultural dialogue both inside and outside the Community;
- (iii) organising innovative cultural events which have a strong appeal and are accessible to citizens in general, particularly in the field of cultural heritage, artistic activities and European history, and which in particular provide a link between education, the arts and culture;
- (iv) recognising and highlighting European artistic talent, particularly among young people by means of, *inter alia*, European prizes in the various cultural spheres: literature, translation, architecture, etc.;
- (v) support for projects admitted by the appropriate authorities of the participating States and involving the conservation and safeguarding of the cultural heritage of outstanding importance which contributes to development and dissemination of innovative concepts, methods and techniques at a European level and which can be described as 'European heritage laboratories'.

The priorities relating to these events will be established after consultation of the Committee referred to in Article 5 of the Decision.

Community support may not exceed 60 % of the budget for a special cultural event. It may not be less than EUR 200 000 or more than EUR 1 million a year for the events referred to in item (i). For the events referred to in items (ii) to (v), the corresponding limits will in most cases not be less than EUR 150 000 a year and in all cases not be more than EUR 300 000 a year. The indicative allocation for these activities shall be 10 % of the financial framework of the programme.

The three types of actions and events described in 1.1, 1.2 and 1.3 follow either a vertical (concerning one cultural field) or horizontal (associating several cultural fields) approach.

An indicative description of these approaches is provided in Annex II.

II. **Coordination with the other Community instruments in the field of culture**

The Commission will ensure coordination with other Community instruments active in the cultural sphere through specific actions, cultural Cooperation Agreements and special cultural events, mainly with a view to promoting and arranging for collaboration between sectors with common and converging interests, such as for example:

- culture and tourism (through cultural tourism),
- culture, education and youth (in particular, presentations to schools and colleges of audiovisual and multimedia products on European culture, with commentaries by creative or performing artists),
- culture and employment (encouraging the creation of jobs in the cultural sector, especially in the new cultural areas),
- culture and external relations,
- cultural statistics resulting from an exchange of comparative statistical information at Community level,
- culture and the internal market,
- culture and research,
- culture and the export of cultural goods.

iii. **Communication**

Recipients of Community support must mention this support explicitly, and as prominently as possible, in all information or communications relating to the project.

IV. **Technical assistance and accompanying actions**

When executing the Culture 2000 programme, the Commission may have recourse to technical assistance organisations for which the financing is planned within the total funding of the programme not exceeding 3 % of the latter. It may also, under the same conditions, make use of experts or networks of experts.

In addition, the Commission may arrange evaluative studies as well as organise seminars, colloquia or other experts' meetings which might assist with the implementation of the Culture 2000 programme. The Commission may also organise actions related to information, publication and dissemination.

V. **Contact points**

The Commission and the Member States will organise on a voluntary basis, and step up, the mutual exchange of information for use in the implementation of the Culture 2000 programme, by means of cultural contact points which will be responsible for:

- promoting the programme,
- facilitating access to the programme for, and encouraging participation in its activities by as many professionals and operators in the cultural field as possible, by means of an effective dissemination of information,
- providing an efficient link with the various institutions providing aid to the cultural sector in the Member States, thus contributing to the complementarity between the measures taken under the Culture 2000 programme and national support measures,
- providing information and contact at the appropriate level between operators participating in the Culture 2000 programme and those participating in other Community programmes open for cultural projects.

VI. **Overall budget breakdown**

VI.1. At the beginning of the operation, and no later than 1 March every year, the Commission will submit to the Committee an *ex ante* breakdown of budget resources by type of action, taking into account, to this end, the objectives set out in Article 1 of the Decision.

VI.2. The funds available will be broken down internally subject to the following indicative guidelines:

- (a) the funds allocated to specific innovative and/or experimental actions should be not more than 45 % of the annual budget for the Culture 2000 programme;
- (b) the funds allocated to integrated actions covered by structured, multiannual cultural Cooperation Agreements should be not less than 35 % of the annual budget for the Culture 2000 programme;
- (c) the funds allocated to special cultural events with a European and/or international dimension should be around 10 % of the annual budget for the Culture 2000 programme;
- (d) the remaining expenditure, including the costs related to the contact points, should be around 10 % of the annual budget for the Culture 2000 programme.

VI.3. All the percentages given above are indicative and may be adapted by the Committee according to the procedure laid down in Article 4 of the Decision.

INDICATIVE DESCRIPTION OF THE VERTICAL AND HORIZONTAL APPROACHES

The three actions of the Culture 2000 programme represent either a vertical approach (concerning one cultural field) or a horizontal approach (associating several cultural fields).

As an indication, these may be considered in the following manner.

I. A vertical approach

This implies a sectoral approach which seeks to take into account the specific needs of each cultural field, in particular.

- (a) In the following fields: music, the performing arts, the plastic and visual arts, architecture, as well as regards other forms of artistic expression, for example multimedia, photography, children's culture and street art. This approach, according to the individual aspects of each cultural field, should:
- (i) promote exchanges and cooperation between cultural operators;
 - (ii) aid the movement of artists and their works around Europe;
 - (iii) improve the possibilities of training and further training, in particular when combined with the improved mobility of those working in the cultural field (including teachers and students);
 - (iv) encourage creativity, while supporting the implementation of activities promoting European artists and their works in the abovementioned fields within Europe and favouring a policy of dialogue and exchanges with other world cultures;
 - (v) support initiatives which would use creativity as a means of social integration.
- (b) As regards books, reading and translation, this approach aims:
- (i) to encourage exchanges and cooperation between institutions and/or individuals from the different Member States and other countries participating in the programme as well as third countries;
 - (ii) to improve awareness and the distribution of literary creation and the history of the European people through supporting the translation of literary, dramatic and reference works, especially those in the lesser-used European languages and the languages of central and east European countries;
 - (iii) to encourage the mobility and further training of those working in the books and reading field;
 - (iv) to promote books and reading, in particular in young people and less favoured sectors of society.

The condition set out in the first paragraph of Annex I.1 concerning the minimum number of operators that are required from participating States in order to present projects under the 'Culture 2000' programme, may be adapted to take account of the specific needs of literary translation.

- (c) As regards cultural heritage of European importance, in particular intellectual and non-intellectual, movable and non-movable heritage (museums and collections, libraries, archives, including photographic archives, audiovisual archives covering cultural works), archaeological and sub-aquatic heritage, architectural heritage, all of the cultural sites and landscapes (cultural and natural goods), this approach seeks:
- (i) to encourage projects of cooperation aimed at the conservation and restoration of the European cultural heritage;
 - (ii) to encourage the development of international cooperation between institutions and/or operators, in order to contribute to exchanges of know-how and the development of best practice as regards conservation and safeguarding the cultural heritage;
 - (iii) to improve access to the cultural heritage, where there is a European dimension, and encourage the active participation of the general public, in particular children, young people, the culturally deprived and inhabitants from rural or peripheral regions of the Community;
 - (iv) to encourage mobility and training on cultural heritage for those working in the cultural sector;
 - (v) to encourage international cooperation for the development of new technologies and innovation in the different heritage sectors and as regards the conservation of traditional crafts and methods;
 - (vi) to take heritage into consideration in other Community policies and programmes;
 - (vii) to encourage cooperation with third countries and the relevant international organisations.

The specific needs of different sectors of cultural life (performing and visual arts, books and reading, cultural heritage, etc.) will be taken into account in a balanced way in the allocation of funds.

II. A horizontal approach

This approach seeks to promote synergy and develop cultural creation, as much through the promotion of trans-sectoral activities involving a number of cultural sectors, as through supporting joint activities involving different Community programmes and policies (in particular those concerning education, youth, professional training, employment, etc.).

The indicative allocation for these activities shall be 10 % of the financial framework of the programme.

**Council Resolution
of 26 June 2000
on the conservation and enhancement
of European cinema heritage**

(OJ C 193, 11.7.2000)

COUNCIL

COUNCIL RESOLUTION

of 26 June 2000

on the conservation and enhancement of European cinema heritage

(2000/C 193/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

1. IS MINDFUL that the European cinema archives constitute a vast legacy of films covering the history of the cinema, including most surviving European works and much of the production of other continents;
2. NOTES that this legacy, thought to encompass around a million short-feature and full-length feature films representative of every genre, represents a varied audiovisual collection which is extremely important internationally;
3. EMPHASISES that its application in the twenty-first century can play a decisive role in consolidating the cultural identity of European countries both in their common aspects and in their diversity. Citizens, in particular future generations, will, through the medium of these works, have access to one of the most significant forms of artistic expression of the last 100 years and a unique record of the life, customs, history and geography of Europe. Furthermore, the inherent reproducibility and mobility of the cinema medium make it an excellent vehicle for the reciprocal spread of knowledge among peoples;
4. NOTES further that, as highlighted in the Council conclusions of 17 December 1999 on cultural industries and employment in Europe⁽¹⁾, in the present climate of proliferating distribution channels which increase demand for new programme contents, this form of cultural heritage too 'is an important basis for creating new cultural products';
5. NOTES, however, that most of the works stored continue to face the threat of irreversible material degeneration owing to the fragility of the basic support media and to technical and scientific problems or remain hidden away on archive shelves owing to structural blockages hampering extensive distribution;
6. RECOGNISES that the preservation, restoration and public distribution work done by archives still needs further clarification in the context of international intellectual property agreements and that it is important for this work to be done in accordance with those agreements;
7. NOTES the importance of avoiding works remaining blocked in the archives through the failure to identify their legitimate rights-holders;
8. IS AWARE that certain Member States have no arrangements for the legal storage of motion pictures and do not consider a legal framework at international or Community level to be desirable;
9. NOTES the expediency of work which takes account of what has already been undertaken or is under way at international organisations, in particular the Council of Europe;
10. IS AWARE that, on the other hand, little of the proceeds from the commercial use of these works is reinvested in conservation work;
11. NOTES, however, that the obstacles mentioned above could be overcome in certain cases, as Europe can rely on a clear advantage from a technical and scientific point of view;
12. RECOGNISES also the efforts already undertaken and the results attained at a European level, even if much still needs to be done;

⁽¹⁾ OJ C 8, 12.1.2000, p. 10.

13. CONSIDERS, moreover, that the development of closer relations between archives and legitimate holders of rights may form an effective link between the conservation and enhancement of the heritage making the existing, ever-growing market more cost-effective;

14. RECALLS:

— the interdisciplinary nature of the problems standing in the way of the conservation and appropriate use of cinema heritage, including the area of technical and scientific investigation (integration of the knowledge gained from traditional support media and application of new technologies), the absence of specialist vocational training, the scope for renewing structures or any obligations arising from copyright legislation,

— the transnational nature of the response demanded for the aforementioned problems, for reasons to do with the complexity and scale of such problems, the advantage of a comparison of legal systems in force and the fact that, by the very nature of the medium involved and archive history, existing museum collections frequently overlap, with every State having preserved basic film material produced in many other States;

15. NOTES that without prejudice to Member States' responsibilities in this area and in accordance with the principle of subsidiarity, there is a need to consider the possibility of concerted European action to conserve and enhance this legacy and to bring it before a wider public in order to ensure the survival of what is an unparalleled record of European history. Against this background, account should be taken of the reality of countries applying for membership and also of work under way at the Council of Europe, thus avoiding any risk of duplication.

16. TO THAT END, calls on the Member States to cooperate in the following areas without prejudice to international intellectual property agreements:

(a) participating in a transnational study on the situation facing European cinema archives, including an analysis of the scientific problems of conservation and

enhancement of support media, of vocational training needs and of questions relating to the intellectual property law arising in connection with the use of cinematic works;

(b) the restoration and conservation of cinema heritage with a view to optimum use of the archives in these areas, including through recourse to digital technologies;

(c) stepping up the exchange of experiences, knowledge and good practice in this sector, with the collaboration of the relevant public and private bodies as well as professionals and experts in the field by stimulating cooperation between them, including within the framework of the development of European guidelines to be decided upon on cinematic restoration;

(d) the encouragement of progressive networking of European archival data bases, and collections of preserved duplicates, made by the archives, while improving their accessibility. Such actions would be organised by the archives in conjunction with the holders of respective rights, including the most significant works of each individual country in the various genres;

(e) the possible use of these collections for educational and scientific purposes and for purposes specific to archives.

17. CALLS ON the Commission, in the exercise of its powers and in particular as laid down in Article 151(4) of the Treaty, to:

— take account of the specific needs of this particular form of cultural legacy,

— make use of the opportunities provided by existing Community action and programmes,

— support and encourage the study mentioned under 16(a) by means of the relevant Community instruments, and in compliance with the procedures which they specify, and draw the necessary conclusions as regards follow-up.

**Conclusions of the Council and
of the Representatives of the Governments of the Member States,
meeting within the Council
of 26 June 2000
concerning the communication from the Commission
on principles and guidelines for the Community's audiovisual policy in the digital age
(OJ C 196, 12.7.2000)**

I

(Information)

COUNCIL

CONCLUSIONS OF THE COUNCIL AND OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL

of 26 June 2000

concerning the communication from the Commission on principles and guidelines for the Community's audiovisual policy in the digital age

(2000/C 196/01)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

1. RECALLING the Council conclusions of 22 April 1999 and 28 June 1999 on the results of the public consultation on the Green Paper on Convergence;
2. RECALLING the resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council, of 25 January 1999 concerning public service broadcasting;
3. RECALLING the importance of the e-Europe initiative and the conclusions of the special European Council held in Lisbon on 23 and 24 March 2000;
4. AWARE THAT in its communication on principles and guidelines for the Community's audiovisual policy in the digital age the Commission sets out a series of regulatory principles of critical importance for defining the Community's strategy for the digital age;
5. TAKING NOTE THAT Europe is on the threshold of a new broadcasting and communications era, and that the transition from analogue to digital broadcasting is a key step in this process, as emphasised at the Conference on Digital Terrestrial Television held in Lisbon on 17 and 18 February 2000;
6. BEARING IN MIND other major reviews of Community policy, including the 1999 communications review, the communication on the development of the market for digital television in the European Union, and the Commission's proposals for the Media Plus programme;
7. IN VIEW OF the specific nature of the audiovisual sector, and noting that the central factor with regulatory principles is that infrastructure and content should be approached from different angles;
8. AWARE THAT another key message on general regulatory principles is that regulation should aim to be technologically neutral;
9. CONVINCED OF the continued importance of the dual system of broadcasting in Europe in the new digital audiovisual landscape and stressing the need for public service broadcasters to take advantage of the new information technologies;
10. STRESS that content regulation, which is undertaken in pursuit of general interest objectives, such as freedom of expression, pluralism, cultural diversity and consumer protection, should be based upon key principles such as proportionality, recognition of the role of public-service broadcasting and, where appropriate, self-regulation as a useful complement to State regulation and the independence of regulatory authorities, and that these objectives may be taken into account in the Member States' assignment of frequencies to the various broadcasting service operators;
11. STRESS that the transition from analogue to digital television is a key factor in ensuring access to the Information Society and in the battle against social and cultural exclusion and will require concerted action between public authorities, operators, content and service providers and consumer organisations and clear signals concerning the regulatory framework and the considerations which will inform the decisions of the Member States on the timetable for the transition;
12. STRESS that, in the public interest, access to infrastructure and to certain types of content should be guaranteed through appropriate means, taking into account market development; and that, with regard to infrastructure and the transition from analogue to digital broadcasting, open access and interoperability should be promoted;

13. STRESS that, whereas it is the responsibility of Member States to define national content regulation and to take decisions on key issues such as the timetable for the switch-off of analogue terrestrial transmissions, European cooperation is also essential, especially in terms of spectrum-planning, including frequency coordination and information exchange;
 14. STRESS, once again, the key importance of European content and, as a consequence, the need to uphold and foster support measures, while bearing in mind the need to promote complementarity and synergy between national and community measures as well as the need to safeguard cultural diversity;
 15. RECOGNISE the importance of exploiting new and emerging technologies for the creation and circulation of European audiovisual content;
 16. TAKE NOTE of, and commend, the ample consideration that the Communication accords to the principles of cultural and linguistic diversity and underline the need to remain constantly aware of the objective of promoting these principles in Europe in a complex and rapidly changing technological environment;
 17. INVITE THE COMMISSION, on the basis of its Communication, to:
 - (a) undertake further studies into the impact of digital television on the Information Society, employment and economic growth in Europe;
 - (b) identify and promote measures to enhance the competitiveness of the European content industry in the digital age, while, *inter alia*, promoting synergy between the relevant Community instruments;
 - (c) promote initiatives to combat social and cultural exclusion in this context;
 - (d) promote initiatives designed to foster European cooperation and exchange of experience on the transition from analogue to digital television;
 - (e) monitor carefully questions of access to content, including the development of electronic programmes guides;
 - (f) provide further analysis and information on how to promote cultural and linguistic diversity in the new digital environment within the Community.
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**Corrigendum to Council Decision 2000/821/EC
of 20 December 2000
on the implementation of a programme to encourage the development,
distribution and promotion of European audiovisual works
(MEDIA Plus — Development, Distribution and Promotion) (2001-2005)**

(OJ L 13, 17.1.2001)

CORRIGENDA

Corrigendum to Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus — Development, Distribution and Promotion) (2001-2005)

(Official Journal of the European Communities L 336 of 30 December 2000)

The text of the Decision should be replaced by the following:

**'COUNCIL DECISION
of 20 December 2000**

**on the implementation of a programme to encourage the development, distribution and promotion of European
audiovisual works (MEDIA Plus — Development, Distribution and Promotion) (2001-2005)**

(2000/821/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 157(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas:

- (1) From 6 to 8 April 1998, the Commission, in cooperation with the Presidency-in-office, held a European audiovisual conference on "Challenges and opportunities of the digital age" in Birmingham. This consultation process revealed the need for an enhanced programme of support for the European audiovisual industry, in particular in the area of the development, distribution and promotion of European audiovisual works. Moreover, in the digital age, activities in the audiovisual field also contribute towards the creation of new jobs, particularly in the production and dissemination of audiovisual content.
- (2) On 28 May 1998, the Council, in approving the outcome of the European Audiovisual Conference in Birmingham, highlighted the desirability of encouraging the development of a strong and competitive European audiovisual programme industry, taking particular account of Europe's cultural diversity and the specific conditions obtaining in restricted linguistic areas.
- (3) The Report of the High-Level Group on Audiovisual Policy of 26 October 1998 entitled "The Digital Age: European Audiovisual Policy" recognises the need to strengthen support measures for the cinematographic and audiovisual industry, in particular by endowing the MEDIA programme with resources commensurate with the size and strategic importance of the industry.
- (4) The challenges of production, distribution and availability of European audiovisual content were the main topics discussed at the Forum on Audiovisual Policy entitled "European content for the digital millennium", organised in Helsinki on 10 and 11 September 1999 by the Presidency-in-office in cooperation with the Commission.
- (5) In the communication from the Commission to the European Parliament and the Council of Ministers entitled "Audiovisual policy: Next Steps" the Commission recognises the need for increased public support, particularly at Community level, for strengthening the competitiveness of the European audiovisual industry.
- (6) The Green Paper on the "The Convergence of the Telecommunications, Media and Information Technology Sectors, and the Implications for Regulation" underlines the risk of a shortage of good quality content on the digital and analogue television.
- (7) The Commission's public consultation on the Green Paper, highlighted the need to establish a framework to underpin the distribution and promotion of European audiovisual content for the traditional and new media in a digital environment.
- (8) In its conclusions of 27 September 1999 concerning the results of the public consultation on the Convergence Green Paper ⁽¹⁾, the Council called upon the Commission to take account of these results when drawing up proposals for measures for the strengthening of the European audiovisual industry, including the multimedia industry.
- (9) In its Communication of 14 December 1999 on "Principles and Guidelines for the Community's Audiovisual Policy in the Digital Age", the Commission defined its priorities in the audiovisual sector for the period 2000 to 2005.
- (10) The Commission implemented an "Action programme to promote the development of the European audiovisual industry (MEDIA) (1991-1995)", adopted by Council Decision 90/685/EEC ⁽²⁾, and which comprised in particular measures designed to support the development and distribution of European audiovisual works.
- (11) Further to the Green Paper "Strategy options to strengthen the European programme industry in the context of the audiovisual policy of the European Union", the Commission submitted in November 1995 a proposal for a Council Decision establishing a European Guarantee Fund to promote cinema and television production ⁽³⁾, on which the European Parliament delivered a favourable opinion on 22 October 1996 ⁽⁴⁾.
- (12) The Community strategy for developing and strengthening the European audiovisual industry was confirmed under the MEDIA II Programme (1996-2000), adopted by Council Decision 95/563/EC ⁽⁵⁾ and by Council Decision 95/564/EC ⁽⁶⁾. It is appropriate, on the basis of the experience acquired from the Programme, to ensure its extension, taking into account the results obtained.
- (13) In its report on the results obtained under the MEDIA II (1996-2000) programme, from 1 January 1996 to 30 June 1998, the Commission considers that the programme meets the principle of the subsidiarity of Community aid to national aid, since the areas in which MEDIA II intervenes complement the areas in which national support mechanisms traditionally intervene.
- (14) It is necessary to take cultural aspects of the audiovisual sector into account in accordance with Article 151(4) of the Treaty.
- (15) In accordance with the negotiating mandate given to the Commission by the Council, during the forthcoming World Trade Organisation (WTO) negotiations the Union should ensure, as in the Uruguay Round, that the Community and its Member States maintain the possibility to preserve and develop their capacity to define and implement their cultural and audiovisual policies for the purpose of preserving their cultural diversity.

⁽¹⁾ OJ C 283, 6.10.1999, p. 1.

⁽²⁾ OJ L 380, 31.12.1990, p. 37.

⁽³⁾ OJ C 41, 13.2.1996, p. 8.

⁽⁴⁾ OJ C 347, 18.11.1996, p. 33.

⁽⁵⁾ OJ L 321, 30.12.1995, p. 25.

⁽⁶⁾ OJ L 321, 30.12.1995, p. 33.

- (16) Taking the same approach, the European Parliament, in its Resolution of 18 November 1999, recognised the European audiovisual sector's special role in sustaining cultural pluralism, a healthy economy and freedom of expression, reaffirmed its commitment to the freedom of action in the sphere of audiovisual policy obtained at the Uruguay Round, and took the view that the General Agreement on Trade in Services (GATS) rules on cultural services, in particular in the audiovisual sector, should not jeopardise the cultural diversity and autonomy of the WTO contracting parties.
- (17) In order to increase the added value of the Community measures, it is necessary to ensure complementarity between the measures taken at Community level and national forms of support.
- (18) It is necessary to establish consistency between this Decision and the action of the Commission on national measures to support the audiovisual sector, especially in the interests of preserving cultural diversity in Europe, by enabling national policies to develop adequately the potential for production in Member States. In addition, Community support can be combined with any public support.
- (19) The emergence of a European audiovisual market necessitates the development and production of European works, i.e. works originating in the Member States as well as works originating in European third countries participating in the MEDIA Plus programme or having a cooperation framework satisfying the conditions set out in Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities⁽¹⁾.
- (20) In the next few years the digital revolution will mean that European audiovisual works will become more easily accessible thanks to new ways of transporting audiovisual content, and will become more widely available outside their country of origin.
- (21) The competitiveness of the audiovisual programme industry depends on the use of new technologies at the programme development, production and distribution stages. It is therefore appropriate to ensure suitable and effective coordination with the measures undertaken in the field of new technologies, in particular the Fifth Framework Programme of the European Community for research, technological development and demonstration activities (1998-2002), as adopted by Decision No 182/1999/EC of the European Parliament and of the Council⁽²⁾, the future Sixth Framework Programme, and new opportunities for multilingual production, in order to make for consistency with the measures to be undertaken under those programmes, focusing in particular on the needs and potential of small and medium-sized enterprises (SMEs) operating on the audiovisual market.
- (22) In order to support European audiovisual projects, the Commission will examine the possibility of additional funding under other Community instruments, notably in the framework of "e-Europe" and the initiatives resulting from the Lisbon European Council conclusions, such as the European Investment Bank (EIB), the European Investment Fund (EIF) and the research framework programmes. The professionals in the audiovisual sector should be informed of the various support arrangements available to them within the framework of the European Union.
- (23) In accordance with the conclusions of the Lisbon European Council, the Council and Commission are to report by the end of 2000 on the ongoing review of EIB and EIF financial instruments in order to redirect funding towards business start-ups, high-tech firms and micro-enterprises, as well as other risk capital initiatives and guarantee arrangements proposed by the EIB and the EIF. In this connection, particular attention should be paid to the audiovisual industry, in order to improve its access to capital markets and increase its competitiveness.
- (24) In its report to the European Council, entitled "Job Opportunities in the Information Society", the Commission referred to the major job-creation potential provided by the new audiovisual services.
- (25) In its Communication on Community policies in support of employment, the Commission recognised the MEDIA II Programme's positive impact on employment in the audiovisual sector.
- (26) It is appropriate therefore to facilitate the development of investment in the European audiovisual industry and to call on the Member States to encourage job-creation in that industry by various means.
- (27) The MEDIA Plus programme should allow the establishment of an environment conducive to entrepreneurial skills and investment, so as to guarantee a place for the European audiovisual sector in the global economy and the effective promotion of cultural diversity.
- (28) The contribution that SMEs can make to the development of the audiovisual sector should be turned to good account.
- (29) There is a need to improve the conditions for distributing and promoting European cinematographic works on the European and international markets. Cooperation between international and national distributors, cinema owners and producers should be encouraged; networking by distributors, in particular SMEs, should also be encouraged, and support should be given to concerted action to promote common programming measures at European level.
- (30) There is a need to improve the television broadcasting prospects of European works on the European and international markets. Given the leading role which television channels can play in disseminating European works and the inadequate time they currently devote to such works in their scheduling, it is important that European broadcasters (as defined in Article 2 of Directive 89/552/EEC), encourage the European transmission of programmes by purchasing works produced in other Member States.
- (31) There is a need to facilitate market access for independent European production and distribution companies, and to promote both European works and European companies in the audiovisual sector.
- (32) Public access to the European audiovisual heritage should be improved, in particular through its digitisation and networking at European level.
- (33) European content holders should be encouraged to digitise and network their catalogues, including their archives and cinematographic heritage.
- (34) Support for development, distribution and promotion should take account of structural objectives, such as developing potential in countries or regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area, and/or the development of an independent European sector, in particular SMEs.

⁽¹⁾ OJ L 298, 17.10.1989, p. 25. Directive as amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30.7.1997, p. 60).
⁽²⁾ OJ L 26, 1.2.1999, p. 1.

- (35) The associated countries of Central and Eastern Europe, as well as Cyprus, Malta, Turkey and those EFTA countries which are parties to the EEA Agreement are recognised as potential participants in Community programmes on the basis of supplementary appropriations and in accordance with the procedures to be agreed with those countries.
- (36) The other countries of Europe which are parties to the European Convention on Transfrontier Television are an integral part of the European audiovisual area and should therefore be enabled to participate in this Programme on the basis of supplementary appropriations, in accordance with the procedures to be established in the agreements between the interested parties. Those countries should be able, if they wish, and regard being had to budgetary considerations or the priorities of their audiovisual industries, to participate in the programme and to benefit under a more limited cooperation formula, on the basis of supplementary appropriations and specific arrangements to be agreed between the interested parties.
- (37) The opening-up of the Programme to European third countries is subject to prior examination of the compatibility of their national legislation with the Community acquis, in particular with Council Directive 89/552/EEC.
- (38) Cooperation with non-European third countries, developed on the basis of mutual and balanced interests, may enable the European audiovisual industry to derive an added value in terms of the promotion, market access, distribution, dissemination and exploitation of European works in those countries. The inclusion of third countries will increase awareness of the cultural diversity of Europe and promote the spread of common democratic values. Such cooperation should be developed on the basis of supplementary appropriations and specific arrangements to be established in the agreements between the interested parties.
- (39) A financial reference amount, within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure⁽¹⁾ is included in this Decision for the entire duration of the programme, without prejudice to the powers of the budgetary authority as defined by the Treaty.
- (40) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾,

HAS DECIDED AS FOLLOWS:

Article 1

Establishment and objectives of the Programme

1. A programme, (hereinafter referred to as "the Programme"), is hereby established to encourage the development, distribution and promotion of European audiovisual works within and outside the Community, to run from 1 January 2001 to 31 December 2005, for the purpose of strengthening the European audiovisual industry.
2. The objectives of the Programme shall be as follows:
- (a) an improvement in the competitiveness of the European audiovisual sector — including small and medium-sized enterprises — on the European and international markets, by supporting the

- development, distribution and promotion of European audiovisual works, taking account of the development of new technologies;
- (b) strengthening the sectors which help improve the transnational movement of European works;
- (c) respect for and promotion of linguistic and cultural diversity in Europe;
- (d) enhancing the European audiovisual heritage, in particular by digitisation and networking;
- (e) development of the audiovisual sector in countries or regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area and strengthening networking and transnational cooperation between small and medium-sized enterprises;
- (f) the dissemination of new types of audiovisual content using new technologies.

Those objectives shall be realised in accordance with the detailed arrangements set out in the Annex.

Article 2

Specific objectives of the Programme in the development field

In the development field, the specific objectives of the Programme shall be as follows:

- (a) to promote, by providing financial support, the development of production projects (dramas for cinema or television, creative documentaries, animated films for television or cinema, works exploiting the audiovisual and cinematographic heritage) submitted by independent enterprises, in particular small and medium-sized, and aimed at the European and international markets;
- (b) to promote, by providing financial support, the development of production projects that make use of new creation, production and dissemination technologies.

Article 3

Specific objectives of the Programme in the fields of distribution and dissemination

In the fields of distribution and dissemination, the specific objectives of the Programme shall be as follows:

- (a) to strengthen the European distribution sector in the field of cinema by encouraging distributors to invest in the production, acquisition, marketing and promotion of non-domestic European cinema films;
- (b) to foster the wider transnational dissemination of non-domestic European films, on the European and international markets, through incentives to stimulate their distribution and their screening in cinemas, *inter alia* by encouraging coordinated marketing strategies;
- (c) to strengthen the distribution sector for European works on media intended for private use, by encouraging distributors to invest in digital technology and in the promotion of non-domestic European works;
- (d) to promote the movement, in the Community and outside it, of European television programmes produced by independent companies by encouraging cooperation between broadcasters, on one hand, and independent European distributors and producers, on the other hand;
- (e) to encourage the creation of catalogues of European works in digital format intended for exploitation on new media;
- (f) to support the linguistic diversity of European audiovisual and cinematographic works.

⁽¹⁾ OJ C 172, 18.6.1999, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

Article 4

Specific objectives of the Programme in the field of promotion and market access

In the field of promotion and market access, the Programme shall aim to:

- (a) facilitate and encourage the promotion and movement of European audiovisual and cinematographic works at trade shows, fairs and audiovisual festivals in Europe and around the globe, insofar as such events may play an important role in the promotion of European works and the networking of professionals;
- (b) encourage the networking of European operators, by supporting joint activities on the European and international markets by national public or private promotion bodies.

Article 5

Financial provisions

1. Beneficiaries of Community support shall provide a substantial proportion of funding, which may include any other public funding. Community funding shall not exceed 50 % of the cost of operations. However, in the cases expressly provided for in the Annex, this proportion may reach as much as 60 % of the cost of operations.
2. The financial reference amount for implementation of the Programme for the period referred to in Article 1(1) shall be EUR 350 million. An indicative breakdown of that amount by sector is set out in section 1.5 of the Annex. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.
3. Without prejudice to the agreements and conventions to which the Community is a contracting party, enterprises benefiting from the Programme must be owned and continue to be owned, whether directly or by majority participation, by Member States and/or by nationals of Member States.

Article 6

Financial support

Financial support under the Programme may be granted in the form of conditionally repayable advances, or subsidies, as defined in the Annex. The repayments under the Programme, together with the repayments from operations carried out under the MEDIA programme (1991-1995) and MEDIA II programme (1996-2000), shall be allocated to the requirements of the MEDIA Plus Programme.

Article 7

Implementation of this Decision

1. The measures necessary for the implementation of this Decision concerning the matters referred to below shall be adopted in accordance with the management procedure referred to in Article 8(2):
 - (a) the general guidelines for all the measures described in the Annex;
 - (b) the content of the calls for proposals, the definition of the criteria and the procedures for the selection of projects;
 - (c) questions concerning the annual internal breakdown of the Programme resources, including the breakdown between measures in the development, promotion and distribution sectors;
 - (d) the arrangements for monitoring and assessing actions;
 - (e) any proposal for the allocation of Community funds in excess of EUR 200 000 in the case of development, EUR 300 000 in the case of distribution and EUR 200 000 per beneficiary and per year

in the case of promotion. These thresholds may be reviewed by the Committee in the light of experience;

(f) the choice of pilot projects provided for in Article 10.

2. The measures necessary for the implementation of this Decision concerning all the other matters shall be adopted in accordance with the advisory procedure referred to in Article 8(3). This procedure shall also apply to the final choice of technical assistance offices.

3. Technical assistance shall be governed by the provisions adopted pursuant to the Financial Regulation.

4. The Commission shall give the European Parliament and the Council regular and timely notice of the implementation of this Decision, in particular the use of the available resources.

Article 8

Committee procedure

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.
3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
4. The committee shall adopt its rules of procedure.

Article 9

Consistency and complementarity

1. When implementing the Programme, the Commission shall, in close cooperation with the Member States, ensure general consistency and complementarity with other Community policies, programmes and actions that impinge upon the audiovisual field.
2. The Commission shall ensure that there is effective liaison between this Programme and programmes and actions in the audiovisual field being carried out under Community cooperation with non-member countries and the relevant international organisations.

Article 10

Pilot projects

1. Pilot projects shall be implemented throughout the duration of the Programme aimed at improving access to European audiovisual content and at taking advantage of opportunities arising from the development and introduction of new and innovative technologies, including digitisation and new methods of dissemination.
2. In selecting the pilot projects to be implemented, the Commission shall be advised by technical consultation groups composed of experts designated by the Member States. The list of potential projects shall be submitted to the Committee regularly in accordance with the procedure laid down in Article 8(2).

Article 11

Opening of the Programme to non-member countries

1. The Programme shall be open to the participation of the associated countries of Central and Eastern Europe in accordance with the conditions laid down in the association agreements or their additional protocols relating to participation in Community programmes concluded or to be concluded with those countries.

2. The Programme shall be open to the participation of Cyprus, Malta, Turkey and those EFTA countries which are members of the EEA Agreement, on the basis of supplementary appropriations, in accordance with the procedures to be agreed with those countries.

3. The Programme shall be open to the participation of the countries which are parties to the Council of Europe Convention on Transfrontier Television other than those referred to in paragraphs 1 and 2, on the basis of supplementary appropriations, in accordance with conditions to be established in the agreements between the interested parties.

4. The opening-up of the Programme to the European third countries referred to in paragraphs 1, 2 and 3 shall be subject to prior examination as to the compatibility of their national legislation with the Community acquis, including the second subparagraph of Article 6(1) of Directive 89/552/EEC.

5. The Programme shall also be open to cooperation with other third countries on the basis of supplementary appropriations and the specific arrangements, including cost sharing under agreed procedures, to be established in agreements between the interested parties. The European third countries referred to in paragraph 3 which do not wish to participate fully in the Programme may be eligible for cooperation with the Programme under the conditions set out in this paragraph.

Article 12

Monitoring and evaluation

1. The Commission shall guarantee that measures taken under this Decision are subject to prior appraisal, and to subsequent monitoring

and evaluation. It shall ensure the accessibility of the programme and the transparency of its implementation.

2. After the completion of the projects, the Commission shall evaluate the manner in which they have been carried out and the impact of their implementation, in order to assess whether the original objectives have been achieved.

3. After two years' implementation, the Commission shall, after bringing the matter before the Committee provided for in Article 8, present to the European Parliament, the Council and the Economic and Social Committee an evaluation report on the impact and effectiveness of the Programme on the basis of the results obtained. This report shall be accompanied, if need be, by any proposals for adjustments.

4. On completion of the Programme the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a detailed report on the implementation and results of the Programme.

Article 13

Entry into force

This Decision shall take effect on 1 January 2001.

Done at Brussels, 20 December 2000.

For the Council

The President

É. GUIGOU

1. MEASURES TO BE IMPLEMENTED

1.1. In the development of audiovisual works sector

In order to respond to business strategies reflecting the diversity of production structures and of projects, the Programme measures aim to provide financial assistance for enterprises in the audiovisual sector submitting either:

- (a) proposals for developing project packages for companies with a larger investment capacity, or
- (b) proposals for developing project packages for companies with a smaller investment capacity, or
- (c) proposals for developing audiovisual works presented project by project.

The selection criteria will take account chiefly of the European and international nature of the projects, in particular of their:

- production potential;
- potential for transnational exploitation, and the marketing and distribution strategies envisaged;
- quality and originality.

Support for development will be granted on terms that require, once a project enters the production phase, the support for the project to be reinvested in the development of new production projects.

The contribution will generally be limited to 50 % of project costs but may be raised to 60 % for projects which contribute to the enhancement of European linguistic and cultural diversity.

In the report provided for in Article 12, the Commission will evaluate the comparative results of the systems referred to in this Annex with regard to the programme objectives. It will submit to the Committee, in accordance with the procedure laid down in Article 8(2), appropriate proposals for the implementing rules for the rest of the Programme.

1.2. In the distribution and dissemination sector

1.2.1. Cinema distribution

The following lines of action will be implemented in order to achieve the objectives outlined in Article 3:

- (a) a support scheme in the form of a conditionally reimbursable advance for distributors of European cinematographic works outside their production territory. The aim of this scheme is to:
 - encourage the networking of European distributors in conjunction with international producers and distributors, in order to promote joint strategies for the European market;
 - encourage distributors in particular to invest in promotion and adequate distribution for European films;
 - support the multilingual aspects of European film-making (dubbing, subtitling, multilingual production and international sound tracking). That part of the support intended to finance the linguistic diversity of works will take the form of a subsidy.

The criteria for selecting beneficiaries may include provisions to distinguish between projects according to their budget category. Special attention will be given to films which contribute to the enhancement of European linguistic and cultural diversity.

- (b) a system of "automatic" support for European distributors proportional to the number of admission tickets sold for non-domestic European films in States participating in the Programme, up to a fixed ceiling per film and adjusted for each country. The support thus generated may be used by distributors only for investment in the following:
 - the coproduction of non-domestic European films;
 - the acquisition of distribution rights, for example by means of minimum guarantees, of non-domestic European films;
 - editing costs (prints, dubbing and subtitling), promotion costs and publicity costs for non-domestic European films.

Reinvestment arrangements will generally be limited to 50 % of project costs, but may be raised to 60 %, particularly for investment in the production stage and in films that are of interest in enhancing European linguistic and cultural diversity.

- (c) a system to assist European companies specialising in the international distribution of cinema films (sales agents) according to their performance on the market over a reference period of at least one year. This type of assistance may be used by sales agents for investment in acquisition (minimum guarantees) and in costs arising from the promotion of new European works on the European and international markets.
- (d) appropriate assistance to encourage operators to screen a significant proportion of non-domestic European films in première cinemas for a minimum screening period. The support shall be made conditional on showing a minimum number of European films. The level of support may take account of the number of admission tickets sold for non-domestic European films during a reference period up to a fixed ceiling.

Support may also be granted for the creation and consolidation of networks of European operators running joint schemes to encourage such scheduling.

Support may be used for the development of educational activities and for raising awareness amongst young cinema-goers.

As far as possible, support for cinemas and networks will encourage a balanced geographical distribution.

1.2.2. Distribution of European works off-line

This is understood to mean the distribution of European works on media intended for private use.

Automatic support: a system of automatic support for editors and distributors of European cinematographic and audiovisual works, excluding games, on media intended for private use (e.g. videocassettes and DVD) according to market performance over a reference period of at least one year. The evaluation of that performance may take account of the specific features of different national markets through appropriate weightings. The support granted may be used by distributors only for investment in the following:

- (a) the costs of editing and distributing new non-domestic European works in digital form; or
- (b) the costs of promoting new non-domestic European works in non-digital format.

This system is designed to:

- (a) encourage the use of new technologies in the production of European works intended for private use (production of a digital master for use by all European distributors);
- (b) encourage distributors in particular to invest in the promotion and adequate distribution of non-domestic European films and audiovisual works;
- (c) support the linguistic diversity of European productions (dubbing, subtitling and multilingual production).

1.2.3. Television broadcasting

Encourage independent producers to produce works (fiction, documentaries and animated films) involving no less than two broadcasters, and preferably more, in several States participating or cooperating on the programme, belonging to different language zones.

The criteria for selecting beneficiaries may include provisions that distinguish between projects by budget category and type. Special attention will be given to audiovisual works that contribute to the enhancement of European heritage and linguistic and cultural diversity.

That part of the support which is intended to finance the linguistic diversity of works (including production of the sound track - music and effects) will take the form of a subsidy.

1.2.4. Distribution of European works on-line

This is taken to mean the distribution of European works on-line via advanced distribution services and new media (e.g. Internet, video-on-demand). The aim is to encourage the European audiovisual industry to adapt to the development of digital technology, particularly as regards advanced on-line distribution services.

Introduction of incentives to digitise works and create promotional and publicity material in digital form, so encouraging European companies (suppliers of on-line access, special-interest channels, etc.) to create catalogues of European works in digital format for exploitation via new media.

1.3. Promotion

1.3.1. In the field of promotion and access to professional markets

The programme measures aim to:

- (a) improve the conditions governing access by professionals to trade shows and professional audiovisual markets within and outside Europe and via specific technical and financial support schemes as part of events such as:
 - the main European and international cinema markets;
 - the main European and international television markets;
 - special-interest markets, particularly for animated films, documentaries, multimedia and new technologies;
- (b) encourage the creation of a database and/or a network of databases on catalogues of European programmes, intended for professionals;
- (c) whenever possible, encourage support to promote cinematographic works, as from the production phase of the work in question.

To this end, the Commission is encouraging the networking of operators at European level, notably by supporting joint initiatives involving public or private national promotional bodies.

Support will generally be limited to 50 % of project costs but may be raised to 60 % for projects that enhance European linguistic and cultural diversity.

1.3.2. In the field of festivals

The programme measures aim to:

- (a) support audiovisual festivals realised in partnership that screen a significant proportion of European works;
- (b) encourage cooperative projects with a European dimension involving audiovisual events from at least eight States participating or cooperating in the programme, with a common action plan to promote European audiovisual works and their movement.

Particular attention will be paid to festivals which help to promote works from Member States or regions with a low audiovisual production capacity and works by young European directors, and which establish an active policy for promoting and encouraging the distribution of the European works featured.

Priority will be given to projects from networks which encourage lasting cooperation between events.

Support will generally be limited to 50 % of project costs but may be raised to 60 % for projects that contribute to the enhancement of European linguistic and cultural diversity.

1.3.3. Activities to promote European films and audiovisual programmes

To encourage professionals, in close association with the Member States, to organise activities targeted at the general public and promoting European cinema and audiovisual productions.

1.4. Pilot projects

Pilot projects, the objectives of which are defined in Article 10, may focus, *inter alia*, on the following areas, with a view to the enhancement, networking and promotion of:

- (a) cinematographic heritage;
- (b) European audiovisual programme archives;
- (c) catalogues of European audiovisual works;
- (d) digital dissemination of European content through, for instance, advanced distribution services.

The pilot projects will give rise to exchanges of experience: their results will be publicised widely in order to encourage the dissemination of best practices.

Once the programme has been implemented for two years, the Commission will verify the results of the pilot projects and propose adjustments to the programme.

1.5. Breakdown of resources

The funds available will be broken down according to the following guidelines:

Development:	at least 20 %
Distribution:	at least 57,5 %
Promotion:	approximately 8,5 %
Pilot projects:	approximately 5 %
Horizontal costs:	at least 9 %

All the percentage figures are indicative and are subject to changes by the Committee provided for in Article 8, in accordance with the procedure referred to in Article 8(2).

2. IMPLEMENTATION PROCEDURE

2.1. Approach

In implementing the Programme, the Commission will ensure compliance with the objectives set out in Article 1(2).

In implementing the Programme, the Commission, assisted by the Committee provided for in Article 8, will work closely with the Member States. It will also consult the partners concerned and ensure that the participation of professionals in the Programme reflects European cultural diversity.

2.2. Funding

2.2.1. Community contribution

Community funding will not exceed 50 % of the final cost of the measures (other than in the cases expressly provided for in this Annex, where a ceiling of 60 % applies) and will be granted in the form of conditionally reimbursable advances or subsidies. Only costs directly linked to execution of the measure receiving support will be eligible, even if the costs are defrayed in part by the beneficiary before the selection procedure. For multilingual support, the Community contribution will be in the form of subsidies.

2.2.2. Prior appraisal, monitoring and subsequent evaluation

Prior to approving a request for Community support, the Commission will carefully evaluate it to check that it complies with this Decision and with the conditions set out in subsections 2 and 3 of this section of the Annex.

Requests for Community support must include the following:

- (a) a financial plan setting out all the project funding components, including the financial support requested from the Commission;
- (b) a provisional work timetable;
- (c) any other relevant information required by the Commission.

2.2.3. Financial provisions and control

The Commission will set out the rules on commitments and payments for the measures undertaken pursuant to this Decision, in compliance with the appropriate provisions of the financial regulations.

It will particularly ensure that the administrative and financial procedures used are geared to the objectives pursued and to the practice and interests of the audiovisual industry.

2.3. Implementation

- 2.3.1. The Commission will implement the Programme. It may, to this end, call upon independent consultants and technical assistance offices to be selected, after a call for tenders, on the basis of their expertise in the sector, experience acquired in the MEDIA II programme, or other experience acquired in this area. The technical assistance will be financed by the Programme's budget. The Commission may also conclude, in accordance with the procedure referred to in Article 8(2), partnerships for operations with specialist bodies, including those which have been set up under other European initiatives such as Audiovisual Eureka, EURIMAGES and the European Audiovisual Observatory in order to implement joint measures that meet the Programme objectives in the field of promotion.

The Commission will make the final selection of the beneficiaries of the Programme and decide on the financial support to be granted, in accordance with Article 8, on the basis of preparatory work conducted by the technical assistance offices. It will give grounds for its decisions to applicants for Community support and ensure the transparency of implementation of the programme.

In order to execute the Programme and, in particular, evaluate the projects benefiting from Programme funding and networking activities, the Commission will draw on recognised, independent audiovisual experts in the fields of development, production, distribution and promotion, who are, where necessary, proficient in the area of the management of rights, especially in the new digital environment.

- 2.3.2. The Commission will take the necessary steps to provide information on the opportunities offered by the Programme, and will ensure its promotion. The Commission will also provide via the Internet comprehensive information concerning the support arrangements available under the European Union's policies which are of relevance to the audiovisual sector.

In particular, the Commission and the Member States will take the necessary steps, by continuing with the activities of the network of MEDIA Desks and Antennae and ensuring that their professional skills are enhanced, in order to:

- (a) inform professionals in the audiovisual sector of the various support arrangements available under European Union policies;
 - (b) publicise and promote the Programme;
 - (c) encourage maximum participation in the Programme's activities by professionals;
 - (d) assist professionals with the presentation of projects in response to calls for proposals;
 - (e) foster transborder cooperation between professionals;
 - (f) liaise between the various support bodies in the Member States with a view to ensuring that Programme activities complement national support measures.
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**Decision No 163/2001/EC of the European Parliament and of the Council
of 19 January 2001
on the implementation of a training programme
for professionals in the European audiovisual programme industry
(MEDIA-Training) (2001-2005)**

(OJ L 26, 27.1.2001)

(Acts whose publication is obligatory)

DECISION No 163/2001/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 January 2001
on the implementation of a training programme for professionals in the European audiovisual
programme industry (MEDIA-Training) (2001-2005)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 150(4) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾,

Whereas:

- (1) From 6 to 8 April 1998, the Commission, in cooperation with the Presidency-in-office, held a European audiovisual conference on 'Challenges and opportunities of the digital age' in Birmingham. This consultation process highlighted the need for an improved programme of training in the audiovisual sector which concentrated on all the new aspects of the digital age. The Council of 28 May 1998 took note of the final conclusions of the said conference and called for new schemes to be developed to encourage a strong and competitive programme industry.
- (2) The Report of the High-Level Group on Audiovisual Policy of 26 October 1998, entitled 'The Digital Age: European Audiovisual Policy', concluded that, in this environment, both initial and continuous training in the audiovisual sector should be strengthened.
- (3) The challenges of production, distribution and availability of European audiovisual content were the main topics discussed at the Forum on Audiovisual Policy entitled 'European content for the digital millennium'

organised in Helsinki on 10 and 11 September 1999 by the Presidency-in-office in cooperation with the Commission.

- (4) The seminar 'Training for the new millennium' held by the Presidency-in-office in cooperation with the Commission in Oporto on 10 and 11 April 2000 stressed in its conclusions that efforts in training are required to facilitate the growth and desirable internationalisation of the European audiovisual industry.
- (5) In the Communication from the Commission to the European Parliament and the Council entitled 'Audiovisual policy: next steps', the Commission recognises the considerable impact on employment which the digital age will have in the audiovisual industry.
- (6) The Green Paper on 'The Convergence of the Telecommunications, Media and Information Technology Sectors, and the Implications for Regulation' recognises that the emergence of new services will lead to the creation of new jobs. Adapting to the new markets requires staff trained in the use of new technologies. The Commission's public consultation on the Green Paper confirmed the demand for specialised vocational training adapted to the needs of the market.
- (7) In its Conclusions of 27 September 1999 on the results of the public consultation on the Green Paper ⁽⁵⁾, the Council called upon the Commission to take account of those results when drawing up proposals for measures to strengthen the European audiovisual sector, including the multimedia sector.
- (8) The European Council held in Luxembourg on 20 and 21 November 1997 recognised that continuous education and vocational training can make a major contribution to the employment policies of the Member States with a view to improving suitability for employment, adaptability and the spirit of enterprise, and promoting equality of opportunities.

⁽¹⁾ OJ C 150, 30.5.2000, p. 59.

⁽²⁾ OJ C 168, 16.6.2000, p. 8.

⁽³⁾ OJ C 317, 6.11.2000, p. 60.

⁽⁴⁾ Opinion of the European Parliament of 6 July 2000 (not yet published in the Official Journal), Council Common Position of 23 November 2000 (OJ C 375, 28.12.2000, p. 44) and Decision of the European Parliament of 13 December 2000.

⁽⁵⁾ OJ C 283, 6.10.1999, p. 1.

- (9) The European Council meeting held in Lisbon on 24 March 2000 also emphasised the importance of appropriate training, particularly in new technologies used by the information society.
- (10) In its report to the European Council on job opportunities in the information society, the Commission noted that the new audiovisual services offered a strong potential for job creation.
- (11) It is therefore appropriate to facilitate the development of investment in the European audiovisual industry and call on the Member States to encourage the creation of new jobs by various means.
- (12) The Commission implemented an 'Action programme to promote the development of the European audiovisual industry (MEDIA) (1991-1995)', adopted by Council Decision 90/685/EEC ⁽¹⁾ and comprising, in particular, support for training activities to improve the professional skills of persons working in the European audiovisual programme industry.
- (13) The Community strategy for developing and strengthening the European audiovisual industry was confirmed under the MEDIA II programme adopted by Council Decision 95/563/EC ⁽²⁾, and by Council Decision 95/564/EC ⁽³⁾. On the basis of the achievements of the abovementioned MEDIA II programme, its continuation should be ensured in the light of the results obtained.
- (14) In its report on the results obtained under the MEDIA II (1996-2000) programme, from 1 January 1996 to 30 June 1998, the Commission considers that the programme meets the principle of the subsidiarity of Community funds to national funds, since the field of intervention of MEDIA II supplements the traditionally predominant role of the national schemes.
- (15) The Commission recognised the positive impact of the MEDIA II programme on employment in the audiovisual industry in its Communication on Community Policies in Support of Employment.
- (16) As it is necessary to take cultural aspects of the audiovisual sector into account as indicated in Article 151(4) of the Treaty, it should be ensured that participation in this programme reflects European cultural diversity.
- (17) With a view to encouraging European audiovisual projects, the Commission will examine the possibility of complementary funding from other Community instruments in particular under the 'e-Europe' Action plan, such as those covered by the European Investment Bank (EIB), the European Investment Fund (EIF) as well as the Fifth Framework Programme of the European Community for research, technological development and demonstration activities adopted by Decision No 182/1999/EC of the European Parliament and of the Council ⁽⁴⁾. Professionals in the audiovisual sector will be informed about the different types of funding available at Community level.
- (18) The emergence of a European audiovisual market calls for professional skills adjusted to the new dimension of the market, particularly in the field of the economic, financial and commercial management of audiovisual projects and in the use of new technologies in the design, development, production, distribution, marketing and broadcasting of programmes.
- (19) Professionals should be given the professional skills to allow them to benefit fully from the European and international dimension of the market for audiovisual programmes, and they must be encouraged to develop projects which meet the needs of that market.
- (20) Particular emphasis should be given to specialised training in intellectual property rights including the relevant Community rules, as well as to specialised training in the marketing of audiovisual products focusing in particular on new technologies as dissemination and marketing vehicles.
- (21) Equal opportunities are a basic principle in Community policies which must be taken into account in the implementation of this programme.
- (22) Training for professionals should comprise the essential economic, legal, technological and business content; rapid changes in these subjects make lifelong learning necessary.
- (23) In order to ensure that professionals master new technologies, special emphasis should be given to training in the use of these technologies, and thereby increasing competitiveness of enterprises in the audiovisual sector.
- (24) In accordance with the principle of subsidiarity, the networking of vocational training centres should be encouraged in order to facilitate the exchange of know-how and best practice in an international environment.
- (25) Support for vocational training should take account of structural objectives, such as developing the potential for creation, production, marketing and distribution in countries or regions with: a low audiovisual production capacity; and/or a restricted linguistic or geographical area; as well as the development of an independent European production and distribution sector, in particular small and medium-sized enterprises.

⁽¹⁾ OJ L 380, 31.12.1990, p. 37.

⁽²⁾ OJ L 321, 30.12.1995, p. 25.

⁽³⁾ OJ L 321, 30.12.1995, p. 33.

⁽⁴⁾ OJ L 26, 1.2.1999, p. 1.

- (26) In accordance with the principles of subsidiarity and proportionality and in view of the fact that the objectives of the proposed measures concerning the implementation of vocational training policy cannot be achieved by the Member States, in particular in view of the transnational partnerships to be established between the training centres, the measures necessary to achieve them should be implemented by the Community. This Decision does not go beyond what is needed to achieve these objectives.
- (27) The measures proposed under this programme are all aimed at achieving transnational cooperation which brings an added value to the measures being taken in the Member States, in accordance with the aforementioned principle of subsidiarity.
- (28) The associated countries of Central and Eastern Europe, those EFTA countries which are members of the EEA, Cyprus, Malta and Turkey are recognised as potential participants in Community programmes on the basis of supplementary appropriations and in accordance with the procedures to be agreed with those countries. Those countries of Europe which have signed the Council of Europe Convention on Transfrontier Television belong to the European audiovisual area and may therefore, if they wish, and taking into account budgetary considerations or other priorities of their audiovisual industries, participate in the programme or benefit under a limited cooperation scheme, on the basis of the supplementary appropriations, in accordance with the procedures to be established in the agreements between the interested parties.
- (29) The opening-up of the programme to European third countries should be subject to a prior examination as to the compatibility of their national legislation with the Community acquis in particular Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities⁽¹⁾.
- (30) Cooperation in the field of vocational training on the part of the European training establishments and those in third countries, on the basis of common interests, is likely to create an added value for the European audiovisual industry. Moreover, opening up to third countries will raise awareness of European cultural diversity and will lead to the dissemination of common democratic values. Such cooperation will be developed on the basis of supplementary appropriations and in accordance with the procedures to be established in the agreements between the interested parties.
- (31) In order to enhance the added value of the Community action, it is necessary to ensure, at all levels, that the measures taken under this Decision are consistent with and complementary to other Community action. It is desirable to coordinate the activities laid down by the

programme with those undertaken by international organisations such as the Council of Europe.

- (32) In accordance with the conclusions of the Lisbon European Council, the Council and Commission are to report by the end of 2000 on the review of the EIB and EIF financial instruments which was undertaken in order to redirect funding towards business start-ups, high-tech firms and micro-enterprises, as well as other risk capital or guarantee mechanism initiatives proposed by the EIB and EIF. In this connection, particular attention should be paid to the audiovisual sector, including training programmes.
- (33) This Decision lays down, for the entire duration of the programme, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and Commission⁽²⁾, for the budgetary authority during the annual budgetary procedure.
- (34) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽³⁾,

HAVE DECIDED AS FOLLOWS:

Article 1

Establishment of the programme

A vocational training programme, MEDIA-Training, hereinafter referred to as 'the programme', is hereby established for the period from 1 January 2001 to 31 December 2005.

The programme is intended to give professionals in the European audiovisual programme industry, mainly through continuous vocational training, the necessary skills to allow them to take full advantage of the European and international dimension of the market and of the use of new technologies.

Article 2

Objectives of the programme

1. The objectives of the programme are as follows:
 - (a) To meet the industry's needs and promote competitiveness by improving the continuous vocational training of professionals in the audiovisual sector, with a view to giving them the know-how and skills needed to create competitive products on the European and other markets, in particular in the field of:
 - application of new technologies, and in particular digital technologies, for the production and distribution of audiovisual programmes with a high commercial and artistic added value;

⁽¹⁾ OJ L 298, 17.10.1989, p. 23. Directive as amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30.7.1997, p. 60).

⁽²⁾ OJ C 172, 18.6.1999, p. 1.
⁽³⁾ OJ L 184, 17.7.1999, p. 23.

- economic, financial and commercial management, including the legal framework and the techniques for the financing, production and distribution of audiovisual programmes;
- script-writing techniques and storytelling including techniques for the development of new audiovisual programme types.

Particular attention will be paid to the opportunities for distance learning and pedagogic innovation offered by the development of on-line technologies.

For these training activities, cooperation between various players in the audiovisual industry, such as script-writers, directors and producers, will be encouraged.

As an exception, certain initial vocational training measures in which the industrial sector is directly involved, such as master's degrees, may also be supported if no other Community support is available and in fields for which there are no support measures at national level.

- (b) To encourage cooperation and the exchange of know-how and best practice through networking between the partners responsible for training, namely training establishments, the professional sector and undertakings, as well as through developing training for the trainers.

Particular importance will be attached to encouraging the gradual establishment of networks in the audiovisual training sector and in continuous training for the trainers.

2. To achieve the objectives set out in the first subparagraph of paragraph 1(a) and in paragraph 1(b), particular attention shall be devoted to the specific needs of countries or regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area, as well as to the development of an independent European production and distribution sector, in particular small and medium-sized enterprises.

3. The objectives set out in paragraph 1 shall be realised in accordance with the arrangements contained in the Annex.

Article 3

Coordination

In order to achieve maximum coordination, the Commission shall ensure that there is cooperation between the training activities referred to in the programme and the development projects supported under the MEDIA Plus programme established under Council Decision 2000/821/EC⁽¹⁾.

⁽¹⁾ Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus — Development, Distribution and Promotion) (2001-2003) (OJ L 336, 30.12.2000, p. 82).

Financial provisions and funding conditions

1. The beneficiaries of Community support taking part in implementing the actions set out in the Annex shall provide a substantial proportion of the funding. Community funding shall not exceed 50 % of the cost of operations. However, in the cases expressly provided for in the Annex, this proportion may be as much as 60 % of the cost of operations.

2. The beneficiaries of Community support shall ensure that in principle a majority of the participants in a training measure, nationals of States participating in the programme, are of a nationality other than that of the beneficiary's country. To that end, support to facilitate participation by professionals from different linguistic areas may be included in Community funding for the training measure.

3. The Commission shall ensure that, as far as possible, an appropriate proportion of the funding annually available, to be determined in accordance with the procedure laid down in Article 6(2), is reserved for new activities.

4. Community funding shall be determined according to the costs and nature of each project planned.

5. The financial framework for the implementation of this programme for the period referred to in Article 1 is hereby set at EUR 50 million.

6. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 5

Implementation of the programme

1. The Commission shall be responsible for the implementation of the programme.

2. The measures necessary for the implementation of this Decision concerning the matters referred to below shall be adopted in accordance with the management procedure referred to in Article 6(2):

- (a) general guidelines for all the measures described in the Annex;

- (b) the content of the calls for proposals, the definition of the criteria and the procedures for the selection of projects;

- (c) the appropriate percentage of the funds available each year reserved for new activities;

- (d) the arrangements for following up and assessing actions;

- (e) any proposal for a Community allocation exceeding EUR 200 000 per beneficiary and per year. This threshold may be reviewed in the light of experience.

3. The measures necessary for the implementation of this Decision concerning all the other matters shall be adopted in accordance with the advisory procedure referred to in Article 6(3). This procedure shall also apply to the final choice of technical assistance offices.

4. Technical assistance shall be governed by the provisions adopted pursuant to the Financial Regulation.

5. The Commission shall give the European Parliament and the Council regular and timely notice of the implementation of the programme, in particular the use of the available resources.

Article 6

Committee

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

4. The Committee shall adopt its rules of procedure.

Article 7

Consistency and complementarity

In the implementation of the programme, the Commission shall, in close cooperation with the Member States, ensure general consistency and complementarity with other relevant Community policies, programmes and actions that impinge upon the training and audiovisual fields.

The Commission shall also ensure coordination between the programme and other Community programmes in the field of initial and continuous training, and with the operation of the European Social Fund, in accordance with the rules of the Fund.

The Commission shall ensure effective liaison between this programme and programmes and actions in the training and audiovisual fields being carried out in the framework of Community cooperation with non-member countries and the relevant international organisations.

Article 8

Opening-up of the programme to third countries

1. The programme shall be open to the participation of the associated countries of Central and Eastern Europe, in accordance with the conditions laid down in the association agreements or their additional protocols relating to participation in Community programmes concluded or to be concluded with those countries.

2. The programme shall be open to the participation of Cyprus, Malta, Turkey and those EFTA countries which are members of the EEA Agreement, on the basis of supplementary appropriations, in accordance with the procedures to be agreed with those countries.

3. The programme shall be open to the participation of the countries which are Parties to the Council of Europe Convention on Transfrontier Television, other than those referred to in paragraphs 1 and 2, on the basis of supplementary appropriations, in accordance with the conditions to be established in the agreements between the interested parties.

4. The opening-up of the programme to the European third countries referred to in paragraphs 1, 2 and 3 is subject to a prior examination as to the compatibility of their national legislation with the Community acquis, including the second subparagraph of Article 6(1) of Council Directive 89/552/EEC.

5. The programme shall also be open to cooperation with other third countries on the basis of supplementary appropriations and cost sharing under agreed procedures to be established in the agreements between the interested parties. The European third countries referred to in paragraph 3 which do not wish to participate fully in the programme may be eligible for cooperation under the conditions set out in this paragraph.

Article 9

Monitoring and evaluation

1. The Commission shall ensure that measures taken under this Decision are subject to prior appraisal, and to subsequent monitoring and evaluation, taking care to ensure the accessibility of the programme and its transparency.

2. The beneficiaries selected shall submit an annual report to the Commission.

3. After completion of the projects, the Commission shall evaluate the manner in which they have been carried out and the impact of their implementation, in order to assess whether the original objectives have been achieved.

4. The Commission shall submit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions an evaluation report on the impact and effectiveness of the programme, on the basis of the results after two years of implementation. This report shall include performance indicators such as impact on employment.

This report shall be accompanied, if need be, by any proposal regarding adjustment.

5. On completion of the programme, the Commission shall submit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions a detailed report on the implementation and results of the programme.

The Commission's report shall, in particular, give an account of the added value created by the Community's financial support, its possible impact on employment, and the coordinating measures referred to in Articles 3 and 7.

Article 10

Entry into force

This Decision shall enter into force on 1 January 2001.

Done at Brussels, 19 January 2001.

For the European Parliament
The President
N. FONTAINE

For the Council
The President
B. RINGHOLM

1. MEASURES TO BE IMPLEMENTED

In support of and in addition to the measures being undertaken by the Member States, the programme aims to permit professionals to adapt to the dimension of the market, and in particular the European market, for audiovisual works, by promoting vocational training in:

- new technologies including the conservation and enhancement of the European film and audiovisual heritage;
- economic, financial and commercial management, including the legal framework, distribution and marketing;
- script-writing techniques and the development of new programme types.

Training activities will take account of the legal framework in the area of intellectual property rights, in particular the relevant Community rules.

Professionals from the audiovisual industry and from radio will have access to the relevant training activities.

The programme will encourage cooperation on the proposed measures between the various players in the audiovisual industry, such as script-writers, directors and producers, with a view to improving the quality and commercial potential of projects by means of closer cooperation between the various groups of professionals.

1.1. Training in new technologies

This training aims to develop the ability of professionals to use advanced creation and dissemination techniques, in particular in the fields of animation, computer graphics, multimedia and interactive applications including post-production techniques facilitating the transnational movement of European works.

The measures proposed are as follows:

- promoting the development and updating of the modules for training in the new audiovisual technologies, in parallel to the measures being taken by the Member States;
- networking the training courses, promoting exchanges of trainers and professionals by awarding grants, organising work experience in undertakings in other Member States, and contributing to the training of trainers, through distance learning, and by promoting exchanges and partnerships involving countries and regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area.

1.2. Training in economic, financial and commercial management

This training aims to develop the ability of professionals to appreciate and use the European dimension in the development, production, marketing and distribution/dissemination of audiovisual programmes.

The measures proposed are as follows:

- promoting the development and updating of the modules for training in management, in parallel to the measures being taken by the Member States and emphasising the European dimension;
- networking the training courses, promoting exchanges of trainers and professionals by awarding grants, organising work experience in undertakings in other Member States, contributing to the training of trainers, through distance learning, and by promoting exchanges and partnerships involving countries and regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area.

1.3. Script-writing techniques

This training is aimed at experienced script writers and directors in order to improve their ability to develop techniques based on both conventional and interactive script-writing and storytelling methods for all types of audiovisual programmes.

The measures will be as follows:

- promoting the development and updating of the training modules for identifying target audiences; publication and development of scripts for an international audience aimed at quality productions; relations between the script-writer, the director, the producer and the distributor.

- networking the training courses, promoting exchanges of trainers and professionals by awarding grants, organising work experience in undertakings in other Member States, contributing to the training of trainers, through distance learning, and by promoting exchanges and partnerships involving countries and regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area.

1.4. Networks of training courses

The objective is to encourage recipients of support under the programme to step up coordination of their activities in continuous training in order to establish European networks.

1.5. Initial vocational training activities

As an exception support may be provided for activities in some fields of initial vocational training where no other Community or national funding is on offer, including master's degrees in which there is a link with industry in the form of a partnership and/or work experience.

2. IMPLEMENTATION PROCEDURE

2.1. Approach

In implementing the programme, the Commission, assisted by the Committee provided for in Article 6, will work closely with the Member States. It will also consult the partners concerned. It will ensure that the participation of professionals reflects adequately Europe's cultural diversity.

It will encourage designers of training modules to cooperate with establishments, the professional sector and undertakings in their work and in their follow-up.

The Commission will ensure that the designers of training modules take all steps with a view to respecting the principle set out in Article 4(2), and, if specific reasons justify departing from this principle, that Community added value is ensured.

It will ensure that establishments provide linguistic facilities, in particular in the area of script-writing techniques.

It will facilitate the participation of trainees, particularly from countries and regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area.

2.2. Community contribution

Community cofinancing of the total training costs will be provided within a framework of joint funding with public and/or private partners, generally up to a limit of 50 %. This percentage may be raised to 60 % for training activities in countries or regions with a low audiovisual production capacity and/or a restricted linguistic or geographical area.

As a general rule, Community financial assistance granted for projects under the programme may cover a maximum period of three years, subject to a periodic review of progress achieved.

The procedure set out in Article 6(2) will be applied to determine the allocation of funding for each type of measure provided for under point 1.

In accordance with the rules for Community funding, and pursuant to the procedure set out in Article 6(2), the Commission will lay down a set of rules for funding in order to determine the ceiling for each continuous training activity and professional trained.

Designers of modules and training establishments will be selected by calls for proposals.

As far as possible, the Commission will ensure that an appropriate percentage of the funds available each year is allocated to new activities.

2.3. Implementation

- 2.3.1. The Commission, in accordance with the procedure laid down in Article 6, will implement the programme. It will call upon consultants and technical assistance offices to be selected, after a call for proposals, on the basis of their expertise in the sector, experience acquired in the MEDIA II programme, or other experience acquired in this area. The technical assistance will be financed by the programme's budget. In accordance with the procedure referred to in Article 6(2), the Commission may also conclude partnerships for operations with specialised bodies, including those which have been set up under other European initiatives, such as Audiovisual Eureka, Eurimages and the European Audiovisual Observatory, in order to implement joint measures which meet the objectives of the programme in the field of training. The Commission will make the final selection of the beneficiaries of the programme and will decide on the financial support to be granted, in accordance with Article 5.

It will give grounds for its decisions to applicants for Community support and ensure the transparency of implementation of the programme.

The beneficiaries will take steps to publicise the Community's support.

In selecting supported activities, the Commission will, in addition to the priorities set out in Article 2(2), take particular account of the following criteria:

- partnership between training establishments, the professional sector and undertakings;
- the innovatory nature of the measure;
- the multiplier effect of the measure (including utilisable results, e.g. manuals);
- the cost-effectiveness of the measure;
- availability of other national or Community support measures.

For the implementation of the programme, and in particular the assessment of the projects receiving funding under the programme, and for the networking measures, the Commission will ensure that it makes use of the skills of recognised experts in the audiovisual sector in the fields of training, development, production, distribution, promotion and also management of rights, especially in the new digital environment.

In order to ensure the independence of the consultants and experts whose services it uses, the Commission will lay down incompatibility provisions in respect of the participation of these groups of persons in the invitations to submit proposals under the programme.

- 2.3.2. Through appropriate measures, the Commission will make known the opportunities offered by the programme and ensure its promotion. The Commission will also provide via the Internet comprehensive information concerning all support arrangements available under the European Community's policies which are of relevance to the audiovisual sector.

In particular, the Commission and the Member States will take the necessary measures, by continuing the activities of the network of MEDIA Desks and Antennae, and by ensuring that the professional skills of the latter are strengthened, in order to:

- inform professionals in the audiovisual sector of all support arrangements available to them under European Community policies;
 - ensure that the programme is publicised and promoted;
 - encourage the greatest possible participation of professionals in the measures under the programme;
 - assist professionals in presenting their projects in response to calls for proposals;
 - foster transfrontier cooperation between professionals;
 - act as a relay with the various support bodies in the Member States with a view to ensuring that the measures under this programme are complementary to the national support measures.
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**Council Resolution
of 12 February 2001
on national aid to the film and audiovisual industries**

(OJ C 73, 6.3.2001)

COUNCIL RESOLUTION

of 12 February 2001

national aid to the film and audiovisual industries

(2001/C 73/02)

THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING that the Community takes cultural aspects into account in its action under other Treaty provisions in order, in particular, to respect and promote the diversity of its cultures;
2. RECALLING that aid to promote culture and heritage conservation may, where it does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest, be regarded as compatible with the common market;
3. RECALLING the powers of the Commission under Article 88 of the Treaty;
4. RECALLING the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty;
5. EMPHASISING that the mandate given to the Commission at the meeting of the General Affairs Council on 26 October 1999 states that 'during the forthcoming WTO negotiations the Union will ensure, as in the Uruguay Round, that the Community and its Member States maintain the right to preserve and to develop their capacity to define and implement their cultural and audiovisual policies for the purpose of preserving their cultural diversity';
6. RECALLING the decisions of the Commission concerning several national aid mechanisms for the film and audiovisual industries;
7. RECALLING the Commission communication of 14 December 1999 on principles and guidelines for the Community's audiovisual policy in the digital age, and NOTING the Commission's intention to present a communication on the film industry in which it will set out general guidelines for the application of State aid to this sector;
8. REFERRING to the symposium on European cultural industries in the digital age, organised in Lyons on 11 and 12 September 2000, during which participants emphasised the need for the Member States to maintain and implement national arrangements to support cultural industries;
9. RECALLING the discussions on the question of national aid at the meeting of the Council of Ministers for Culture on 26 September 2000;
10. EMPHASISES that, as the Commission has acknowledged:
 - (a) the audiovisual industry is a cultural industry par excellence;
 - (b) national aid to the film and audiovisual industries is one of the chief means of ensuring cultural diversity;
 - (c) the objective of cultural diversity presupposes the industrial fabric necessary to satisfy that objective and justifies the special nature of national aid to the film and audiovisual industries, adapted to the specific circumstances involved;
 - (d) these statements are particularly true in the case of the development of the audiovisual industry in countries or regions where production capacity is low and/or the linguistic or geographical area is limited;
 - (e) the European film and audiovisual sector is suffering from structural weaknesses, including under-capitalisation of undertakings, fragmentation of national markets, which are dominated by non-European productions, and poor transnational circulation of European works; the national and European support systems for this sector have a complementary and essential role to play in solving these problems;

11. REAFFIRMS, in consequence and in the light of all the above, that:
- (a) the Member States are entitled to conduct national policies to support the creation of film and audiovisual products;
 - (b) national aid to the film and audiovisual industries may contribute to the emergence of a European audiovisual market;
 - (c) appropriate means of increasing legal certainty for these arrangements for preserving and promoting cultural diversity should be examined;
 - (d) consequently, the dialogue between the Commission and the Member States should be continued;
12. INVITES the Commission to brief the Council on the state of its reflections as soon as possible and, at all events, at the end of 2001.
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**Council Resolution
of 12 February 2001
on the application of national fixed book-price systems**

(OJ C 73, 6.3.2001)

COUNCIL RESOLUTION

of 12 February 2001

on the application of national fixed book-price systems

(2001/C 73/03)

THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING that the Community should take cultural aspects into account in its actions, in particular in order to respect and to promote the diversity of its culture;
2. RECALLING that in its Decision of 21 August 1997 and later in its Resolution of 8 February 1999, echoed by the Cologne European Council on 3 and 4 June 1999, it recognised the dual character of books as the bearers of cultural values and as merchandise, and the need for a balanced assessment of the cultural and economic aspects of books;
3. RECALLING the freedom of each Member State, in its policy on books and reading, to decide whether or not to apply a national statutory or contractual book-price system;
4. CONSIDERING the attachment of several Member States to national fixed-price systems for books, as a way of taking into account the specific cultural and economic character of books and of giving readers access, under optimum conditions, to the widest possible supply;
5. RECALLING the Decisions and the positions taken by the Commission on the subject, and particularly the letter dated 12 November 1998 from the Members of the Commission responsible for culture and for competition to the Ministers of Cultural Affairs;
6. TAKING NOTE of the proceedings of the Conference on the Book Market in the European Cultural Area held in Strasbourg on 29 and 30 September 2000, which helped to delve deeper into the singular nature of books, developments in their distribution, ways of regulating

book markets and the impact of digital technology on their economic aspects;

7. REAFFIRMS that homogeneous linguistic areas are an important area for distributing books and add a cross-border dimension to the book market, which needs to be taken into account;
8. CONSIDERS that the emergence of e-commerce, changing the legal and economic landscape of the book sector, may extend the dissemination of books but may also affect, *inter alia*, existing national fixed book-price systems;
9. CONSIDERS that, under these circumstances, achieving the cultural objectives pursued by the existing national fixed book-price systems requires account to be taken of the cross-border dimension of certain book markets, in accordance with Community law;

INVITES THE COMMISSION:

- (a) when applying competition rules and rules on the free movement of goods, to take account of the specific value of the book as a cultural object and the importance of books in promoting cultural diversity, and of the cross-border dimension of the book market;
- (b) when examining national rules and agreements on fixed book prices, insofar as they affect trade between the Member States, to pay particular attention to:
 - the risk of the development of evasion,
 - the consequences of the development of e-commerce,
 - questions relating to imports between countries practising fixed book-price systems.

**Council Resolution
of 12 February 2001
on architectural quality in urban and rural environments**

(OJ C 73, 6.3.2001)

COUNCIL RESOLUTION

of 12 February 2001

on architectural quality in urban and rural environments

(2001/C 73/04)

THE COUNCIL OF THE EUROPEAN UNION,

Desirous of improving the quality of the day-to-day environment in the life of European citizens,

I.

1. RECALLING the objectives assigned to the European Community under Article 151 of the Treaty;
2. RECALLING Directive 85/384/EEC⁽¹⁾, which states in particular that 'architecture, the quality of buildings, the way in which they blend in with their surroundings, respect for the natural and urban environment and the collective and individual cultural heritage are matters of public concern';
3. RECALLING the Council Conclusions of 10 November 1994 on the Commission communication concerning European Community action to promote culture⁽²⁾;
4. RECALLING the Council Conclusions of 21 June 1994 on the cultural and artistic aspects of education⁽³⁾;
5. RECALLING the Council Resolution of 4 April 1995 on culture and the multimedia⁽⁴⁾;
6. RECALLING the Council Conclusions of 17 December 1999 on the culture industries and employment in Europe⁽⁵⁾;
7. TAKING NOTE of the Presidency conclusions of the informal meeting of Environment Ministers in Oporto on 15 and 16 April 2000, which emphasise the importance of the quality of built-up areas;

8. NOTING the holding on 10 and 11 July 2000 of a European Architectural Policies Forum which brought together representatives of the professions and authorities in charge of architectural matters in the fifteen Member States;

9. WELCOMING the Community and intergovernmental discussions which have taken place for a number of years on architectural heritage and the built, spatial and social environment, and more especially:

- (a) the fifth research and development framework programme (RDFP) which, for the first time, incorporates a 'key action' on the theme of 'the city of tomorrow and cultural heritage' and addresses the issue of establishing a good-quality building environment;
- (b) the 'Framework for action: sustainable urban development in the European Union' submitted by the Commission, which includes the preservation and improvement of building quality as an objective of the European Union;
- (c) the European Spatial Development Perspective (ESDP), which evokes the concept of 'creative management of the architectural heritage', including contemporary architecture, in an approach to preserving the cultural and architectural heritage.

HEREBY AFFIRMS THAT:

- (a) architecture is a fundamental feature of the history, culture and fabric of life of each of our countries; that it represents an essential means of artistic expression in the daily life of citizens and that it constitutes the heritage of tomorrow;
- (b) architectural quality is a constituent part of both the rural and urban environment;
- (c) the cultural dimension and the quality of the physical treatment of space should be taken into account in Community regional and cohesion policies;

(1) Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal requirements in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services (OJ L 223, 21.8.1985, p. 15).

(2) OJ C 348, 9.12.1994, p. 4.

(3) OJ C 229, 18.8.1994, p. 1.

(4) OJ C 247, 23.9.1995, p. 1.

(5) OJ C 8, 12.1.2000, p. 10.

- (d) architecture is an intellectual, cultural, artistic and professional activity. Architectural service therefore is a professional service which is both cultural and economic.

HEREBY EXPRESSES ITS ATTACHMENT TO:

- (a) the common characteristics shared by European towns and cities, such as the importance of historical continuity, the quality of public areas, the social mix and the richness of urban diversity;
- (b) the fact that good quality architecture, by improving the living context and the relationship between citizens and their environment, whether rural or urban, can contribute effectively towards social cohesion and job creation, the promotion of cultural tourism and regional economic development.

II.

HEREBY ENCOURAGES THE MEMBER STATES TO:

- (a) intensify their efforts to improve the knowledge and promotion of architecture and urban design, and to make contracting authorities and the general public more aware of and better trained in appreciation of architectural, urban and landscape culture;
- (b) take into account the specific nature of architectural service in the decisions and measures which require it;

- (c) promote architectural quality by means of exemplary public building policies;
- (d) foster the exchange of information and experience in the field of architecture.

III.

CALLS ON THE COMMISSION TO:

- (a) ensure that architectural quality and the specific nature of architectural service are taken into consideration in all its policies, measures and programmes;
- (b) seek, in consultation with the Member States and in accordance with the rules governing the Structural Funds, ways and means of ensuring in the application of those funds a wider consideration of architectural quality and the conservation of cultural heritage;
- (c) in the context of existing programmes:
 - foster measures to promote, disseminate and raise awareness of architectural and urban cultures with due respect for cultural diversity,
 - facilitate cooperation and networking between institutions devoted to upgrading cultural heritage and architecture, and support incipient European-scale events,
 - encourage, in particular, the training and mobility of students and professionals and thus promote the dissemination of good practice;
- (d) keep the Council informed of the implementation of such measures.

**Council Regulation (EC) No 974/2001
of 14 May 2001
amending Regulation (EEC) No 3911/92
on the export of cultural goods**

(OJ L 137, 19.5.2001)

COUNCIL REGULATION (EC) No 974/2001
of 14 May 2001
amending Regulation (EEC) No 3911/92 on the export of cultural goods

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas:

- (1) The establishment of Economic and Monetary Union and the changeover to the euro have an effect on the last subparagraph under heading B of the Annex to Regulation (EEC) No 3911/92 ⁽⁴⁾ laying down the values, expressed in ecu, of the cultural goods subject to the application of the Regulation. That subparagraph lays down that the date for the conversion of the said values into national currencies is to be 1 January 1993.
- (2) Pursuant to Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro ⁽⁵⁾, any reference to the ecu in legal instruments became, as from 1 January 1999, a reference to the euro, after conversion at the rate of one to one. Without an amendment to Regulation (EEC) No 3911/92, and hence to the fixed exchange rate corresponding to the rate in force on 1 January 1993, the Member States having the euro as their currency would continue to apply different amounts converted on the basis of the exchange rates of 1993, and not the conversion rates irrevocably fixed on 1 January 1999, and this situation would persist as long as the conversion rule remained an integral part of the Regulation.
- (3) The last subparagraph under heading B of the Annex to Regulation (EEC) No 3911/92 should therefore be amended in such a way that, as from 1 January 2002, the Member States having the euro as their currency directly apply the values in euro laid down in Community legislation. For the other Member States, which will continue to convert these thresholds into national currencies, an exchange rate should be adopted on a suitable date before 1 January 2002, and provision should be made for those States to adapt that rate automatically and periodically in order to compensate for variations in the exchange rate between the national currency and the euro.

(4) It would appear that the value 0 (zero) under heading B of the Annex to Regulation (EEC) No 3911/92, applicable as the financial threshold for certain categories of cultural objects, could be interpreted in such a way as to jeopardise the effective application of the Regulation. Whereas this value 0 (zero) means that goods belonging to the categories in question, whatever their value — even if it is negligible or zero — are to be considered 'cultural objects' within the meaning of the said Regulation, certain authorities have interpreted it in such a way that the cultural object in question has no value at all, thereby depriving those categories of goods of the protection afforded by the Regulation.

(5) To avoid any confusion in this respect, therefore, the figure 0 should be replaced by a clearer expression which leaves no doubt as to the need to protect the goods in question,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EEC) No 3911/92, the text under heading B is hereby amended as follows:

1. The title 'VALUE: 0 (zero)' shall be replaced by:

'VALUE:

Whatever the value.'

2. The last subparagraph, relating to the conversion into national currencies of the values expressed in ecu, is replaced by the following:

'For the Member States which do not have the euro as their currency, the values expressed in euro in the Annex shall be converted and expressed in national currencies at the rate of exchange on 31 December 2001 published in the *Official Journal of the European Communities*. This countervalue in national currencies shall be reviewed every two years with effect from 31 December 2001. Calculation of this countervalue shall be based on the average daily value of those currencies, expressed in euro, during the 24 months ending on the last day of August preceding the revision which takes effect on 31 December. This method of calculation shall be reviewed, on a proposal from the Commission, by the Advisory Committee on Cultural Goods, in principle two years after the first application. For each revision, the values expressed in euro and their countervalues in national currency shall be published periodically in the *Official Journal of the European Communities* in the first days of the month of November preceding the date on which the revision takes effect.'

⁽¹⁾ OJ C 120 E, 24.4.2001, p. 184.

⁽²⁾ Opinion delivered on 14 February 2001 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 25 April 2001 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 395, 31.12.1992, p. 1. Regulation as amended by Regulation (EC) No 2469/96 (OJ L 335, 24.12.1996, p. 9).

⁽⁵⁾ OJ L 162, 19.6.1997, p. 1.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

It shall be applicable as from 1 January 2002.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 May 2001.

For the Council

The President

L. REKKE

**Directive 2001/38/EC of the European Parliament and of the Council
of 5 June 2001
amending Council Directive 93/7/EEC on the return of cultural objects
unlawfully removed from the territory of a Member State
(text with EEA relevance)**

(OJ L 187, 10.7.2001)

DIRECTIVE 2001/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 5 June 2001
amending Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from
the territory of a Member State
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) The establishment of Economic and Monetary Union and the changeover to the euro have an effect on the last subparagraph under heading B of the Annex to Council Directive 93/7/EEC ⁽³⁾ laying down the values, expressed in ecu, of the cultural goods subject to the application of the Directive. That subparagraph lays down that the date for the conversion of such values into national currencies is to be 1 January 1993.
- (2) Pursuant to Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro ⁽⁴⁾, any reference to the ecu in legal instruments became, as from 1 January 1999, a reference to the euro, after conversion at the rate of one to one. Without an amendment to Directive 93/7/EEC, and hence to the fixed exchange rate corresponding to the rate in force on 1 January 1993, the Member States having the euro as their currency would continue to apply different amounts converted on the basis of the exchange rates of 1993, and not the conversion rates irrevocably fixed on 1 January 1999, and this situation would persist as long as the conversion rule remained an integral part of the Directive.
- (3) The last subparagraph under heading B of the Annex to Directive 93/7/EEC should therefore be amended in such a way that, as from 1 January 2002, the Member States having the euro as their currency directly apply the values in euro laid down in Community legislation. For the other Member States, which will continue to convert these thresholds into national currencies, an exchange rate should be adopted on an appropriate date before 1 January 2002, and provision should be made for those

Member States to adapt that rate automatically and periodically in order to compensate for variations in the exchange rate between the national currency and the euro.

- (4) It would appear that the value 0 (zero) under heading B of the Annex to Directive 93/7/EEC, applicable as the financial threshold for certain categories of cultural objects, could be interpreted in such a way as to jeopardise the effective application of the Directive. Whereas this value 0 (zero) means that goods belonging to the categories in question, whatever their value — even if it is negligible or zero — are to be considered 'cultural objects' within the meaning of the Directive, certain authorities have interpreted it in such a way that the cultural object in question has no value at all, thereby depriving those categories of goods of the protection afforded by the Directive.
- (5) To avoid any confusion in this respect, therefore, the figure 0 should be replaced by a clearer expression which leaves no doubt as to the need to protect the goods in question,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

In the Annex to Directive 93/7/EEC, the text under heading B is hereby amended as follows:

1. The title 'VALUE: 0 (zero)' shall be replaced by:

'VALUE:

Whatever the value'

2. The last subparagraph, relating to the conversion into national currencies of the values expressed in ecus, shall be replaced by the following:

'For the Member States which do not have the euro as their currency, the values expressed in euro in the Annex shall be converted and expressed in national currencies at the rate of exchange on 31 December 2001 published in the *Official Journal of the European Communities*. This countervalue in national currencies shall be reviewed every two years with effect from 31 December 2001. Calculation of this countervalue shall be based on the average daily value of those currencies, expressed in euro, during the 24 months ending on the last day of August preceding the revision which takes effect on 31 December. The Advisory Committee

⁽¹⁾ OJ C 120 E, 24.4.2001, p. 182.

⁽²⁾ Opinion of the European Parliament of 14 February 2001 and Council Decision of 14 May 2001.

⁽³⁾ OJ L 74, 27.3.1993, p. 74. Directive as amended by Directive 96/100/EC of the European Parliament and of the Council (OJ L 60, 1.3.1997, p. 59).

⁽⁴⁾ OJ L 162, 19.6.1997, p. 1.

on Cultural Goods shall review this method of calculation, on a proposal from the Commission, in principle two years after the first application. For each revision, the values expressed in euro and their countervalues in national currency shall be published periodically in the *Official Journal of the European Communities* in the first days of the month of November preceding the date on which the revision takes effect.'

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2001. They shall immediately inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The

methods of making such reference shall be laid down by Member States.

Article 3

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 5 June 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

L. ENGQVIST

**Council Resolution
of 21 June 2001
on the need for a reinforced exchange of information and experience
between the European Union and its Member States
and the candidate countries within the audiovisual sector**

(OJ C 281, 5.10.2001)

I

(Information)

COUNCIL

COUNCIL RESOLUTION

of 21 June 2001

on the need for a reinforced exchange of information and experience between the European Union and its Member States and the candidate countries within the audiovisual sector

(2001/C 281/01)

THE COUNCIL OF THE EUROPEAN UNION,

Taking into account:

1. that the Community and the Member States will foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe,
2. Council Resolution of 4 April 1995 concerning cooperation with the associated countries of central and eastern Europe in the cultural domain⁽¹⁾ which underlines the importance of an on-going dialogue and exchange of information with the countries in central and eastern Europe and in this context to reinforce the cultural dimension of the cooperation,
3. The Helsinki European Council's conclusions of 11 December 1999 reaffirming the inclusive nature of the accession process which now comprises 13 candidate countries, namely Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Slovenia, Malta, Cyprus and Turkey,
4. That in its conclusions the Nice European Council (7 to 9 December 2000) appreciated the efforts made by the candidate countries to establish the conditions for adoption, implementation and practical application of the *acquis* and requested the candidate countries to continue and speed up the necessary reforms to prepare themselves for accession, particularly as regards strengthening their administrative capacity, so as to be able to join the Union as soon as possible,
5. The Commission's communication of 14 December 1999 on the principles and guidelines for the Community's audiovisual policy in the digital era which emphasised that it was crucial that the candidate countries incorporate the *acquis communautaire* in the field of audiovisual affairs promptly and in full,
6. The constructive dialogue existing in the audiovisual field between the Union and its Member States and the candidate countries; that, in the context of this dialogue, the importance of an exchange of information and experience as well as follow-up actions have particularly been stressed in the conclusions of the conference: 'The role of the audiovisual sector in the development of civil society' (Warsaw on 17-18 March 1998) and the seminar 'Audiovisual policy and cultural diversity in an enlarged Europe' (Prague on 5-6 October 2000),

THEREFORE

7. UNDERLINES the importance of the audiovisual sector in an enlarged European Union and emphasises particularly its role in safeguarding general democratic values and in preserving and promoting Europe's cultural diversity,
8. EMPHASISES the importance of the exchange of information and experience in creating a favourable framework for adoption and implementation of the *acquis communautaire*, thus facilitating the accession negotiations,
9. NOTES the importance of reinforcing the exchange of information and experience which has hitherto taken place between the Union and its Member States and the candidate countries in the audiovisual field,

⁽¹⁾ OJ C 247, 23.9.1995, p. 2.

10. RECALLS that candidate countries will be required within the framework of their policies towards third countries and international organisations, particularly the World Trade Organisation, to align themselves progressively, and as quickly as possible, in the perspective of accession, to the policies and positions adopted by the Community and its Member States, and expresses the view that, in cultural and audiovisual fields, this should apply with the aim of preserving and promoting cultural diversity in Europe,
 11. STRESSES that existing forums and networks in the audio-visual sector should be used for such a reinforced exchange of information and experience,
 12. NOTES that means of financial cooperation between the European Union and the candidate countries, such as the Phare programme, could also be used to advantage in the audiovisual field,
 13. UNDERLINES the importance of participation in Community programmes as an integral element of pre-accession strategy and, in this context, of the possibilities offered by the MEDIA programmes for the candidate countries, when their legislation is sufficiently aligned with the audiovisual *acquis*,
 14. EMPHASISES that a reinforced exchange of information and experience should be directed at issues which are linked to the adoption and implementation of the *acquis communautaire* as well as at other issues of common interest in the audiovisual field. Such exchanges, would, *inter alia*, aim to share good practice in national audiovisual policies,
 15. WELCOMES the importance which the candidate countries attach to a reinforced dialogue with the Union and its Member States,
 16. INVITES the Commission, within the existing legal and financial framework and taking into the account the timetable of the enlargement process, to:
 - (i) reinforce the exchange of information and experience on audiovisual policy between the Union and its Member States and the candidate countries, building upon existing forums and networks;
 - (ii) identify issues considered important to include in such an exchange, in consultation with the Member States and the candidate countries;
 - (iii) further develop cooperation with the Council of Europe in order to benefit from the experience held by that organisation in this sphere and to avoid duplication of work;
 - (iv) report in an appropriate way to the Council on the work carried out,
 17. INVITES the Member States to:
 - (i) promote an increased exchange of information and experience in the audiovisual sector between the Union and its Member States and the candidate countries;
 - (ii) cooperate with the Commission in the reinforced exchange of information and experience in the audiovisual sector.
-

**Council Resolution
of 23 July 2001
on exchange of information and experience
concerning conditions for professional artists
in the context of EU enlargement**

(OJ C 213, 31.7.2001)

COUNCIL RESOLUTION

of 23 July 2001

on exchange of information and experience concerning conditions for professional artists in the context of EU enlargement

(2001/C 213/02)

THE COUNCIL OF THE EUROPEAN UNION,

which stresses the importance of artists to the process of European integration,

Taking into account:

- (1) that Community action aims at encouraging cooperation in the sphere of culture between the Member States,
- (2) that the Community has to take cultural aspects into account in its action under other provisions of the Treaty,
- (3) the principle of subsidiarity,
- (4) that the Community and the Member States have to foster cooperation in the sphere of culture with third countries, including candidate countries,
- (5) the Council Resolution of 4 April 1995 on cooperation with the associated countries of central and eastern Europe in the cultural domain ⁽¹⁾, which emphasises the importance of structured ties with associate countries in the cultural sphere,
- (6) the Council Resolution of 20 November 1995 on the promotion of statistics on culture and economic growth ⁽²⁾, which notes the influence of culture on the overall development of society and its cohesion, as well as on cooperation with third countries,
- (7) the first Commission report of 17 April 1996 on the consideration of cultural aspects in European Community action,
- (8) the European Parliament resolution of 9 March 1999 on the situation and role of artists in the European Union ⁽³⁾,
- (9) the Council conclusions of 17 December 1999 on cultural industries and employment in Europe, which invites Member States to intensify exchange of information,
- (10) the Council Resolution of 17 December 1999 on the promotion of the free movement of persons working in the cultural sector ⁽⁴⁾, which states that the free movement of persons in the cultural sphere enhances cooperation and collaboration in this sphere and thereby helps develop both diversity in the European cultures and a European consciousness,
- (11) the Helsinki European Council conclusions of 11 December 1999 on the importance of the enlargement process launched in Luxembourg in December 1997 for stability and prosperity for the entire European continent,
1. NOTES the importance of artists' work for freedom of expression and the enhancement of cultural diversity in Europe as well as for the development of international exchange and cultural linking;
2. NOTES the current activities of the Social Dialogue Committee for the Performing Arts set up by the Commission in January 1999 at the joint request of the sectorial social partners;
3. RECALLS that the Commission has launched a study on the mobility and free movement of persons working in the cultural sector;
4. NOTES that the overall issue of the conditions for professional artists is of central importance in the cultural sphere;

⁽¹⁾ OJ C 247, 23.9.1995, p. 2.

⁽²⁾ OJ C 327, 7.12.1995, p. 1.

⁽³⁾ OJ C 175, 21.6.1999, p. 42.

⁽⁴⁾ OJ C 8, 12.1.2000, p. 3.

5. NOTES that these conditions are to a great extent influenced by a number of other policy areas, for example employment, social security, intellectual property rights, free movement, education and training;
6. NOTES that the exchange of information on good practice and national policies concerning conditions for professional artists developed by many Member States and candidate countries could be of mutual interest and deal with the subjects that are most suitable for discussion at the European level;
7. STRESSES the importance of giving the relevant organisations representing creative and performing artists the opportunity to present their views where measures concerning their conditions are planned;
8. CONSIDERS that, in the light of enlargement and of the other factors mentioned above, it would be appropriate to encourage exchange of information and experience concerning the conditions for professional artists between the Member States as well as between the Member States and the candidate countries, involving relevant parties based on the question at hand;
9. CONSIDERS the importance of taking into account the work done by international organisations, in particular the Council of Europe and Unesco, as well as by other

professional bodies and networks in this sphere to avoid any duplication.

10. INVITES the Commission, having regard to the subsidiarity principle and within the existing legal and financial framework, and especially Article 151(4) of the Treaty, to:
 - (i) encourage exchange of information and experience regarding conditions for professional artists between the Member States as well as between the Member States and the candidate countries, including, for example, meetings, the use of new communication technologies and/or studies,
 - (ii) ensure, where Community level measures are planned concerning conditions for professional artists, that the relevant European organisations representing artists are given the opportunity to present their views.
11. CALLS ON the Member States to:
 - (i) cooperate with the Commission in the development and implementation of the exchange outlined above,
 - (ii) encourage exchange of information and experience concerning the conditions for professional artists between the Member States as well as between the Member States and the candidate countries.

**Council Conclusions
of 23 July 2001
on the Commission's Evaluation Report
on the application of the Council recommendation
concerning the protection of minors and human dignity
(OJ C 213, 31.7.2001)**

COUNCIL CONCLUSIONS

of 23 July 2001

on the Commission's Evaluation Report on the application of the recommendation concerning the protection of minors and human dignity

(2001/C 213/03)

THE COUNCIL OF THE EUROPEAN UNION,

1. WELCOMES the Commission's Evaluation Report of 27 February 2001 on the application of the Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity,
2. NOTES the Report's conclusions, which overall show encouraging results as regards the application of the

Recommendation, but which also emphasise that users, including consumers, should have been more involved and that two years may be a relatively short period for fully applying the recommendation,

3. NOTES that the activities concerning digital broadcasting so far are fairly modest and that renewed efforts need to be made to ensure a coherent approach regarding the protection of minors and human dignity adapted to each mode of delivery of audiovisual media, for example Internet TV and interactive broadcasting,

4. WELCOMES the actions developed in the context of the multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks, (Decision No 276/1999/EC of the European Parliament and of the Council) ⁽¹⁾,
5. RECALLS the Commission Communication of 14 December 1999 on principles and guidelines for the Community's audiovisual policy in the digital age, in particular the aspects related to the protection of minors, in which the Commission concludes, *inter alia*, that the protection of minors will be amongst the particular areas for attention within the Community's audiovisual policy over the next five years,
6. RECALLS the television without frontiers Directive (Council Directive 89/552/EEC ⁽²⁾), Article 22 of which provides for a minimum level of protection of minors with regard to television broadcasting, and also the results of the study on parental control of television broadcasting, carried out by the Commission in accordance with the requirements of Article 22(b)(2) of that Directive,
7. AWARE OF the European Parliament resolution of 5 October 2000 on the Commission Communication on the study on parental control of television broadcasting, stressing the need to introduce effective systems to protect minors from the increasing amount of harmful media content,
8. RECALLS the Council conclusions of 17 December 1999 on the protection of minors in the light of the development of digital audiovisual services, which, *inter alia*, underline the need to bring together the industries and the other parties concerned in order to examine ways to achieve greater clarity in the way audiovisual content is evaluated and rated in Europe, both within and between the various sectors concerned and to support the exchange of information and best practice regarding the protection of minors,
9. RECALLS that the Council conclusions of 17 December 1999 note the importance of activities aimed at protecting minors from harmful audiovisual content through improved levels of media literacy and through measures to raise awareness,
10. NOTES the report by the Presidency of the Council and conclusions from the expert seminar on children and young people in the new media landscape in Stockholm on 12 and 13 February 2001, organised by the Swedish Presidency of the European Union in cooperation with the Commission, which had the primary aim of drawing attention to the issue of how minors can be protected from harmful content in different media due to rapid technical development,
11. INVITES the Member States, on the basis of the Evaluation Report, to:
 - (a) continue their work to promote the application of the recommendation and, within that context, to pay particular attention to the need to encourage the participation of users, including consumers;
 - (b) disseminate the results of the application of the recommendation to the parties concerned including, *inter alia*, users, consumers, industry and authorities, with the aim of promoting the exchange of experience, the development of new skills and good practice regarding the protection of minors,
12. INVITES the Commission, on the basis of the Evaluation Report, to:
 - (a) continue its work, on the basis of the encouraging results which have been achieved hitherto, and promote the application of the recommendation by facilitating the exchange of experience and good practice at Community level on the protection of minors in respect of all audiovisual media;
 - (b) report to the Council, with reference to the fact that two years may be a relatively short period for fully applying the recommendation, at an appropriate moment, and preferably before 31 December 2002, on the effect of the recommendation and the outcome regarding the new and promising initiatives taken in the Member States;
 - (c) continue the dialogue with the different parties involved, and particularly with the industry, on the possibilities for implementing technical systems for parental control in the digital environment.

⁽¹⁾ OJ L 33, 6.2.1999, p. 1.

⁽²⁾ OJ L 298, 17.10.1989, p. 23. Directive as amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30.7.1997, p. 60).

**Council Resolution
of 21 January 2002
on culture and the knowledge society**

(OJ C 32, 5.02.2002)

COUNCIL

COUNCIL RESOLUTION

of 21 January 2002

on culture and the knowledge society

(2002/C 32/01)

THE COUNCIL OF THE EUROPEAN UNION,

1. NOTING that culture is a fundamental part of the knowledge society;
2. NOTING that culture is instrumental in promoting mutual respect for and understanding of different ideas and identities, and that such mutual understanding can be developed further through improved access to information in the framework of digital projects;
3. RECALLING that the Lisbon European Council of 23 and 24 March 2000 stated that the shift to a digital, knowledge-based economy, prompted by new goods and services, will be a powerful engine for growth, competitiveness and jobs and that content industries create added value by exploiting and networking European cultural diversity;
4. WELCOMING the fact that at that European Council meeting the Member States were called upon to ensure that every citizen of the European Union is equipped with the skills needed to live and work in the information and knowledge society and that no one is excluded from access to the Internet and to other multimedia resources;
5. WELCOMING the implementation of various European initiatives in this field, particularly in the context of e-Europe;
6. NOTING the need to encourage training programmes and initiatives aimed at the mastery of information technologies;
7. NOTING the need to make optimum use of and, where appropriate, consolidate the application in the cultural sector of relevant research programmes aimed at easing the transition to a digital economy and the development of new technologies;
8. Therefore CALLS ON the Commission and the Member States, within their respective spheres of competence, to:
 - (a) make optimum use of and, where appropriate, consolidate relevant programmes, and consider creating new programmes and resources, in particular:
 - (i) to assist in the digitisation of cultural content and in the interoperability of the related systems with a view to preserving, protecting and raising awareness of the European cultural heritage and European cultural diversity;
 - (ii) to support the multilingual dissemination of knowledge;
 - (iii) to promote training in information technologies;
 - (iv) to promote the use of existing networks or of any networks which might be set up in the future in the Member States to facilitate cooperation and to exchange information and good practice at European level;
 - (b) develop the exploitation of digital cultural content so as to encourage cultural cooperation and promote the common cultural heritage making use of existing resources and know-how;
 - (c) facilitate access by cultural operators to the different Community instruments that support content digitisation;
 - (d) encourage 'quality-initiatives' in cultural websites;
 - (e) promote the networking of cultural information to enable all citizens to access European cultural content by the most advanced technological means, particularly by continuing to encourage the development of the European electronic portal started by the Commission and by linking this portal with the digital cultural content that exists in the Member States;
 - (f) promote the participation of all sections of the public in cultural life and their social integration, using the possibilities for interactivity made available by the Internet;
 - (g) encourage the initiation and training of all sections of the public in the use of such technologies in cultural and training centres to allow access to cultural diversity for all.

**Council Resolution
of 21 January 2002
on "The role of culture in the development of the European Union"
(OJ C 32, 5.02.2002)**

COUNCIL RESOLUTION

of 21 January 2002

on the role of culture in the development of the European Union

(2002/C 32/02)

THE COUNCIL OF THE EUROPEAN UNION,

1. WHEREAS the Community contributes to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore, and whereas this imperative respect for cultural diversity underpins and sustains the Europe of culture in accordance with the principle of subsidiarity.
2. RECALLING the need for cultural aspects to be taken into account by the Community in its action under other provisions of the Treaty, for example in the areas of competition policy, the internal market and the common commercial policy.
3. CONSIDERING that it is essential to encourage cooperation and cultural exchanges in order to respect and promote the diversity of cultures in Europe and to improve their knowledge of one another.
4. WHEREAS culture should contribute towards improving the external visibility of the Community by emphasising its cultural diversity and the common dimensions of its cultures.
5. WHEREAS the enlargement of the Union will bring greater richness and cultural diversity.
6. WHEREAS the common dimensions and mutual knowledge of cultures in Europe, in a society based on freedom, democracy, solidarity and respect for diversity, are essential components of citizens' support for, and participation in, European integration.

7. WHEREAS, with this in mind in particular, culture constitutes a very important factor in the development and consolidation of the process of integration of the Community.
8. WHEREAS cultural development, above and beyond the prospects for individual and collective fulfilment that it can create, also generates employment and economic wealth, thus producing added value and making for growth and prosperity,

IN THE LIGHT OF THE FOREGOING, HEREBY:

- A. INVITES the Member States and the Commission, guided as they are by respect for cultural diversity, the principle of subsidiarity and the willingness to place culture at the heart of European integration to:
 - develop cultural cooperation, European artistic creativity and cultural exchanges,
 - cooperate in order to enable the Commission to update the assessment of the implementation of Article 151(4) of the Treaty and to report back to the Council;
- B. CONSIDERS it important to start work, particularly on the basis of that assessment, on improving the implementation of Article 151(2) and (4) of the Treaty, and INVITES future Presidencies to draw up a work programme and a timetable for that purpose;
- C. CALLS ON Member States and the Commission to take these considerations into account and to regard culture as an essential component of European integration, particularly from the point of view of the enlargement of the Union.

**Council Resolution
of 21 January 2002
concerning the Commission report on the implementation
of Council Regulation (EEC) No 3911/92
on the export of cultural goods and Council Directive 93/7/EEC
on the return of cultural objects unlawfully removed from the territory of a Member State
(OJ C 32, 5.02.2002)**

COUNCIL RESOLUTION

of 21 January 2002

on the Commission report on the implementation of Regulation (EEC) No 3911/92 on the export of cultural goods and Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State

(2002/C 32/03)

THE COUNCIL OF THE EUROPEAN UNION,

NOTING THAT:

- (1) On 25 May 2000 the Commission submitted to the European Parliament and to the Council a report on the implementation of Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods⁽¹⁾ and Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State⁽²⁾.
- (2) On 12 June 2001 the European Parliament adopted a Resolution on the Commission report on the implementation of Regulation (EEC) No 3911/92 and Directive 93/7/EEC.
- (3) The protection of national treasures of artistic, historical or archaeological value can be effectively guaranteed by the Member States only by means of cooperation at national, Community and international level. Such cooperation presupposes, within the institutions and the Member States, a coordinated approach by the various sectors concerned, such as customs, culture and police.
- (4) International organisations have drawn up instruments designed to promote this protection, such as the 1970 Unesco Convention, the 1985 Council of Europe Convention and the 1995 Unidroit Convention.
- (5) Regulation (EEC) No 3911/92 and Directive 93/7/EEC constitute, at Community level, the legal instruments necessary for the protection of the cultural heritage of the Member States by organising an appropriate framework for cooperation.
- (6) Every three years, on the basis of economic and monetary indicators in the Community, the Council, on a proposal from the Commission, undertakes an examination and, where appropriate, updating of the amounts set out in the Annexes to Regulation (EEC) No 3911/92 and Directive 93/7/EEC.

⁽¹⁾ OJ L 395, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 974/2001 (OJ L 137, 19.5.2001, p. 10).

⁽²⁾ OJ L 74, 27.3.1993, p. 74. Directive as last amended by Directive 2001/38/EC of the European Parliament and of the Council (OJ L 187, 10.7.2001, p. 43).

(7) Cooperation between Member States could also be strengthened, taking account in particular of possible developments in the area of police and judicial cooperation.

(8) The implications of the forthcoming enlargement of the European Union for the implementation of the existing legal framework should be taken into consideration. In this connection, the exchange of information and experience with a view to establishing a framework conducive to the adoption and implementation of the *acquis communautaire* is of definite importance,

TAKES NOTE of the Commission's four initiatives for:

1. establishing guidelines for the administrative cooperation between the Member States provided for by Regulation (EEC) No 3911/92 and by Directive 93/7/EEC;
2. the initiation of a study on the traceability of cultural goods;
3. the launching of discussions with all the circles concerned in the context of the forum on the prevention of organised crime;
4. maximum use of new technologies to improve the implementation of Regulation (EEC) No 3911/92 and of Directive 93/7/EEC,

INVITES THE MEMBER STATES TO:

1. exploit to the full the protection afforded by Regulation (EEC) No 3911/92 and Directive 93/7/EEC by intensifying the cooperation established by these two legal instruments;
2. cooperate closely with the Commission as regards its initiatives described hereinafter for improving and structuring administrative cooperation between and within Member States in order to improve the effectiveness of Regulation (EEC) No 3911/92 and Directive 93/7/EEC;

3. improve this administrative cooperation by using the possibilities afforded by the development of police and judicial cooperation in criminal matters.

initiatives, for example a work programme, in the context of the Advisory Committee on cultural goods;

INVITES THE COMMISSION TO:

1. pursue the initiatives it has already launched to contribute more effectively to the protection of the Member States' cultural heritage and to the effective functioning of the mechanisms set up by Regulation (EEC) No 3911/92 and by Directive 93/7/EEC and develop, if necessary, other

2. pay particular attention, in the framework of enlargement negotiations, to the full application of Regulation (EEC) No 3911/92 and Directive 93/7/EEC when the candidate countries accede, while ensuring the establishment of administrative structures and capacities that can provide the Union's new external borders with the highest degree of protection of the cultural heritage of the Member States.

**Council Resolution
of 21 January 2002
on the development of the audiovisual sector**

(OJ C 32, 5.02.2002)

COUNCIL RESOLUTION

of 21 January 2002

on the development of the audiovisual sector

(2002/C 32/04)

THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING that the Community takes account of cultural aspects in its action under the provisions of the Treaty establishing the European Community, in particular in order to respect and promote the diversity of its cultures,
2. RECALLING the Protocol to the Treaty of Amsterdam, on the system of public broadcasting in the Member States and the Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 25 January 1999, concerning public service broadcasting ⁽¹⁾,
3. RECALLING the conclusions of the European Audiovisual Conference organised in Birmingham from 6 to 8 April 1998 entitled 'Challenges and opportunities of the digital age', which showed the need for structural change to make the audiovisual sector competitive at international level by means of complementary European and national policies,
4. RECALLING the Council conclusions of 27 September 1999 concerning the results of the public consultation on the Convergence Green Paper, in particular the fact that a general message with regard to the role of regulation was the affirmation of the continuing need to meet a range of public interest objectives (such as the protection of minors and human dignity, cultural and linguistic diversity and pluralism) whilst recognising the need to promote investment, in particular in new audiovisual services,
5. RECALLING that the mandate given to the Commission at the Council meeting on 26 October 1999 stipulates that during the forthcoming WTO negotiations the Union will ensure, as in the Uruguay Round, that the Community and its Member States maintain the possibility to preserve and develop their capacity to define and implement their cultural and audiovisual policies for the purpose of preserving their cultural diversity,
6. RECALLING the importance of the e-Europe initiative and the conclusions of the Special European Council meeting in Lisbon on 23 and 24 March 2000,
7. RECALLING the conclusions of the Council and the representatives of the Member States, meeting within the Council, of 26 June 2000 concerning the communication from the Commission on 'principles and guidelines for the Community's audiovisual policy in the digital age' ⁽²⁾, in particular in so far as they 'stress, once again, the key importance of European content and, as a consequence, the need to uphold and foster support measures, while bearing in mind the need to promote complementarity and synergy between national and Community measures as well as the need to safeguard cultural diversity'; and in so far as they invite the Commission 'to identify and promote measures to enhance the competitiveness of the European content industry in the digital age, while *inter alia* promoting synergy between the relevant Community instruments',
8. RECALLING the Council Resolution of 12 February 2001 on national aid to the film and audiovisual industries ⁽³⁾,
9. RECALLING the wish expressed at the meeting of experts in Mons on 5 and 6 October 2001 to see the European audiovisual sector occupy a significant place in the world audiovisual area,

⁽¹⁾ OJ C 30, 5.2.1999, p. 1.

⁽²⁾ OJ C 196, 12.7.2000, p. 1.

⁽³⁾ OJ C 73, 6.3.2001, p. 3.

HEREBY REAFFIRMS:

- (a) that the audiovisual sector essentially has a cultural dimension and constitutes not only an expression of creativity, particularly of identities, and a fundamental means of promoting democracy, but also an economic activity of growing importance; that, in the context of technological development, this sector is still destined to evolve, both quantitatively and qualitatively;
- (b) the need for the European Community and the Member States to encourage, with due regard for cultural and linguistic diversity, the creation of conditions permitting the establishment of a competitive audiovisual sector, *inter alia* by improved circulation of European works;
- (c) the need to develop, at both national and Community level, investment in the field of cinematographic and audiovisual production.

NOTES, however, that in Europe the audiovisual sector is characterised from the cultural viewpoint by diversity and from the economic viewpoint by the fragmentation of the internal market;

STRESSES, consequently, that it would be advisable for these exceptional characteristics to be taken into account when implementing Community action, giving consideration essentially to the cultural dimension, but also to competition policy and the industrial activity necessary for the development of the audiovisual sector;

STRESSES the importance of public broadcasting and encourages it to continue making its significant contribution to promoting the audiovisual sector, amongst other things by taking an active part in the development of new digital services which afford all citizens easier access to the information society;

WELCOMES:

- (a) audiovisual actions, measures and programmes developed by the European Union, in particular the Media Plus programme;
- (b) the adoption by the Commission of a communication on certain legal aspects relating to cinematographic and other audiovisual works, which sets out a series of initiatives aimed at improving both the competitiveness and the cultural diversity of the sector, and which clarify the application of competition rules to aid granted by the national, regional and local authorities for supporting audiovisual production and distribution, thus improving legal certainty for Member States and undertakings;
- (c) the Commission's timetable for action as stipulated in the communication on certain legal aspects relating to cinematographic and other audiovisual works of 26 September 2001;

- (d) the new initiatives taken by the Commission and by the European Investment Bank with a view to establishing new financial and banking instruments for the purpose of the audiovisual sector in the framework of 'Audiovisual i2i';
- (e) the Commission's intention, set out in its communication, to conduct a study on the identification and evaluation of financial flows within the European cinema industry so as to evaluate the key factors determining the economic characteristics of the audiovisual industry.

INVITES the Commission and the Member States, within their respective spheres of legal and financial competence:

- (a) to study measures, in the cinematographic and audiovisual field, to facilitate complementarity between the financial resources provided by:
 - (i) the Community and other European financial institutions;
 - (ii) the private sector;
 - (iii) Member States;
 - (iv) local and regional bodies;
- (b) to examine the potential for cooperation that would permit the exchange of knowledge and the formulation of long-term strategies for the audiovisual sector;
- (c) to encourage:
 - (i) the development of banking and financial instruments and their increased use,
 - (ii) improvement of mutual knowledge and of expertise in the audiovisual and banking sectors;
 - (iii) the audiovisual sector to continue its promotion activities in the banking and financial sectors;
 - (iv) an analysis of the impact of tax regimes on the development of the audiovisual sector;
- (d) to pursue their multilateral dialogue on relevant issues relating to State aid for cinematographic and television production.

INVITES the Commission:

- (a) to continue and to make more effective its contribution to the development of the audiovisual sector based on an approach that integrates the cultural, competitive and industrial dimensions of the sector;

- (b) to consider the importance and the role of government aid — which can contribute to the emergence of a European audiovisual market and to the development of its industrial fabric — and to take any initiative which might enable Member States to choose, provide for and implement systems of aid to the sector in accordance with the rules of the Treaty;
 - (c) to promote discussions between the professionals and the authorities responsible for the protection of the audiovisual heritage and the classification of audiovisual works, whatever their medium;
 - (d) to study the best ways of giving the European audiovisual sector a more important place at world level while respecting cultural diversity.
- INVITES the Member States:
- (1) to cooperate with the Commission and the professionals in order to draw up an inventory, within the Member States, of existing measures with regard to the deposit, recording and classification of audiovisual works and to develop means of cooperating and exchanging experience;
 - (2) to examine the possibility of ratifying as soon as possible the Council of Europe Convention on the protection of the audiovisual heritage;
 - (3) to pay special attention to the fact that financial incentives, specifically designed for audiovisual production and co-production, where they exist, would particularly benefit works of real interest to the European audiovisual sector.
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ANNEXES

**Decision No 276/1999/EC of the European Parliament and of the Council
of 25 January 1999
adopting a multiannual Community action plan on promoting safer use
of the Internet by combating illegal and harmful content on global networks**

(OJ L 33, 6.2.1999)

I

(Acts whose publication is obligatory)

DECISION No 276/1999/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 January 1999

adopting a multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 129a(2),

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽⁴⁾,

- (1) Whereas the Internet offers positive benefits in particular in education, by empowering consumers, lowering the barriers to the creation and distribution of content and offering wide access to even richer sources of digital information, as recognised by the Council and the representatives of the Governments of the Member States, meeting within the Council on 17 February 1997 in their resolution on illegal and harmful content on the Internet ⁽⁵⁾;
- (2) Whereas, however, the amount of harmful and illegal content carried over the Internet, while limited, could adversely affect the establishment of the necessary favourable environment for initiatives and undertakings to flourish;
- (3) Whereas it is essential, in order to ensure that consumers make full use of the Internet, that a safer environment for its use is created by

combating illegal use of the technical possibilities of the Internet in particular for offences against children and trafficking in human beings or for the dissemination of racist and xenophobic ideas;

- (4) Whereas consumers should be afforded a high level of protection; whereas the Community should contribute thereto by specific action which supports and supplements the policy pursued by the Member States regarding information for consumers on the safer use of the Internet;
- (5) Whereas promotion of industry self-regulation and content-monitoring schemes, development of filtering tools and rating systems provided by the industry and increased awareness of industry services as well as fostering international cooperation between all parties concerned will play a crucial role in consolidating that safer environment and contribute to removing obstacles to the development and competitiveness of the industry concerned;
- (6) Whereas on 24 April 1996 the Council requested the Commission to produce a summary of problems posed by the rapid development of the Internet and to assess, in particular, the desirability of Community or international regulation;
- (7) Whereas on 23 October 1996 the Commission transmitted a communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on illegal and harmful content on the Internet and a Green Paper on the protection of minors and human dignity in audiovisual and information services;

⁽¹⁾ OJ C 48, 13. 2. 1998, p. 8, and OJ C 324, 22. 10. 1998, p. 6.

⁽²⁾ OJ C 214, 10. 7. 1998, p. 29.

⁽³⁾ OJ C 251, 10. 8. 1998, p. 51.

⁽⁴⁾ Opinion of the European Parliament of 2 July 1998 (OJ C 226, 20. 7. 1998, p. 33), Council common position of 24 September 1998 (OJ C 360, 23. 11. 1998, p. 83) and Decision of the European Parliament of 17 November 1998 (OJ C 379, 7. 12. 1998), Council Decision of 21 December 1998.

⁽⁵⁾ OJ C 70, 6. 3. 1997, p. 1.

- (8) Whereas the Council and the representatives of the Governments of the Member States, meeting within the Council, in their abovementioned resolution of 17 February 1997 welcomed the report of the Commission working party on illegal and harmful content on the Internet and requested Member States and the Commission to undertake a number of actions;
- (9) Whereas, in its resolution of 24 April 1997 on the Commission communication on illegal and harmful content on the Internet⁽¹⁾, the European Parliament called on the Member States to strengthen administrative cooperation on the basis of joint guidelines and on the Commission to propose, after consulting the European Parliament, a common framework for self-regulation at European Union level;
- (10) Whereas in the ministerial declaration adopted during the International Ministerial Conference entitled 'Global information networks: Realising the potential', held in Bonn on 6 to 8 July 1997 at the initiative of the German Government, Ministers stressed the role which the private sector can play in protecting the interests of consumers and in promoting and respecting ethical standards, through properly functioning systems of self-regulation in compliance with and supported by the legal system; whereas they encouraged industry to implement open, platform-independent content rating systems, and to propose rating services which meet the needs of different users and take account of Europe's cultural and linguistic diversity; whereas ministers further recognised that it is crucial to build trust and confidence in global information networks by ensuring that basic human rights are respected and by safeguarding the interests of society in general, including producers and consumers;
- (11) Whereas on 24 September 1998 the Council adopted a recommendation on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity⁽²⁾, hereinafter designated recommendation on the protection of minors and human dignity; whereas this action plan will be implemented in close coordination with the Council recommendation;
- (12) Whereas cooperation from the industry in setting up voluntary systems of self-regulation can efficiently help to limit the flow of illegal content on the Internet;
- (13) Whereas European coordination of representative and self-regulating bodies is essential for the Europe-wide effectiveness of such systems; whereas, to this effect, industry self-regulatory systems including representative bodies for Internet service providers, consumers and users, and effective codes of conduct should be encouraged within the regulatory framework in force; if necessary hot-line reporting mechanisms which allow users to report content which they consider illegal should be made available to the public;
- (14) Whereas any hot-line reporting mechanisms should support and promote measures taken by the Member States; whereas duplication of work should be avoided; whereas possible hot-line reporting mechanisms could be established in cooperation with the law-enforcement authorities of the Member States; whereas the responsibility for prosecuting and punishing those responsible for illegal content should remain with the national law-enforcement authorities;
- (15) Whereas it is necessary to promote on a European level the provision to consumers of filtering tools and the setting up of rating systems, for example the platform for Internet content selection (PICS) standard launched by the international World Wide Web consortium with Community support;
- (16) Whereas awareness activities which are performed in the Member States and which should have an additional European value should be encouraged so that users understand not only the opportunities but also the drawbacks of the Internet, in order to increase use of services provided by industry; whereas parents, educators and consumers, in particular, should be sufficiently informed so as to be able to take full advantage of parental control software and rating systems; whereas there should be a multiannual action plan on promoting safer use of the Internet ('action plan');
- (17) Whereas it is essential to engage in cooperation activities with international organisations and third countries for the purpose of implementing this action plan and extending its reach beyond the European Union, given the global character of the problems encountered on the Internet, requiring global solutions;

⁽¹⁾ OJ C 150, 19. 5. 1997, p. 38.

⁽²⁾ OJ L 270, 7. 10. 1998, p. 48.

- (18) Whereas any content policy actions should be complementary to ongoing national and Community initiatives, as outlined notably in the Commission's action plan 'Europe's way to the information society: an action plan', and should be performed in synergy with other Community activities in the field such as the INFO 2000 programme⁽¹⁾, with Community research programmes (programmes concerned with advanced technology, advanced communications services and telematics) and with Community education, training, cultural and SME actions and initiatives, and with the Structural Funds;
- (19) Whereas the activities under this action plan should take account of the work accomplished in the field of justice and home affairs;
- (20) Whereas the progress of this action plan should be continuously and systematically monitored with a view to adapting it, where appropriate, to developments in the audiovisual and multimedia content market; whereas in due course there should be an independent assessment of the progress of the action plan so as to provide the background information needed in order to determine the objectives for subsequent content policy actions; whereas at the end of this action plan there should be a final assessment of results obtained compared with the objectives set out in this Decision;
- (21) Whereas, in conformity with the principle of subsidiarity as expressed in Article 3b of the Treaty, the objectives of the proposed actions cannot be sufficiently achieved by the Member States owing to the transnational character of the issues at stake and can, therefore, by reason of the pan-European effects of the proposed action be better achieved by the Community;
- (22) Whereas this action plan should be of four years duration in order to allow sufficient time for actions to be implemented to achieve the objectives set;
- (23) Whereas this Decision lays down, for the entire duration of the action plan, a financial framework constituting the principal point of reference, within the meaning of point 1 of the Declaration by the European Parliament, the Council and Commis-

⁽¹⁾ Council Decision 96/339/EC of 20 May 1996 adopting a multiannual Community programme to stimulate the development of a European multimedia content industry and to encourage the use of multimedia content in the emerging information society (INFO 2000) (OJ L 129, 30. 5. 1996, p. 24).

sion of 6 March 1995⁽²⁾, for the budgetary authority during the annual budgetary procedure,

HAVE ADOPTED THIS DECISION:

Article 1

1. The multiannual Community action plan on promoting safer user of the Internet ('the action plan'), as described in Annex I, is hereby adopted.
2. The action plan shall cover a period of four years from 1 January 1999 to 31 December 2002.
3. The financial framework for the implementation of the action plan for the period from 1 January 1999 to 31 December 2002 is hereby set at EUR 25 million.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

An indicative breakdown of expenditure is given in Annex II.

Article 2

The action plan has the objective of promoting safer use of the Internet and of encouraging, at European level, an environment favourable to the development of the Internet industry.

Article 3

In order to attain the objective referred to in Article 2, the following actions supporting and promoting measures to be taken in the Member States shall be undertaken under the guidance of the Commission, in accordance with the action lines set out in Annex I and the means for implementing the action plan set out in Annex III:

- promotion of industry self-regulation and content-monitoring schemes (for example, dealing with content such as child pornography or content which incites hatred on grounds of race, sex, religion, nationality or ethnic origin),
- encouraging industry to provide filtering tools and rating systems, which allow parents or teachers to select content appropriate for children in their care while allowing adults to decide what legal content they wish to access, and which take account of linguistic and cultural diversity,
- increasing awareness of services provided by industry among users, in particular parents, teachers and children, so that they can better understand and take advantage of the opportunities of the Internet,

⁽²⁾ OJ C 102, 4. 4. 1996, p. 4.

- support actions such as assessment of legal implications,
- activities fostering international cooperation in the areas enumerated above,
- other actions furthering the objective set out in Article 2.

Article 4

1. The Commission shall be responsible for the implementation of the action plan.
2. The procedure laid down in Article 5 shall apply to:
 - the work programme including any expenditure on activities described in Annex III, point 9,
 - the breakdown of the budgetary expenditure,
 - the criteria and content of calls for proposals,
 - the assessment of the projects proposed under calls for proposals for Community funding and the estimated amount of the Community contribution for each project where this is equal to or more than EUR 300 000,
 - the measures for programme evaluation,
 - any departure from the rules set out in Annex III,
 - participation in any project by legal entities from third countries and international organisations referred to in Article 7(3),
 - other actions which could be undertaken under the terms of the last indent of Article 3.
3. Where, pursuant to the fourth indent of paragraph 2, the amount of the Community contribution is less than EUR 300 000, the Commission shall inform the committee referred to in Article 5 of the projects and of the outcome of their assessment.
4. The Commission shall regularly inform the committee referred to in Article 5 of progress with the implementation of the programme as a whole.

Article 5

The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 6

1. In order to ensure that Community aid is used efficiently, the Commission shall ensure that actions under this Decision are subject to effective prior appraisal, monitoring and subsequent evaluation.
2. During implementation of projects and after their completion the Commission shall evaluate the manner in which they have been carried out and the impact of their implementation in order to assess whether the original objectives have been achieved.
3. The selected beneficiaries shall submit an annual report to the Commission.
4. At the end of two years and at the end of the action plan, the Commission shall submit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, once the committee referred to in Article 5 has examined it, an evaluation report on the results obtained in implementing the action lines set out in Annex I. Reference shall also be made to general findings applicable to all categories of illegal content. The Commission may present, on the basis of those results, proposals for adjusting the orientation of the action plan.

Article 7

1. Participation in this action plan may be opened to legal entities established in EFTA States which are members of the European Economic Area (EEA) in accordance with the provisions of the Agreement on the EEA.

2. Participation may be opened to legal entities established in associated central and eastern European countries in accordance with the conditions, including financial arrangements, agreed to in the additional protocols to the Association Agreements, including participation in Community programmes.

Participation may be opened to legal entities established in Cyprus on the basis of additional appropriations in accordance with the same rules as those applied to the EFTA States that are members of the EEA, in accordance with procedures to be agreed on with that country.

3. Participation may be opened, in accordance with the procedure laid down in Article 5, without financial support by the Community under this action plan, to legal entities established in other third countries and to international organisations, where such participation contributes effectively to the implementation of the action plan and taking into account the principle of mutual benefit.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 25 January 1999.

For the European Parliament

The President

J. M. GIL-ROBLES

For the Council

The President

J. FISCHER

ANNEX I

MULTIANNUAL COMMUNITY ACTION PLAN ON PROMOTING SAFER USE OF THE INTERNET

ACTION LINES

The action lines, in conjunction with the recommendation on protection of minors and human dignity, are a means of implementing a European approach to safer use of the Internet, based on industry self-regulation, filtering and rating and awareness. Strong support has been expressed for this approach at the level of the European Parliament and of the Council and Member States, as well as in the wider European context of the Bonn Declaration agreed to by ministers from 29 European States.

The action lines have the following objectives:

- to incite the actors (industry, users) to develop and implement adequate systems of self regulation,
- to pump-prime developments by supporting demonstrations and stimulating application of technical solutions,
- to alert and inform parents and teachers, in particular through their relevant associations,
- to foster cooperation and exchange of experiences and best practices at European and international levels,
- to promote coordination across Europe and between actors concerned,
- to ensure compatibility between the approach taken in Europe and elsewhere.

1. Action line 1. Creating a safer environment

Cooperation from the industry and a fully functioning system of self-regulation are essential elements in limiting the flow of illegal content on the Internet.

1.1. *Creating a European network of hot-lines*

An effective way to restrict circulation of illegal material is to set up a European network of centres (known as hot-lines) which allow users to report content which they come across in the course of their use of the Internet and which they consider to be illegal. Responsibility for prosecuting and punishing those responsible for illegal content remains with the national law-enforcement authorities, while the hot-line aims at revealing the existence of illegal material with a view to restricting its circulation. Differences in national legal systems and culture must also be respected.

So far, hot-lines exist only in a limited number of Member States. Their creation needs to be stimulated so that there are hot-lines operating covering the Union, both geographically and linguistically. Mechanisms for exchange of information between the national hot-lines, and between the European network and hot-lines in third countries need to be put in place.

In order for this network to develop its full potential, it is necessary to improve cooperation between industry and law-enforcement authorities, ensure Europe-wide coverage and cooperation, and increase effectiveness through exchange of information and experience.

This action will take the form of a call for proposals for participating organisations (20-25) to establish a European network of hot-lines, and links between this network and hot-lines in third countries, develop common approaches and stimulate transfer of know-how and best practice.

The participating organisations will be supported by a cross-section of industry actors (access and service providers, telecoms operators, national hot-line operators) and users. They will have to demonstrate a forward-looking and innovative approach, in particular in their relationship with national law-enforcement authorities.

1.2. *Encouraging self-regulation and codes of conduct*

For the industry to contribute effectively to restricting the flow of illegal and harmful content, it is also important to encourage enterprises to develop a self-regulatory framework through cooperation between them and the other parties concerned. The self-regulatory mechanism should provide a high level of protection and address questions of traceability.

In view of the transnational nature of communications networks, the effectiveness of self-regulation measures will be strengthened, at European Union level, by coordination of national initiatives between the bodies responsible for their implementation.

Under this action line, guidelines at European level will be developed for codes of conduct, to build consensus for their application and support their implementation. This action will be carried out through a call for tender to select organisations that can assist self-regulatory bodies in developing and implementing codes of conduct. In connection with the establishment of codes of conduct, a system of visible 'quality-site labels' will be encouraged to assist users in identifying Internet service providers that adhere to codes of conduct. Measures will be taken carefully to monitor progress. This will be done in close coordination with the promotion of common guidelines for the implementation, at national level, of a self-regulation framework as advocated by the Council recommendation on protection of minors and human dignity.

2. **Action line 2. Developing filtering and rating systems**

To promote safer use of the Internet, it is important to make content easier to identify. This can be done through a rating system which describes the content in accordance with a generally recognised scheme (for instance, where items such as sex or violence are rated on a scale) and by filtering systems which empower the user to select the content he/she wishes to receive. Ratings may be attached by the content provider or provided by a third-party rating service. There are a number of possible filtering and rating systems. However, their level of sophistication is still low and none has yet reached the 'critical mass' where users can be sure that content in which they are interested and content which they wish to avoid will be rated appropriately and that perfectly innocuous content will not be blocked. Uptake of rating systems by European content providers and users remains low.

The measures under this action line will focus on demonstrating the potential and the limitations of filtering and rating systems in a real world environment, with the objective of encouraging the establishment of European systems and familiarising users with their use. Filtering and rating systems must be internationally compatible and interoperable and developed with full cooperation of representatives of industry, consumers and users.

2.1. *Demonstrating the benefits of filtering and rating*

Rating systems will be stimulated which should be internationally compatible and are relevant to European requirements and which ensure that filtering and rating is implemented in a way which provides workable options in practice for users, parents and teachers. In order to build critical mass, a wide coverage of sites should be obtained. Action will therefore be taken to stimulate use of rating by content providers. Rating carried out by independent third parties ensures a standard approach to content rating and deals with cases where the content provider fails to rate properly. There is a need to meet specific requirements of business, institutional or educational users as well as those of end users not met by the content provider's rating system.

Following a call for proposals, projects will be selected to validate rating systems in relation to European content, to encourage integration of rating into the content creation process and to demonstrate benefits of these technical solutions. Emphasis will be placed on usefulness and practicality in 'real-world' situations involving a large cross-section of typical users. This could also include tests as to the secureness of filtering software against attempts to bypass or deactivate it.

A second call for proposals will particularly target the validation and demonstration of third-party rating systems.

In order to obtain maximum benefit from the demonstration projects, it is necessary to assess their impact and to ensure European-wide dissemination of their results. Evaluation of the demonstration projects and dissemination of their results will be the subject of a call for tenders.

The demonstration projects under this Action line can make an important contribution to the awareness actions to be carried out under action line 3.

The demonstration projects will involve industry (self-regulatory bodies, access and service providers, content providers, network operators, software houses), user, consumer and citizens rights groups and government bodies involved in industry regulation and law enforcement.

2.2. Facilitating international agreement on rating systems

International cooperation between operators and other concerned parties in the European Union and their partners in other regions of the world is particularly necessary in the field of rating, in order to ensure interoperability.

Work is already under way in a number of bodies dealing with protocols and with the design of a rating system to deal with the various requirements. It is essential that Europe's voice be heard in international discussions and concertation meetings will be organised to ensure this.

3. Action line 3. Encouraging awareness actions

The public is increasingly engaging in Internet activity and reaping the benefits of the new services. At the same time, there is a degree of uncertainty as to how to deal with every aspect of network communication; parents, teachers and children need to be made aware of the potential of the Internet and its drawbacks and do not always have sufficient knowledge about the means to protect children from undesirable content. Awareness actions contribute to the trust and confidence of parents and teachers in safer use of the Internet by children.

Awareness is also the necessary complement of action lines 1 and 2, since the actions of industry to implement self-regulation and filtering and rating will bear fruit only if users and potential users are aware of them.

The European Parliament has called for the implementation of a European campaign and an information and awareness action programme, to be funded by the EU budget, to inform parents and all people dealing with children (teachers, social workers, etc.) on the best way (including technical aspects) to protect minors against exposure to content that could be harmful to their development, so as to ensure their well-being.

European action, on the basis of actions undertaken by the Member States, will contribute to reinforcement of synergy, in particular through exchange of information and experience. The action plan will initiate awareness actions that will build on the dissemination of information from access providers to customers, and also develop material for use in the education sector.

The awareness initiatives will take advantage of the awareness actions carried out under other programmes, in particular the MIDAS-NET established under INFO 2000. If there is more than one equal option for distributing information to target groups, the most cost-effective one shall be chosen. Whenever possible and useful, electronic distribution should be given priority.

This action will be carried out in two stages. In the first stage the best means of achieving the objectives will be identified and in the second stage multiplier organisations in the Member States — such as consumer bodies and other relevant associations — will be assisted to implement actions nationally.

3.1. Preparing the ground for awareness actions

In the first phase a call for proposals will be launched for a preparatory action which will identify multiplier organisations and the most appropriate channels, media and content to reach the target audience, prepare basic material, adapt it for linguistic and cultural specificities and take account of the results of demonstration projects under action line 2, which will make an important contribution to the content of awareness actions. An implementation plan will be prepared.

The target audience is parents and teachers, and the action will involve industry (Internet service providers, content providers) and multipliers, e.g. consumer associations and the education sector.

3.2. *Encouraging implementation of full-scale awareness actions*

A second call for proposals will select initiatives for Community support for follow-up action in all Member States using the multiplier organisations and the channels, media and content identified in the preparatory action. The purpose of the action is to make adults (parents and teachers) aware of the potential and the drawbacks of the Internet, and of the means to identify useful content and how to block harmful content.

Actions will be appropriate for the needs of Member States and may differ according to their size, population, degree of Internet use, etc. Actions will be of two types: those focused on teachers and the education sector and those with a broader focus aimed at the general public (parents and children).

Actions aimed at teachers could include workshops and preparation of specific printed and multimedia material for distribution to a large cross-section of members of the profession. Special 'netdays' (a series of special events aimed at increasing user awareness) can be organised in collaboration with the 'Learning in the information society action plan', which has wide support from industry. Typical actions aimed at the general public would include: creation of websites and distribution of information material in schools, through access providers and through shops and other outlets selling computers, distribution of CD-ROMs on computer magazines. More specific information can be given in connection with the purchase of equipment or software designed to access networks, or by Internet access providers to new subscribers. Traditional media (press, television) would also be used to stimulate awareness through publicity campaigns and information packs for journalists. Using the platform of the European network of schools, which is being set up with the support of the education ministries of Member States, special webpages will be created and maintained.

The purpose of the Community support is to pump-prime large-scale awareness actions and to provide overall coordination and exchange of experience so that lessons can be drawn from the results of the action on an ongoing basis (for instance by adapting the material distributed). Community funding will in general not exceed one third of eligible costs. The use of existing networks will permit cost saving, but additional financing is required to produce the relevant content.

4. **Action line 4. Support actions**

4.1. *Assessing legal implications*

The Internet operates on a global basis. The law operates on a territorial basis — national or, in the case of Community law, covering the European Union. It will contribute to the effectiveness of the other action lines by considering legal questions not dealt with by other Community initiatives, in particular including questions of applicable law and procedure.

If necessary, a call for tenders could be organised for an assessment of legal questions raised by the content or the use of Internet, in accordance with the procedure laid down in Article 5.

4.2. *Coordination with similar international initiatives*

The recommendation on protection of minors and human dignity calls on the Commission to promote international cooperation in the various fields covered by that recommendation, particularly through the sharing of experience and good practices between operators and other concerned parties in the European Union and their partners in other regions of the world. It is therefore necessary to ensure coherence between European action and similar initiatives in other parts of the world. Regular concertation meetings will help to achieve this.

An international conference, agreed in accordance with the procedure laid down in Article 5, might allow the experience gained through the action lines to be shared with actors concerned both in Europe and more widely. This could deal with all of the issues addressed by the action plan and bring together industry (self-regulatory bodies, access and service providers, content providers, network operators, software houses), user, consumer and citizens rights groups and government bodies involved in industry regulation and law enforcement. Such a conference could also be instrumental in disseminating the results of the action plan.

The Conference would build on the results of other conferences on related themes and thus avoid duplication of efforts.

The Commission will consult the committee referred to in Article 5 before organising such a conference.

4.3. *Evaluating the impact of Community measures*

It is obviously important to make an in-depth evaluation whether the objectives of the action plan and the recommendation have been achieved. Possible further measures which should be taken by industry, Community institutions, Member States or consumer representatives could also be identified in that way. The evaluation will be carried out in liaison with evaluating the measures taken to protect minors and human dignity foreseen by the recommendation on protection of minors and human dignity and will be launched through a call for tenders.

ANNEX II

INDICATIVE BREAKDOWN OF EXPENDITURE

1. Creating a safer environment	26-30 %
2. Developing filtering and rating systems	32-38 %
3. Encouraging awareness actions	30-36 %
4. Support actions	3-5 %
TOTAL:	100 %

ANNEX III

THE MEANS FOR IMPLEMENTING THE ACTION PLAN

1. The Commission will implement the action plan in accordance with the technical content specified in Annex 1.
 2. The action plan will be performed through indirect action and wherever possible on a shared-cost basis. The Community's financial contribution should not exceed the minimum considered necessary for a project and shall be granted, in principle, only if the project meets financial obstacles which cannot otherwise be overcome. In addition, the Community's financial contribution shall not normally exceed 50 % of the cost of the project, except in duly justified cases.
 3. The selection of shared-cost projects will normally be based on the usual procedure of calls for proposals published in the *Official Journal of the European Communities*. The content of the calls for proposals will be defined in close consultation with the relevant experts and according to the procedures referred to in the Decision. The main criterion for supporting projects through calls for proposals will be their potential contribution to achieving the objectives of the action plan.
 4. Applications for Community support should provide, where appropriate, a financial plan listing all the components of the funding of the projects, including the financial support requested from the Community, and any other requests for or grants of support from other sources.
 5. The Commission may also implement a funding scheme more flexible than the call for proposals in order to provide incentives for the creation of partnerships, in particular involving SMEs and organisations in less favoured regions, and for the establishment of long-term measures against illegal and harmful content on the Internet. This scheme might be operated on a permanent basis.
 6. The Commission will make provision for considering in exceptional cases unsolicited project proposals which involve a particularly urgent measure following technological changes that call for change of action.
 7. The detailed arrangements for the procedures referred to under points 5 and 6 will be implemented in accordance with Article 5 of this Decision and the Commission's financial regulations. They will be published in the *Official Journal of the European Communities*.
 8. Projects fully financed by the Commission within the framework of study and services contracts will be implemented through calls for tenders in accordance with the financial provisions. Transparency will be achieved by consulting external groups of experts (the Internet Working Party and the Legal Advisory Board) as well as actively using the information services of the Commission in connection with the awareness measures.
 9. In the course of the action plan, the Commission will also undertake preparatory, accompanying and support activities designed to achieve the general objectives of the action plan and the specific aims of each action line. This includes activities such as: studies in support of the general goals of the action plan; preliminary actions in preparation of future activities; measures aimed at facilitating participation in measures under the action plan as well as facilitating access to the results produced by action plan initiatives.
 10. All projects receiving financial support will be required to display an acknowledgement of the support received.
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**Communication from the Commission
on the application of State aid rules
to public service broadcasting**

(OJ C 320, 15.11.2001)

Communication from the Commission on the application of State aid rules to public service broadcasting

(2001/C 320/04)

(Text with EEA relevance)

1. INTRODUCTION AND SCOPE OF THE COMMUNICATION

1. Over the last two decades, broadcasting has undergone important changes. The abolition of monopolies, the emergence of new players and rapid technological developments have fundamentally altered the competitive environment. Television broadcasting was traditionally a reserved activity. Since its inception, it has mostly been provided by public undertakings under a monopoly regime, mainly as a consequence of the limited availability of broadcasting frequencies and the high barriers to entry.
2. In the 1970s, however, economic and technological developments made it increasingly possible for Member States to allow other operators to broadcast. Member States have therefore decided to introduce competition in the market. This has led to a wider choice for consumers, as many additional channels and new services became available; it has also favoured the emergence and growth of strong European operators, the development of new technologies, and a larger degree of pluralism in the sector. Whilst opening the market to competition, Member States considered that public service broadcasting ought to be maintained, as a way to ensure the coverage of a number of areas and the satisfaction of needs that private operators would not necessarily fulfil to the optimal extent.
3. The increased competition, together with the presence of State-funded operators, has also led to growing concerns for a level playing field, which have been brought to the Commission's attention by private operators. The vast majority of the complaints allege infringements of Article 87 of the EC Treaty in relation to the public funding schemes established in favour of public service broadcasters.
4. This Communication sets out the principles to be followed by the Commission in the application of Articles 87 and 86(2), of the EC Treaty to State funding of public service broadcasting. This will make the Commission's policy in this area as transparent as possible.

2. THE ROLE OF PUBLIC SERVICE BROADCASTING

5. As stated by the recent Commission communication on services of general interest in Europe: *'The broadcast media play a central role in the functioning of modern democratic societies, in particular in the development and transmission of social values. Therefore, the broadcasting sector has, since its inception, been subject to specific regulation in the general interest. This regulation has been based on common values,*

such as freedom of expression and the right of reply, pluralism, protection of copyright, promotion of cultural and linguistic diversity, protection of minors and of human dignity, consumer protection' (1).

6. Public service broadcasting, although having a clear economic relevance, is not comparable to a public service in any other economic sector. There is no other service that *at the same time* has access to such a wide sector of the population, provides it with so much information and content, and by doing so conveys and influences both individual and public opinion.
7. As stated by the high-level group on audiovisual policy chaired then by Commissioner Oreja, public service broadcasting *'has an important role to play in promoting cultural diversity in each country, in providing educational programming, in objectively informing public opinion, in guaranteeing pluralism and in supplying, democratically and free-of-charge, quality entertainment' (2).*
8. Furthermore, broadcasting is generally perceived as a very reliable source of information and represents, for a not inconsiderable proportion of the population, the main source of information. It thus enriches public debate and ultimately ensures that all citizens participate to a fair degree in public life.
9. The role of the public service (3) in general is recognised by the Treaty. The key provision in this respect is Article 86(2), which reads as follows:

'Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community'.

(1) COM(2000) 580 final, p. 35.

(2) 'The digital age European audiovisual policy. Report from the high-level group on audiovisual policy', 1998.

(3) For the purpose of the present communication, and in accordance with Article 16 of the EC Treaty and the declaration (No 13) annexed to the final act of Amsterdam, the term 'public service' as of the Protocol on the system of public broadcasting in the Member States has to be intended as referring to the term 'service of general economic interest' used in Article 86(2).

10. This provision is confirmed by Article 16 of the EC Treaty, concerning services of general economic interest, which was introduced by the Amsterdam Treaty and entered into force on 1 May 1999 — Article 16 states:

'Without prejudice to Articles 73, 86 and 87, and given the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Community and the Member States, each within their respective powers and within the scope of application of this Treaty, shall take care that such services operate on the basis of principles and conditions which enable them to fulfil their missions'.

11. The interpretation of these principles in the light of the particular nature of the broadcasting sector is outlined in the interpretative protocol on the system of public broadcasting in the Member States, annexed to the EC Treaty, (hereinafter referred to as 'the Protocol'), which, after considering *'that the system of public broadcasting in the Member States is directly related to the democratic, social and cultural needs of each society and to the need to preserve media pluralism'*, states that:

'The provisions of the Treaty establishing the European Community shall be without prejudice to the competence of Member States to provide for the funding of public service broadcasting insofar as such funding is granted to broadcasting organisations for the fulfilment of the public service remit as conferred, defined and organised by each Member State, and insofar as such funding does not affect trading conditions and competition in the Community to an extent which would be contrary to the common interest, while the realisation of the remit of that public service shall be taken into account'.

12. The importance of public service broadcasting for social, democratic and cultural life in the Union was also reaffirmed in the Resolution of the Council and of the Representatives of the Governments of the Member States, Meeting within the Council of 25 January 1999 concerning public service broadcasting, (hereinafter referred to as 'the Resolution'). As underlined by the Resolution: *'Broad public access, without discrimination and on the basis of equal opportunities, to various channels and services is a necessary precondition for fulfilling the special obligation of public service broadcasting'*. Moreover, public service broadcasting needs to *'benefit from technological progress'*, bring *'the public the benefits of the new audiovisual and information services and the new technologies'* and to undertake *'the development and diversification of activities in the digital age'*. Finally, *'public service broadcasting must be able to continue to provide a wide range of programming in accordance with its remit as defined by the Member States in order to address society as a whole; in this context it is legitimate for public service broadcasting to seek to reach wide audiences'* ⁽⁴⁾.

13. Given these characteristics, which are peculiar to the broadcasting sector, a public service mandate encompassing *'a wide range of programming in accordance*

with its remit', as stated by the Resolution, can in principle be considered as legitimate, as aiming at a balanced and varied programming, capable of preserving a certain level of audience for public broadcasters and, thus, of ensuring the accomplishment of the mandate, i.e. the fulfilment of the democratic, social and cultural needs of the society and the guaranteeing of pluralism.

14. It should be noted that commercial broadcasters, of whom a number are subject to public service requirements, also play a role in achieving the objectives of the Protocol to the extent that they contribute to pluralism, enrich cultural and political debate and widen the choice of programmes.

3. THE LEGAL CONTEXT

15. The application of State aid rules to public service broadcasting has to take into account a wide number of different elements. The EC Treaty includes Articles 87 and 88 on State aid and Article 86(2) on the application of the rules of the Treaty and the competition rules, in particular, to services of general economic interest. Whereas the Treaty of Amsterdam introduced a specific provision (Article 16) on services of general economic interest and an interpretative protocol on the system of public service broadcasting, the Treaty of Maastricht had already introduced an article which defines the role of the Community in the field of culture (Article 151) and a possible compatibility clause for State aid aimed at promoting culture (Article 87(3)(d)). The European Parliament and the Council have adopted Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽⁵⁾. The Commission has adopted Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings ⁽⁶⁾. These rules are interpreted by the Court of Justice and the Court of First Instance. The Commission has also adopted the communication mentioned in point 5 and adopted several communications on the application of the State aid rules.

4. APPLICABILITY OF ARTICLE 87(1)

4.1. The State aid character of State financing of public service broadcasters

16. Article 87(1) states: *'Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market'*.

⁽⁵⁾ OJ L 298, 17.10.1989, p. 23, as amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

⁽⁶⁾ OJ L 195, 29.7.1980, p. 35, as last amended by Directive 2000/52/EC (OJ L 193, 29.7.2000, p. 75).

⁽⁴⁾ OJ C 30, 5.2.1999, p. 1.

17. The effect of State intervention, not its purpose, is the decisive element in any assessment of its State aid content under Article 87(1). State financing of public service broadcasters is normally to be regarded as State aid, inasmuch as it meets the above criteria. Public service broadcasters are normally financed out of the State budget or through a levy on TV-set holders. In certain specific circumstances, the State makes capital injections or debt cancellations in favour of public service broadcasters. These financial measures are normally attributable to the public authorities and involve the transfer of State resources. Moreover, and to the extent that such measures fail to satisfy the market economy investor test, in accordance with the 'Application of Articles 92 and 93 of the EEC Treaty to public authorities' holdings' ⁽⁷⁾ and the Commission communication to the Member States on the 'Application of Articles 92 and 93 of the EEC Treaty and of Article 5 of Commission Directive 80/723/EEC to public undertakings in the manufacturing sector' ⁽⁸⁾, they favour in most cases only certain broadcasters and may thereby distort competition. Naturally, the existence of State aid will have to be assessed on a case by case basis, and depends also on the specific nature of the funding ⁽⁹⁾.

18. As the Court of Justice has observed: 'When aid granted by the State or through State resources strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade the latter must be regarded as affected by that aid' ⁽¹⁰⁾. Thus, State financing of public service broadcasters can generally be considered to affect trade between Member States. This is clearly the position as regards the acquisition and sale of programme rights, which often takes place at an international level. Advertising, too, in the case of public broadcasters who are allowed to sell advertising space, has a cross-border effect, especially for homogeneous linguistic areas across national boundaries. Moreover, the ownership structure of commercial broadcasters may extend to more than one Member State.

19. According to the case-law of the Court ⁽¹¹⁾, any transfer of State resources to a certain undertaking — also when covering net costs of public service obligations — has to be regarded as State aid (provided that all the conditions for the application of Article 87(1) are fulfilled).

⁽⁷⁾ Bulletin EC 9-1984.

⁽⁸⁾ OJ C 307, 13.11.1993, p. 3.

⁽⁹⁾ Aid NN 88/98, 'Financing of a 24-hour advertising-free news channel with licence fee by the BBC', OJ C 78, 18.3.2000, p. 6 and aid NN 70/98, 'State aid to public broadcasting channels 'Kinderkanal and Phoenix'' (OJ C 238, 21. 8.1999, p. 3).

⁽¹⁰⁾ Cases 730/79, *Philip Morris Holland v Commission* [1980] ECR 2671, paragraph 11; C-303/88, *Italy v Commission* [1991] ECR I-1433, paragraph 27; C-156/98, *Germany v Commission* [2000] ECR I-6857, paragraph 33.

⁽¹¹⁾ Cases T-106/95, *FFSA and Others v Commission* [1997] ECR II-229; T-46/97, *SIC v Commission*, [2000] ECR II-2125 and C-332/98, *France v Commission*, [2000] ECR I-4833.

4.2. Nature of the aid: existing aid as opposed to new aid

20. The funding schemes currently in place in most of the Member States were introduced a long time ago. As a first step, therefore, the Commission must determine whether these schemes may be regarded as 'existing aid' within the meaning of Article 88(1).

21. Existing aid is regulated by Article 88(1), which states that: 'The Commission shall, in cooperation with Member States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the common market'.

22. Pursuant to Article 1(b)(i) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹²⁾, existing aid includes '... all aid which existed prior to the entry into force of the Treaty in the respective Member States, that is to say, aid schemes and individual aid which were put into effect before, and are still applicable after, the entry into force of the Treaty'.

23. Pursuant to Article 1(b)(v), existing aid also includes 'aid which is deemed to be an existing aid because it can be established that at the time it was put into effect it did not constitute an aid, and subsequently became an aid due to the evolution of the common market and without having been altered by the Member State'.

24. In accordance with the case-law of the Court ⁽¹³⁾, the Commission must verify whether or not the legal framework under which the aid is granted has changed since its introduction. The Commission must take into account all the legal and economic elements related to the broadcasting system of a given Member State. Although the legal and economic elements relevant for such an assessment present common features in all or most Member States, the Commission believes that a case by case approach is the most appropriate ⁽¹⁴⁾.

5. ASSESSMENT OF THE COMPATIBILITY OF STATE AID UNDER ARTICLES 87(2) AND 87(3)

25. State aid to public broadcasters must be examined by the Commission in order to determine whether or not it can be found compatible with the common market. The derogations listed in Article 87(2) and Article 87(3) can be applied.

⁽¹²⁾ OJ L 83, 27.3.1999, p. 1.

⁽¹³⁾ Case C-44/93, *Namur-Les Assurances du Crédit SA v Office National du Dueroire and the Belgian State* [1994] ECR I-3829.

⁽¹⁴⁾ As concerns recent Commission practice in this field, see footnote 9.

26. In accordance with Article 151(4) of the Treaty, the Community is to take cultural aspects into account in its action under other provisions of the Treaty, in particular in order to respect and to promote the diversity of its cultures. Accordingly, Article 87(3)(d) of the Treaty allows the Commission to regard aid to promote culture as compatible with the common market where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest. It is the Commission's task to decide on the actual application of that provision in the same way as for the other exemption clauses in Article 87(3). It should be recalled that the provisions granting exemption from the prohibition of State aid have to be applied strictly. Therefore, the notion of 'culture' within the meaning of Article 87(3)(d) must be interpreted restrictively. As stated by the Commission in its *Kinderkanal and Phoenix* decision, the educational and democratic needs of a Member State have to be regarded as distinct from the promotion of culture⁽¹⁵⁾. In this respect, it should be noted that the Protocol distinguishes between the cultural, the social and the democratic needs of each society. Education may, of course, have a cultural aspect.

27. State aid to public service broadcasters often does not differentiate between those three needs. Consequently, unless a Member State provides for the separate definition and the separate funding of State aid to promote culture alone, such aid cannot generally be approved under Article 87(3)(d). It can normally be assessed, however, on the basis of Article 86(2) concerning services of general economic interest. In any event, whatever the legal base for assessing compatibility, the substantive analysis would be conducted by the Commission on the basis of the same criteria, namely those set out in this communication.

6. ASSESSMENT OF THE COMPATIBILITY OF STATE AID UNDER ARTICLE 86(2)

28. The role of services of general economic interest in attaining the fundamental objectives of the European Union has been fully acknowledged by the Commission in its communication on services of general interest in Europe, mentioned in point 5.

29. The Court has consistently held that Article 86 provides for a derogation and must therefore be interpreted restrictively. The Court has clarified that in order for a measure to benefit from such a derogation, it is necessary that all the following conditions be fulfilled:

(i) the service in question must be a service of general economic interest and clearly defined as such by the Member State (definition);

(ii) the undertaking in question must be explicitly entrusted by the Member State with the provision of that service (entrustment);

(iii) the application of the competition rules of the Treaty (in this case, the ban on State aid) must obstruct the performance of the particular tasks assigned to the undertaking and the exemption from such rules must not affect the development of trade to an extent that would be contrary to the interests of the Community (proportionality test).

30. It is for the Commission, as guardian of the Treaty, to assess whether these criteria are satisfied.

31. In the specific case of public broadcasting the above approach has to be adapted in the light of the interpretative provisions of the Protocol, which refers to the 'public service remit as conferred, defined and organised by each Member State' (definition and entrustment) and provides for a derogation from the Treaty rules in the case of the funding of public service broadcasting 'in so far as such funding is granted to broadcasting organisations for the fulfilment of the public service remit ... and ... does not affect trading conditions and competition in the Community to an extent which would be contrary to the common interest, while the realisation of the remit of that public service shall be taken into account' (proportionality).

6.1. Definition of public service remit

32. In order to meet the condition mentioned in point 29(i) for application of Article 86(2), it is necessary to establish an official definition of the public service mandate. Only then can the Commission assess with sufficient legal certainty whether the derogation under Article 86(2) is applicable.

33. Definition of the public service mandate falls within the competence of the Member States, which can decide at national, regional or local level. Generally speaking, in exercising that competence, account must be taken of the Community concept of 'services of general economic interest'. However, given the specific nature of the broadcasting sector, a 'wide' definition, entrusting a given broadcaster with the task of providing balanced and varied programming in accordance with the remit, while preserving a certain level of audience, may be considered, in view of the interpretative provisions of the Protocol, legitimate under Article 86(2). Such a definition would be consistent with the objective of fulfilling the democratic, social and cultural needs of a particular society and guaranteeing pluralism, including cultural and linguistic diversity.

34. Similarly, the public service remit might include certain services that are not 'programmes' in the traditional sense, such as on-line information services, to the extent that while taking into account the development and diversification of activities in the digital age, they are addressing the same democratic, social and cultural needs of the society in question.

⁽¹⁵⁾ See footnote 9.

35. Whenever the scope of the public service remit is extended to cover new services the definition and entrustment act should be modified accordingly, within the limits of Article 86(2).

36. The Commission's task is to verify whether or not Member States respect the Treaty provisions⁽¹⁶⁾. As regards the definition of the public service in the broadcasting sector, the role of the Commission is limited to checking for manifest error. It is not for the Commission to decide whether a programme is to be provided as a service of general economic interest, nor to question the nature or the quality of a certain product. The definition of the public service remit would, however, be in manifest error if it included activities that could not reasonably be considered to meet — in the wording of the Protocol — the '*democratic, social and cultural needs of each society*'. That would normally be the position in the case of e-commerce, for example. In this context, it must be recalled that the public service remit describes the services offered to the public in the general interest. The question of the definition of the public service remit must not be confused with the question of the financing mechanism chosen to provide these services. Therefore, whilst public service broadcasters may perform commercial activities such as the sale of advertising space in order to obtain revenue, such activities cannot normally be viewed as part of the public service remit.

37. The definition of the public service mandate should be as precise as possible. It should leave no doubt as to whether a certain activity performed by the entrusted operator is intended by the Member State to be included in the public service remit or not. Without a clear and precise definition of the obligations imposed upon the public service broadcaster, the Commission would not be able to carry out its tasks under Article 86(2) and, therefore, could not grant any exemption under that provision.

38. Clear identification of the activities covered by the public service remit is also important for non-public service operators, so that they can plan their activities.

39. Finally, the terms of the public service remit should be precise, so that Member States' authorities can effectively monitor compliance, as described in the following chapter.

6.2. Entrustment and supervision

40. In order to benefit from the exemption under Article 86(2), the public service remit should be entrusted to one or more undertakings by means of an official act

(for example, by legislation, contract or terms of reference).

41. It is not sufficient, however, that the public service broadcaster be formally entrusted with the provision of a well-defined public service. It is also necessary that the public service be actually supplied as provided for in the formal agreement between the State and the entrusted undertaking. It is therefore desirable that an appropriate authority or appointed body monitor its application. The need for such an appropriate authority or body in charge of supervision is apparent in the case of quality standards imposed on the entrusted operator. In accordance with the Commission communication on the principles and guidelines for the Community's audiovisual policy in the digital era⁽¹⁷⁾, it is not for the Commission to judge on the fulfilment of quality standards: it must be able to rely on appropriate supervision by the Member States.

42. It is within the competence of the Member State to choose the mechanism to ensure effective supervision of the fulfilment of the public service obligations. The role of such a body would seem to be effective only if the authority is independent from the entrusted undertaking.

43. In the absence of sufficient and reliable indications that the public service is actually supplied as mandated, the Commission would not be able to carry out its tasks under Article 86(2) and, therefore, could not grant any exemption under that provision.

6.3. Funding of public service broadcasting and the proportionality test

6.3.1. *The choice of funding*

44. Public service duties may be either quantitative or qualitative or both. Whatever their form, they could justify compensation, as long as they entail supplementary costs that the broadcaster would normally not have incurred.

45. Funding schemes can be divided into two broad categories: 'single-funding' and 'dual-funding'. The 'single-funding' category comprises those systems in which public service broadcasting is financed only through public funds, in whatever form. 'Dual-funding' systems comprise a wide range of schemes, where public service broadcasting is financed by different combinations of State funds and revenues from commercial activities, such as the sale of advertising space or programmes.

⁽¹⁶⁾ See Case C-179/90, *Merci convenzionali porto di Genova SpA v Siderurgica Gabrielli SpA* [1991] ECR I-5889.

⁽¹⁷⁾ COM(1999) 657 final, section 3(6).

46. As stated by the Protocol: *'The provisions of the Treaty establishing the European Community shall be without prejudice to the competence of Member States to provide for the funding of public service broadcasting ...'. The Commission communication on services of general interest in Europe, mentioned in point 5, further clarifies that: 'The choice of the financing scheme falls within the competence of the Member State, and there can be no objection in principle to the choice of a dual financing scheme (combining public funds and advertising revenues) rather than a single funding scheme (solely public funds) as long as competition in the relevant markets (e.g. advertising, acquisition and/or sale of programmes) is not affected to an extent which is contrary to the Community interest'* ⁽¹⁸⁾.

47. While Member States are free to choose the means of financing public service broadcasting, the Commission has to verify, under Article 86(2), that the derogation from the normal application of the competition rules for the performance of the service of general economic interest does not affect competition in the common market in a disproportionate manner. The test is of a 'negative' nature: it examines whether the measure adopted is not disproportionate. The aid should also not affect the development of trade to such an extent as would be contrary to the interests of the Community.

48. The Protocol confirms this approach also for public service broadcasting, stating that funding should not *'affect trading conditions and competition in the Community to an extent which would be contrary to the common interest, while the realisation of the remit of that public service shall be taken into account'*.

6.3.2. Transparency requirements for the State aid assessment

49. The above-described assessment by the Commission requires a clear and precise definition of the public service remit and a clear and appropriate separation between public service activities and non-public service activities. Separation of accounts between these two spheres is normally already required at national level to ensure transparency and accountability when using public funds. A separation of accounts is necessary to allow the Commission to carry out its proportionality test. It will provide the Commission with a tool for examining alleged cross-subsidisation and for defending justified compensation payments for general economic interest tasks. Only on the basis of proper cost and revenue allocation can it be determined whether the public financing is actually limited to the net costs of the public service remit and thus acceptable under Article 86(2) and the Protocol.

50. The transparency requirements in the financial relations between public authorities and public undertakings and within undertakings granted special or exclusive rights

or entrusted with the operation of a service of general economic interest, are indicated in Directive 80/723/EEC.

51. The Member States have been required by Directive 80/723/EEC to take the measures necessary to ensure — in the case of any undertaking granted special or exclusive rights or entrusted with the operation of a service of general economic interest and receiving State aid in any form whatsoever and which carries out other activities, that is to say, non-public service activities — that: (a) the internal accounts corresponding to different activities, i. e. public service and non-public service activities, are separate; (b) all costs and revenues are correctly assigned or allocated on the basis of consistently applied and objectively justifiable cost accounting principles; and (c) the cost-accounting principles according to which separate accounts are maintained are clearly established.

52. The general transparency requirements apply also to broadcasters as indicated in the fifth recital of Directive 2000/52/EC. The new requirements apply to public service broadcasters, in so far as they are beneficiaries of State aid and they are entrusted with the operation of a service of general economic interest, for which the State aid was not fixed for an appropriate period following an open, transparent and non-discriminatory procedure. The obligation of separation of accounts does not apply to public service broadcasters whose activities are limited to the provision of services of general economic interest and which do not operate activities outside the scope of those services.

53. In the broadcasting sector, separation of accounts poses no particular problem on the revenue side, but may not be straightforward or, indeed, feasible on the cost side. This is due to the fact that, in the broadcasting sector, Member States may consider the whole programming of the broadcasters as covered by the public service remit, while at the same time allowing for its commercial exploitation. In other words, different activities share the same inputs to a large extent.

54. For these reasons, the Commission considers that, on the revenue side, broadcasting operators should give a detailed account of the sources and amount of all income accruing from the performance of non-public service activities.

55. On the expenditure side, costs specific to the non-public service activity should be clearly identified. In addition, whenever the same resources — personnel, equipment, fixed installation etc. — are used to perform public service and non-public service tasks, their costs should be allocated on the basis of the difference in the firm's total costs with and without non-public service activities ⁽¹⁹⁾.

⁽¹⁹⁾ This implies reference to the hypothetical situation in which the non-public service activities were to be discontinued: the costs that would be so avoided represent the amount of common costs to be allocated to non-public service activities.

⁽¹⁸⁾ See footnote 1, p. 36.

56. The above implies that, contrary to the approach generally adopted in other utilities sectors, costs that are entirely attributable to public service activities, while benefiting also commercial activities, need not be apportioned between the two and can be entirely allocated to public service. This could be the case, for example, with the production costs of a programme which is shown as part of the public service remit but is also sold to other broadcasters. The main example, however, would be that of audience, which is generated both to fulfil the public service remit and to sell advertising space. It is considered that a full distribution of these costs between the two activities risks being arbitrary and not meaningful. However, cost allocation from the point of view of transparency of accounts should not be confused with cost recovery in the definition of pricing policies. The latter issue is addressed in point 58.

6.3.3. Proportionality

57. In carrying out the proportionality test, the Commission starts from the consideration that the State funding is normally necessary for the undertaking to carry out its public service tasks. However, in order to satisfy this test, it is necessary that the State aid does not exceed the net costs of the public service mission, taking also into account other direct or indirect revenues derived from the public service mission. For this reason, the net benefit that non-public service activities derive from the public service activity will be taken into account in assessing the proportionality of the aid.

58. On the other hand, there might be market distortions which are not necessary for the fulfilment of the public service mission. For example, a public service broadcaster, in so far as lower revenues are covered by the State aid, might be tempted to depress the prices of advertising or other non-public service activities on the market, so as to reduce the revenue of competitors. Such conduct, if demonstrated, could not be considered as intrinsic to the public service mission attributed to the broadcaster. Whenever a public service broadcaster undercuts prices in non-public service activities below what is necessary to recover the stand-alone costs that an efficient commercial operator in a similar situation would normally have to recover, such practice would indicate

the presence of overcompensation of public service obligations and would in any event 'affect trading conditions and competition in the Community to an extent which would be contrary to the common interest' and thus infringe the Protocol.

59. Accordingly, in carrying out the proportionality test, the Commission will consider whether or not any distortion of competition arising from the aid can be justified in terms of the need to perform the public service as defined by the Member State and to provide for its funding. When necessary the Commission will also take action in the light of other Treaty provisions.

60. The analysis of the effects of State aid on competition and development of trade will inevitably have to be based on the specific characteristics of each situation. The actual competitive structure and other characteristics of each of the markets cannot be described in the present communication, as they are generally quite different from each other. For the same reason, this Communication cannot *ex ante* define the conditions under which the prices of the public service broadcasters are in line with the principles explained in point 58. Therefore the assessment under Article 86(2) of the compatibility of State aid to public broadcasters can finally only be made on a case by case basis, according to Commission practice.

61. In its assessment, the Commission will take into account the fact that, to the extent that State aid is necessary to carry out the public service obligation, the system as a whole might also have the positive effect of maintaining an alternative source of supply in some relevant markets⁽²⁰⁾. However, this effect has to be balanced against possible negative effects of the aid, such as preventing other operators from entering these markets, thereby allowing a more oligopolistic market structure, or leading to possible anti-competitive behaviour of public service operators in the relevant markets.

62. The Commission will also take into account the difficulty some smaller Member States may have to collect the necessary funds, if costs per inhabitant of the public service are, *ceteris paribus*, higher⁽²¹⁾.

⁽²⁰⁾ This does not mean that State aid can be justified as a tool, which increases supply and competition in a market. State aid which allows an operator to stay in the market in spite of its recurrent losses causes a major distortion of competition, as it leads in the long run to higher inefficiency, smaller supply and higher prices for consumers. Lifting legal and economic barriers to entry, ensuring an effective anti-trust policy and promoting pluralism are more effective instruments in this respect. Natural monopolies are normally subject to regulation.

⁽²¹⁾ Similar difficulties may also be encountered when public service broadcasting is addressed to linguistic minorities or to local needs.

**Communication from the Commission to the Council, the European Parliament,
the Economic and Social Committee and the committee of the Regions
on certain legal aspects relating to
cinematographic and other audiovisual works**

(OJ C 43, 16.02.2002)

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works

(2002/C 43/04)

(COM(2001) 534 final)

1. INTRODUCTION

Audiovisual works, and cinema in particular, play an important role in shaping European identities, both in common aspects shared across Europe and in the cultural diversity that characterises our different traditions and histories. They are an essential element for the good functioning of our democracies because of their widespread influence on society. They are also at the heart of the transformations resulting from the development of the information society: new technological developments offer new opportunities for promoting culture and heritage conservation, and to increase mutual understanding across Europe. But the multiplication of distribution channels available for distribution of audiovisual goods does not automatically lead to an increase in the creation of quality content.

The principles of the Community audiovisual policy have been expressed in the Commission's communication of December 1999⁽¹⁾ and remain fully valid today. The primary purpose of regulation in the audiovisual sector is to safeguard certain public interest objectives such as pluralism, cultural and linguistic diversity and the protection of minors. At a European level, the necessary balance must be kept to guarantee subsidiarity in an area where major competences are at the national or regional level, while ensuring that European companies can fully benefit from the European dimension. The key European instruments specifically developed in this area, the Television without frontier Directive, for regulatory aspects, and the MEDIA Plus programme for support mechanisms, have as their main objective to allow European companies in this sector to benefit fully from the European single market.

Audiovisual works have unique characteristics because of their double nature: they are economic goods, offering important opportunities for the creation of wealth and employment. In 1999, the European audiovisual market⁽²⁾ was estimated at EUR 58,3 billion (+ 8,7 % v 1998). They are also cultural goods which at the same time mirror and shape our societies. This is the reason why the development of this sector has never been left solely to market forces.

⁽¹⁾ Principles and guidelines for the Community's audiovisual policy in the digital age. COM(1999) 657 final of 14 December 1999.

⁽²⁾ European Audiovisual Observatory. Includes television, cinema, video (cassettes and DVD), but not games.

The advent of new technologies has not affected the renaissance of the cinema in Europe; such new technologies have been shown to offer additional income for media operators rather than substituting existing media. Total cinema admissions in Europe rose from 662 million in 1995 to 844 million in 2000 (+ 27 %) ⁽³⁾. This increase would appear to be due at least in part to the growth in the number of cinema screens in Europe, in particular multiplexes (+ 22 % in 1999 v 1995) ⁽³⁾ as well as improved facilities at cinemas. Recent figures ⁽⁴⁾ show that TV viewing in Europe has increased in most Member States in the past year.

Amongst audiovisual works, cinematographic works have a particular prominence, because of their cost of production and cultural importance: budgets for the productions of cinema films are substantially higher than for other audiovisual content, they are more frequently the subject of international co-productions, and the duration of their exploitation life is longer, with the potential to use all distribution channels, cinemas, DVDs and videocassettes (both selling and rental), Internet downloading, and television (pay-per-view, pay-per-channel, free-to-air). Cinematographic works face strong competition from outside Europe ⁽⁵⁾. There is little circulation of European works outside their country of origin, although there appears to be an upward trend: according to certain estimations, European non-national films reached over 10 % ⁽⁶⁾ of total attendance in 1999 from less than 8 % in 1996.

Because of the particularity of cinema, the Commission had indicated in its communication on audiovisual policy in 1999, that there was a need to examine in more detail a number of issues to clarify the legal framework of the cinema sector, including the application of State aid policy in that area. The objective of this review was to determine which measures could be taken in order to improve the circulation of these works in Europe.

⁽³⁾ European Audiovisual Observatory.

⁽⁴⁾ European Audiovisual Observatory: the average for television viewing in Europe varies between 144 minutes per day in Austria and 239 minutes per day in Italy. The trend is positive in almost all Member States.

⁽⁵⁾ European Audiovisual Observatory: the market share of American cinema films in Europe in 2000 was above 73 %.

⁽⁶⁾ European Audiovisual Observatory: Lumière database: data are inclusive of international EU/extra EU co-productions.

In accordance with the principles of the White Paper on Governance ⁽⁷⁾, the Commission services organised a public consultation on the basis of a staff working document ⁽⁸⁾ in order to give all interested parties the opportunity to make their views known before the adoption of this communication by the Commission. A hearing attended by around 250 interested parties was held on 15 June. This not only provided an opportunity for the Commission to identify the central issues in respect of the issues raised in the staff working document, but also allowed the interested parties to hear and respond to each other's views.

49 written comments ⁽⁹⁾ were received from Member States, national regulatory and self-regulatory authorities, authors, artists, film and television producers and directors, cinema operators, video and DVD publishers/distributors, television broadcasters, industry associations, consumer representatives and trade unions.

This communication sets out the Commission's policy orientations and proposals building upon the consultation exercise. It sets out the principles to be applied for the application of State aid rules to the cinema sector, and identifies the next steps to be taken and the areas where further reflection is needed in order to create a favourable environment for the production and distribution of audiovisual works.

2. THE GENERAL ORIENTATION OF THE COMMISSION WITH REGARD TO STATE AID TO THE CINEMA SECTOR

Cinema and TV programmes are two of the most universal media of entertainment, with a powerful impact on a great number of people internationally. The current stage of development and the special characteristics of audiovisual production within the EC, mean that it is difficult for producers to obtain a sufficient level of upfront commercial backing to put together a financial package so that production projects can proceed. In these circumstances, the fostering of audiovisual production by the Member States plays a key role to ensure that their indigenous culture and creative capacity can be expressed, thereby reflecting the diversity and richness of European culture.

The Maastricht Treaty gave Community-level recognition to the utmost importance of promoting culture for the European Union and its Member States by incorporating culture amongst the Community's policies specifically referred to in the EC Treaty (see Article 151 EC). At the same time, it

⁽⁷⁾ COM(2001) 428 of 25 July 2001.

⁽⁸⁾ SEC(2001) 619 of 11 April 2001.

⁽⁹⁾ Representing more than 95 % of the production industry, film directors, cinema exhibitors, rights holders, broadcasters, unions representing workers in the audiovisual sectors, video and DVD associations, film institutes and Member States. See list of comments and full text of those sent electronically without a request for confidentiality at:
http://europa.eu.int/comm/avpolicy/regul/cine1_en.htm

included in Article 87(3)(d) EC a new specific possibility of exception to the general incompatibility principle of Article 87(1) EC for aid granted by the Member States to promote culture.

Member States implement a wide range of support measures for the audiovisual production of films and TV programmes. This support focuses on the creation and production phases of film-making and generally takes the form of subsidies or repayable advances. The rationale behind these measures is based on both cultural and industrial considerations. They have the primary cultural aim of ensuring that the national and regional cultures and creative potential are expressed in the audiovisual media of film and television. On the other hand, they aim to generate the critical mass of activity that is required to create the dynamic for the development and consolidation of the industry through the creation of soundly-based production undertakings and the development of a permanent pool of human skills and experience.

This communication does not cover the application of Articles 81 and 82 of the EC Treaty (anti-competitive practices by companies) to the audiovisual sector ⁽¹⁰⁾.

2.1. Compatibility with the EC Treaty of schemes of aid to cinema and TV production

The basic rules on State aid under the EC Treaty are as follows: Article 88(3) of the EC Treaty provides that Member States are obliged to inform the Commission of any plans to grant or alter aid before putting it into effect. Article 87(1) EC prohibits aid granted by the State or through State resources, which distorts or threatens to distort competition and trade between Member States. However, the Commission may exempt certain State aid from this prohibition. In particular, Article 87(3) EC lists certain aid types that, in view of their effects, the Commission may authorise. One of these exemptions is Article 87(3)(d) EC for aid to promote culture, where such aid does not affect competition and trading conditions to an extent contrary to the common interest.

2.2. Enforcement of the EC Treaty rules on State aid to cinema and TV production

In 1997, the Commission received a complaint about exclusionary effects created by the French cinema production aid scheme. This was confirmed by the Commission's assessment. The anti-competitive effects were the result of provisions making the aid conditional on the realisation of certain film-making activities in the Member State (so-called 'territorialisation').

⁽¹⁰⁾ For example, practices such as block bookings or the bundling of rights, which could be incompatible with the EC Treaty.

The French authorities, at the Commission's request, modified a series of incompatible provisions of their cinema production aid scheme and on 3 June 1998 the Commission authorised their scheme. In its decision (N 3/98), the Commission set out four specific compatibility criteria (see 2(3)(b) below) to authorise aid to cinema and TV production in accordance with the 'culture derogation' contained in Article 87(3)(d) of the EC Treaty. The Commission also undertook to review the schemes in other Member States under the criteria adopted in the French decision.

The Commission launched an inquiry requesting information from all Member States about their aid schemes for the audio-visual sector. The inquiry showed that the majority of the schemes had not been notified to the Commission for prior authorisation.

2.3. Assessment of aid schemes to cinema and TV production

When it assesses aid schemes to cinema and TV production, the Commission must verify:

- first, whether the aid scheme respects the 'general legality' principle, i.e. the Commission must verify that the scheme does not contain clauses that would be contrary to provisions of the EC Treaty in fields other than State aid (including its fiscal provisions),
- secondly, whether the scheme fulfils the specific compatibility criteria for aid, set out by the Commission in its 1998 decision on the French automatic aid scheme ⁽¹¹⁾.

The second condition is specific to cinema and TV production aid schemes, whereas the other is a routine test applied to all aid schemes irrespective of the sector.

(a) *Respect of the general legality criterion*

The Commission must verify that the eligibility conditions of the State aid schemes do not contain clauses contrary to the EC Treaty provisions in fields other than State aid. The Commission must ensure, inter alia, that the EC Treaty principles prohibiting discrimination on the grounds of nationality, freedom of establishment, free movement of goods and freedom to provide services have been respected (Articles 12, 28, 30, 39, 43, 48 and 49 EC). The Commission enforces these principles in conjunction with the application of competition rules when the provisions in breach of these principles are not detachable from the operation of the scheme.

⁽¹¹⁾ The question whether fiscal relief to producers can be qualified as aid is assessed under the principles contained in the 1998 Commission communication on the application of State aid rules to measures relating to direct business taxation (O) C 384, 12.12.1998).

In compliance with the above principles, aid schemes must not: e.g. reserve the aid for nationals exclusively; require beneficiaries to have the status of national undertaking established under national commercial law (undertakings established in one Member State and operating in another by means of a permanent branch or agency must be eligible for aid; furthermore, the agency requirement should only be enforceable upon payment of the aid); require workers of foreign companies providing film-making services to comply with national labour standards.

Certain schemes of aid to cinema and TV production are financed by parafiscal charges. According to the Commission's decision making policy and the Court of Justice's jurisprudence, when such schemes benefit solely national producers or do so to a higher extent than to competitors in other Member States, in order to be compatible with the Treaty, imported products may not be levied and national production may not enjoy a lower rate of taxation when exported.

When the Commission applies the State aid rules to assess the compatibility of aid schemes under the review, it addresses at the same time the problems identified by the Code of conduct group on direct business taxation (the so-called Primarolo Group) set up by the Council ⁽¹²⁾.

(b) *The specific compatibility criteria for State aid to cinema and TV programme production*

The specific criteria on which basis the Commission currently assesses State aid to cinema and TV programme production under the culture derogation of Article 87(3)(d) EC were established in its decision of June 1998 on the French automatic aid scheme to film production. These specific criteria are as follows:

1. The aid is directed to a cultural product. Each Member State must ensure that the content of the aided production is cultural according to verifiable national criteria (in compliance with the application of the subsidiarity principle).
2. The producer must be free to spend at least 20 % of the film budget in other Member States without suffering any reduction in the aid provided for under the scheme. In other words, the Commission accepted as an eligibility criteria territorialisation in terms of expenditure of up to 80 % of the production budget of an aided film or TV work.

⁽¹²⁾ This group compiled an inventory of harmful measures that includes a certain number of State aid schemes for cinema and TV production.

3. Aid intensity must in principle be limited to 50 % of the production budget with a view to stimulating normal commercial initiatives inherent in a market economy and avoiding a bidding contest between Member States. Difficult and low budget films are excluded from this limit. The Commission considers that, under the subsidiarity principle, it is up to each Member State to establish a definition of difficult and low budget film according to national parameters.

4. Aid supplements for specific film-making activities (e.g. post-production) are not allowed in order to ensure that the aid has a neutral incentive effect and consequently that the protection/attraction of those specific activities in/to the Member State granting the aid is avoided.

Several considerations arise in respect of the abovementioned criteria:

The Commission considers that aid should be towards the overall budget of a specific film-making project and the producer should be free to choose the items of the budget that will be spent in other Member States. Aid schemes shaped on this basis are deemed to support the creation of an audiovisual product and not to assist the development of an industrial activity. Consequently, this aid is to be assessed under the culture derogation of Article 87(3)(d) EC rather than the industrial derogation of Article 87(3)(c). Undertakings in the film and TV programme production sector may also benefit from other aid types granted under national horizontal aid schemes authorised by the Commission under the Article 87(3)(a) and (c) EC exemptions (e.g. regional aid, aid for SMEs, R & D aid, training aid, employment aid).

The Commission accepted that Member States may require a certain part of the film production budget to be spent on their territory as an eligibility criterion for aid. This is based on the reasoning that a certain degree of territorialisation of the expenditure may be necessary to ensure the continued presence of the human skills and technical expertise required for cultural creation⁽¹³⁾. This should be limited to the minimum degree required to promote cultural objectives.

Furthermore, given the particular characteristics of film production, the Commission considers that the overall budget of an audiovisual production is the disbursement at risk necessary for its creation and, consequently, admits that the reference for aid calculation is that overall budget, regardless of the nature of the individual expenditure items of which it is formed. The earmarking of aid to specific individual items of a film budget could turn such aid into a national preference to the sectors providing the specific aided items, which might be incompatible.

Funds provided directly from EC programmes like MEDIA Plus are not State resources. Therefore, their assistance does not count for the purposes of respecting the 50 % aid ceiling. Furthermore, this assistance promotes the distribution of national films abroad and, consequently, its effects do not add up to those of national schemes focusing on national production and distribution.

Legal obligations imposed by Member States upon TV broadcasters to invest in audiovisual production do not constitute State aid, where these investments provide a reasonable compensation to broadcasters. The extent to which these legal obligations may be considered State aid as such has to be considered in view of the development of the EC Court of Justice jurisprudence after its judgement of 13.3.2001 in Case C-379/98 (PreussenElektra).

In the Commission's view, the above criteria strike a balance between the aims of cultural creation, the development of the EC audiovisual production and the respect of the EC rules on State aid.

2.4. Review of schemes

Following its 1998 decision on the French scheme of automatic aid to film production, the Commission has reviewed the schemes in place in other Member States under the abovementioned assessment criteria. The Commission has already reviewed and approved the schemes of a series of Member States⁽¹⁴⁾. The Commission, is at present, completing discussions with the remaining Member States to bring their schemes in line with EC law. The Commission intends to complete the review by the end of 2001. The completion of the review will provide legal certainty to the sector.

The review has revealed the following key features of national State aid schemes:

- there is a great diversity of aid schemes within EC both in terms of aid type and scope,
- many of the schemes contained provisions contrary to the general legality principle,
- very few Member States impose territoriality requirements in order to qualify for aid,
- only exceptionally, Member States grant State aid levels higher than 50 % of the film costs,
- the exceptions to this latter finding normally fall under the 'difficult and low budget film' category.

⁽¹⁴⁾ France, the Netherlands, Germany (and certain German *Länder*, Ireland, and Sweden: see http://europa.eu.int/comm/competition/state_aid/decisions/

⁽¹³⁾ See reply to Written Question 3173-00 of Mr Veltroni (O) C 163 E, 6.6.2001, p. 50).

2.5. Future developments

The specific compatibility criteria for aid to cinema and TV programme production, set out above, will remain valid until June 2004, the time limit set in the decisions adopted so far. Under the review, the other Member States' schemes will be authorised until the same deadline.

The Commission does not intend to alter these criteria unless they prove unable to prevent undue distortion of competition within the EC. The Commission will examine further in the light of the review the maximum level of admissible territorialisation. Territoriality requirements fragment the internal market for the provision of goods and services for audiovisual production and hinder their development. Possible distortion of competition created by aid to cinema and TV programme production would originate more from territorialisation requirements rather than from the level of aid itself. Territoriality requirements exceeding what may be judged acceptable under the necessity and proportionality criteria go beyond the strict limits of cultural promotion and aim basically at industrial objectives. Therefore, the Commission, in its decision on the French aid scheme considered that the Member States should be encouraged to reduce national preferences for an important part of the costs as to the place of expenditure.

In view of the comparatively limited geographic extension of certain languages and cultures, and given the limited circulation of those cultural products within the EC and world markets, the Commission could accept aid intensities higher than 50 % where proven to be necessary in cases other than for difficult and low budget films for these Member States.

The Commission intends to continue the multilateral dialogue with the Member States to discuss relevant issues connected with State support to cinema and TV production. This dialogue started in the conference organised by the French National Cinema Centre in Paris in October 2000 that brought together expert officials of the Commission and representatives from the relevant Ministries and film institutes in the EU. The dialogue was pursued in a second conference organised by the Swedish Film Institute in Stockholm in June 2001.

3. PROTECTION OF HERITAGE AND EXPLOITATION OF AUDIOVISUAL WORKS

A number of issues relating to protection of heritage, transparency, and effective exploitation of rights have been raised ⁽¹⁵⁾: the legal deposit of audiovisual works, the creation of a European register (or the linking of national registers) and

⁽¹⁵⁾ In particular in the Commission staff working document, SEC(2001) 428 of 11.4.2001.

other possible forms and use of databases with a commercial aim. These issues could have important consequences for the circulation of audiovisual works within Europe, and for the preservation of Europe's audiovisual heritage.

3.1. The legal deposit of audiovisual works

Different work has been done in various fora on this issue. The Council adopted a resolution on conservation and enhancement of European cinema heritage in May 2000 ⁽¹⁶⁾, in which it called on the Commission to take account of the specific needs of this particular form of cultural legacy, and to support and encourage a transnational study to be carried out by the Member States on the situation facing European cinema archives.

From the contributions both at the public hearing and in writing, it is clear that there is consensus on the need to preserve and to safeguard Europe's audiovisual heritage. Opinions diverged as to the best way of achieving this aim, and as to whether regulatory intervention at a European level was required or in fact desirable.

At pan-European level initiatives have been taken by professional organisations ⁽¹⁷⁾, and by the Council of Europe, whose draft European Convention for the protection of the audiovisual heritage should be adopted shortly. This convention will provide for a compulsory legal deposit of 'moving image material forming part of its audiovisual heritage and having been produced or co-produced in the territory of the party concerned'.

Opinions were divided as to whether the European Union should adhere to this instrument and/or encourage the Member States to do so. A number of commentators considered that the convention offered a reasonable compromise for action in this area, making Community action unnecessary, or alternatively felt that it constituted a good starting point for a Community initiative. Others favoured a Community initiative, stating that this was still necessary despite the convention and could provide an added value in terms of the protection of heritage and the promotion of cultural diversity. It was suggested that any Community approach should focus on best practice, although certain commentators felt that self-regulation or co-regulation did not function adequately and could lead to disparities as regards the preservation of audiovisual works.

⁽¹⁶⁾ 2261 Council meeting (16 May 2000) Press 154 — No 8394/2000.

⁽¹⁷⁾ There are proposals from the European Federation of Film Directors (FERA) and the International Federation of Cinema Producers Associations (FIAPF) (which has proposed a 'voluntary' deposit for cinematographic works based on a model contract that they have drawn up 'General regulations concerning trust deposit of motion picture prints with film archives' (1971)).

There were conflicting views as to whether such a system should be compulsory or voluntary. A number of commentators supported obligatory legal deposit as a minimum measure. Others considered that such a requirement should not entail any additional costs for the producer and should therefore be publicly financed. The requirement should only apply to new works (older works should be the subject of voluntary deposit). Many commentators favoured a voluntary scheme with details established at Member State level and limited to national works, which could be linked to incentives.

Commentators drew a distinction between cinematographic and other works. Broadcasters considered that it would be inappropriate to make television productions part of any mandatory deposit scheme. They added that if regulatory intervention for the preservation of television productions was to be regarded as necessary, it should be on a voluntary basis, and linked to significant financial support mechanisms. Others favoured the inclusion of all audiovisual works, whilst a third group favoured focusing initially on cinematographic works, which could later be extended to other categories.

In terms of conservation, the cinemathèques stressed the need for the works deposited to be of high quality (either the original copy or one of similar quality), as well as the need to create a database of the different material supports for audiovisual works.

The Commission notes that there is widespread support of the need to preserve audiovisual works in view of the objectives of protection of heritage and the promotion of cultural diversity. The results of the consultation show that there is a need for action to preserve our audiovisual heritage. This appears to be particularly important in respect of cinematographic works. However, there was a lack of consensus as to the type of measures that would be appropriate.

Thus, before putting forward a possible proposal the Commission intends to carry out a stocktaking exercise in respect of the current situation within the Member States. This will be carried out by means of an inquiry addressed to the national authorities later on this year. This exercise will evaluate the role played by legislative and other measures and to further analyse the conditions that should apply. Furthermore, the Commission intends to encourage cooperation between the interested parties in this area together with the spread of 'best practice'. It notes the consensus between the parties concerned that there should not be a single European archive. Deposit should rather be organised at the national or regional level, with appropriate transparency as to the location of works. It also intends to examine further the issue of creating a database of the different material supports for audiovisual works as suggested during the consultation.

3.2. The creation of a registration scheme

Differing opinions exist as to the value of a registration scheme for films and other audiovisual works. At the moment, only a minority of Member States has put in place such a register. An initiative to create an international register in the context of the World Intellectual Property Organisation (WIPO) only met with limited success.

A European initiative in this domain might encourage transparency and thereby help protect right-holders and facilitate the circulation of European productions. This could be particularly important in view of the complexity of the industry. Such a scheme should not impact on questions relating to different rules on authorship or on the use of rights in line with copyright rules, but could aim to provide certain information relating to the audiovisual works registered.

Although a number of the commentators considered the scheme unnecessary and costly, the majority supported it. There was support for creation of a national public register of films in every Member State, if certain criteria were established. This was seen by some as being an essential element of any policy to promote circulation of audiovisual works. Some went further and saw the absence of such a register (or registers) as a hindrance to exploitation of works.

There were differing opinions on the most appropriate type of action. Some were in favour of the creation of a system of mutual recognition based on individual registers in each Member State. Others felt there was a need to assess market needs before deciding on appropriate action. A number of commentators were in favour of networking national registers at a European level. This was seen as having the advantage of transparency facilitating identification, although others considered that this could be quite cumbersome as a mechanism and that it would be difficult to set up such a scheme.

There was widespread agreement as to the advantages of clear identification and the importance of metadata⁽¹⁸⁾. Public service broadcasters stated that Europe would benefit if there were well-known and well-designed systems for metadata with respect to production, delivery, classification, protection and archiving of media works. In respect of the standards they considered it important to encourage the development of a more widely distributed media registration number network, in order to ensure interoperability between media registration numbers and to reduce registration fees for the European programme maker. Certain operators supported the use of the ISAN⁽¹⁹⁾ standard or another standard established by industry, whereas others were against the use of this particular standard, whilst nonetheless in favour of standardised metadata systems.

⁽¹⁸⁾ Digital information about an audiovisual work intended to help the production and distribution process (also referred to as digital asset management (DAM)).

⁽¹⁹⁾ Developed by the International Standards Organisation (ISO). The current version is known as IVID (international version identifier) or V-ISAN.

Some commentators suggested that it should hold details of all the contracts relating to the production and exploitation of films produced in the country, in particular the identity of the various parties, ownership and exercise of copyright, the exploitation terms in the contract, the duration of the licence and its exclusive or non-exclusive character. Commentators considered that financing should be provided at a European level or alternatively by a combination of private and public funding. Other commentators expressed concern either about the costs of such a scheme, or the possible disadvantages if the information was not accurate or up to date.

The Commission notes that there is considerable support for the creation of public registers of films in Member States based on the argument that such a registration scheme would improve the circulation of films by assuring that the information needed is readily available, although a number of issues remain to be clarified. The Commission therefore intends to carry out a stocktaking exercise in respect of the current situation within the Member States. This will be carried out by means of an inquiry addressed to the national authorities later on this year. It will aim to evaluate the role played by legislative and other measures and to further analyse the conditions that should apply.

3.3. Right-holders database

The possibility of creating a new database enabling the identification of 'rights' or 'licensing' agreements across the European Union was put forward. There was disagreement as to whether information on rights and licensing agreements was difficult to obtain. The availability of this information could have a positive effect on the circulation of films. It should be noted that the Commission is analysing the issue of management of rights, as a follow-up to its 1995 Green Paper on copyright and related rights in the information society ⁽²⁰⁾.

Opinions were divided as to whether there was a lack of transparency regarding this information. The majority stated that sufficient transparency is ensured by producers and collecting societies. It was suggested that there was work to be done in the standardised codification of rights in order that rights may be consistently represented and relevant information exchanged in a legally reliable way. A potential benefit of such a database could be to help producers and distributors to find partners in other European countries.

A large number of commentators asserted that such a database would not seem necessary to improve the circulation of audiovisual works: the view was expressed that such a database might be very slow, costly, cumbersome and unable to keep pace with constant, very rapid changes in property. This would not correspond to the flexibility needed for the efficient exploi-

tion of audiovisual works. Consequences of any mistaken or obsolete information could be considerable. The formalities might be unmanageable and the delays in registering valid rights and the related contracts could be a hindrance to freedom of movement in a very brisk market. There might even be a danger that defrauders could obtain validation for misappropriated rights to the detriment of the entitled parties. Concern was also expressed that the creation of such a database could interfere with the internationally well established rule (see Article 5(2) Berne Convention) that the enjoyment and the exercise of copyright and neighbouring rights must not be subject to any formalities. Others maintained that major differences in the relevant contract law for copyright seriously affect the competitiveness of audiovisual producers of one country as compared to such producers in another country and that such a database could play an important role in the circulation of audiovisual works by ensuring that it was possible to obtain information about audiovisual works in other countries. The database could facilitate identification of right-holders but negotiations should still take place on a contractual basis.

The Commission has taken note of the views expressed in the consultation and in particular the lack of support for the creation of a right-holders database. It will continue to examine the issue of management of rights, which it is analysing as a follow-up to its 1995 Green Paper on copyright and related rights in the information society, with a view to evaluating the possible impact of the existing differences in national law on the internal market.

3.4. The exploitation of rights

Copyright and neighbouring legislation vest rights in authors, performers, phonogram producers, broadcasters and other rightsholders to authorise or prohibit certain acts of exploitation of their works or other subject matter. In general, users acquire rights by direct individual contracts with the rightsholders concerned or their representatives.

The issue of the exploitation of rights has been raised by broadcasters who assert they have problems in exploiting some of their productions stored in their archives, which they would like to show again especially in the new online environment. They claim it to be virtually impossible to identify and to trace and negotiate with all individual programme contributors or their heirs, particularly in the case of old productions. They assert that these difficulties prevent them from exploiting their archives today. Public service broadcasters therefore asked for legislative action to facilitate their situation. The cinemathèques also stated that they were unable to use a number of works and that the public therefore lost access to its own audiovisual heritage.

⁽²⁰⁾ COM(95) 382 final.

Producers and certain private broadcasters on the other hand, felt that the matter had been settled in the context of the new Copyright Directive⁽²¹⁾ and should not be reopened in this context.

A number of commentators considered that the creation of the databases and registers referred to above could facilitate identification. It was also suggested that the matter should be considered in the review of the Television Without Frontiers (TVWF) Directive. However, it should be noted that this directive does not cover copyright and related rights issues.

The Commission supports cooperation between all parties in order to solve specific difficulties, which may exist in certain situations. This cooperation should in the first place aim to set up an inventory of works for which problems relating to the identification of rightsholders could exist.

4. E-CINEMA

The issue of e-cinema has been raised because of the new pan-European distribution possibilities that are being created by digital technologies. These technologies can also enable the development of local multipurpose centres in less densely populated areas⁽²²⁾. The term e-cinema is used to signify electronic delivery to a cinema screen. The term d-cinema has also been used by the industry, signifying that the final image is either the result of an end-to-end digital chain or the digital projection of material originated on film and transferred to digital medium. The impact on the cost/benefit analysis for film distributors and cinema owners was also raised.

There was widespread support from commentators for an industry-led approach to the standardisation of e-cinema. Intervention by national authorities or the European Union was not felt to be necessary. A number of contributions referred to the European Digital Film Forum, recently established in Stockholm, at the initiative of the Swedish Presidency, as the appropriate body to take forward actions, and called for support of its objectives and projects.

There were calls for the Commission to support the development of e-cinema through the MEDIA Plus programme and to open its 'multiannual framework programme 2002-2006 for research, technological development and demonstration activities aimed at contributing towards the

⁽²¹⁾ 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 (OJ L 167, 22.6.2001).

⁽²²⁾ For example, the Swedish Folket Hus.

creation of the European research area' (the sixth framework programme) to the European industries committed to developing a high standard for electronic cinema distribution.'

The pilot projects under the MEDIA programme are the way in which Council Decisions 2000/821/EC and 2001/163/EC ensure that the MEDIA Plus⁽²³⁾ and the MEDIA Training⁽²⁴⁾ programmes respond to rapid technological change. This reflects an expectation that the use of digital technologies will make European audiovisual works more readily accessible as a result of new ways of transporting audiovisual content and thus more widely available outside their country of origin. Competitiveness in a globalisation context will increasingly depend on the use of new technologies in the development, production and distribution stages.

However, the MEDIA programmes address themselves to the audiovisual industry and not to the research community. The Commission will ensure suitable and effective coordination with the measures undertaken in the field of new technologies and in particular, *inter alia*, with the sixth framework programme, focusing on the needs and potential of SMEs operating on the audiovisual market.

The Commission's overall objective is to strengthen, through the development and use of new technologies, the European content industry, by improving the chances of such content entering into production, by encouraging its transnational distribution and by improving the potential of professionals through appropriate continuous vocational training. The target should be to develop globally recognised, open standardised e-cinema systems, through an industry-led process. This could include the following elements: to develop suitable algorithms for the compression of film quality digital content to be exhibited; to develop technologies capable of projecting such content; to develop methods of protecting the use of content through encryption; to develop methods which will allow the billing of content consumed over a network; to develop methods for the digitisation, enhancement, restoration and conservation of content.

The Commission considers that e-cinema offers important new opportunities for increasing the circulation of European audiovisual works. It considers that the priority in this respect is the delivery to cinema, i.e. business to business, although there may possibly be a consumer phase at a later date. The Commission welcomes the establishment of the European Digital Cinema Forum. It supports the objectives of this forum to establish European user requirements for all parts of the digital/electronic chain, and to facilitate the development of worldwide standards for e-cinema in a timely manner.

⁽²³⁾ OJ L 13, 17.1.2001.

⁽²⁴⁾ OJ L 26, 27.1.2001.

5. TAX ISSUES

Certain questions arise concerning the differences that exist between various types of cultural 'goods' within the Member States and the effect of fiscal measures in force in the Member States on the production and circulation of audiovisual works. It was considered that national fiscal incentives could be an important factor in the development of co-productions, as well as the harmonisation of tax practices to avoid double liability. Producers and directors felt that the Commission should ask all Member States to facilitate the creation of specialised, national or European, banks or venture capital funds with private finances, and to encourage Member States that don't have them to introduce fiscal measures to encourage audiovisual investment. A number of commentators referred to fiscal measures (in particular 'tax shelters') that were being used to finance non-European production. Cinema exhibitors considered that the Commission should encourage Member States to lower indirect taxes on cinema seats to the same level as those imposed for other cultural products.

There was widespread agreement from the different players concerned that reduced rates of VAT or a zero rate should apply to audiovisual cultural products and services. Accordingly, a number of commentators suggested that Annex H of the Sixth VAT Directive⁽²⁵⁾ should be expanded to cover either certain parts of the sector (video and online services) or the entire sector. Certain national authorities, however, questioned the need for European action although others considered that this subject should be discussed at European level.

The procedure laid down by the Directive is for the review to be carried out on the basis of a report from the Commission. On the basis of this report, the Council shall review the scope of the reduced rates every two years. The Council, acting unanimously on a proposal from the Commission, may decide to alter the list of goods and services in Annex H. The Commission laid down its policy for VAT in the communication of 7 June 2000⁽²⁶⁾. In this communication, the Commission stated that it would look at the harmonisation of rates and assess the impact of their structure on the functioning of the single market. Guidelines will be established on the basis of this analysis once the evaluation of the current pilot project for labour-intensive services⁽²⁷⁾ (for which a reduced rate may be applied until December 2002) has been completed. Particular attention will be paid to the use of reduced VAT rates in the context of the Community's priorities in this sector.

⁽²⁵⁾ Sixth Council Directive 77/388/EEC of 17 May 1977, as last amended by Directive 2001/41/EC of 19 January 2001. Annex H includes a number of items of cultural interest such as books and newspapers (including their loan), and entrance fees for cultural and other events (cinema, theatre, fairs, museums etc.) and the reception of broadcasting services.

⁽²⁶⁾ A strategy to improve the operation of the VAT system within the context of the internal market. COM(2000) 348 final.

⁽²⁷⁾ Introduced by Directive 1999/85/EC of 22 October 1999.

The Commission notes the views expressed about taxation for cultural goods and services, and in particular the request to enable those Member States who wish to do so to apply a reduced rate of VAT to all cultural goods and services without discriminating between different forms of distribution. The Commission will consider whether to respond to this request in the context of the review of Annex H of the Sixth VAT Directive, which will take place after 2002. The Commission would draw attention to the existing possibility for Member States to apply a reduced rate to cinema admissions.

6. RATING

There are two interlinked issues concerning the differences in ratings given to audiovisual works within Member States for different means of distribution and between Member States for the same means of distribution. Audiovisual works are generally subject to rating of their content, indicating for which age ranges they are considered suitable.

On the issue of differences between the Member States, a certain number of commentators (notably national authorities) considered that differences were the result of cultural differences and did not affect circulation significantly and therefore should be dealt with at a national level. Others were in favour of action to address this issue, even though they acknowledged that harmonising rating systems for audiovisual works across Europe could be difficult because of varying cultural traditions and sensitivities. There was support for increased cooperation between the competent authorities and the rating bodies to reduce the disparities from one Member State to another and from one medium to another, and to develop mutual recognition. Certain commentators considered that the role of national and European public authorities could be to support cooperation between relevant authorities possibly with the development at the European level of common descriptive criteria.

In respect of the differences between different means of distributions many commentators thought that content should be treated in the same way through the different distribution outlets. There were requests for harmonised standards, as this would facilitate the circulation of European works. It was argued that judgements about the suitability of material should be made on a more consistent and coherent basis across the media, according to a set of statutory objectives and principles for content regulation. The solution could be to set up a uniform European rating standard across audiovisual media, which would benefit consumers and suppliers and therefore positively affect production and circulation of European audiovisual works.

In its report on the recommendation on the protection of minors and human dignity⁽²⁸⁾, the Commission has stressed the need to have a coherent approach across all media. The Commission intends to continue this work and to evaluate which systems could be put in place, which would address this problem, whilst taking account of the cultural differences existing between the Member States. The Commission recognises the important cultural aspects of ratings, to be decided in accordance with the principles of subsidiarity and governance as set out in its recent White Paper⁽²⁹⁾, but considers that further analysis should be carried out of the role played by self-regulatory schemes such as NICAM in the Netherlands.

The Commission will encourage exchanges of experience in respect of ratings (to include self-regulation) with a view to increasing cooperation on this issue. In this respect, the Commission intends to launch a Study on the rating of films, for cinema, television, DVD and videocassette in the EEA. The study will evaluate the reasons for, and the impact of differences between the different national laws or self-regulatory measures for rating of films on their subsequent marketing. It also will analyse whether such differences in rating create potential confusion amongst the persons responsible for minors.

7. OTHER MEASURES TO IMPROVE THE CIRCULATION OF FILMS

A number of different ideas to increase the production and circulation of European audiovisual works were put forward, notably a number of commentators considered that the Commission should encourage the funding of the production sector and/or encourage Member States or other institutions to do so. It should be noted that the Commission, together with the European Investment Bank (EIB) and the European Investment Fund (EIF) launched the 'i2i-audiovisual initiative', which supplements the MEDIA Plus programme for 2001-2005 and focuses on both industrial goals of competitiveness together with the promotion of cultural diversity inherent in the promotion of the development of European audiovisual content. The Commission will continue to examine all appropriate financial measures to improve the production and circulation of European audiovisual works.

In this respect, the Commission highlights the positive approach taken in the recent communication adopted on State aid and risk capital⁽³⁰⁾, which it will apply for the next five years. This text is in line with the commitment to risk capital set out as a wider Community objective at the Lisbon European Council, and with the Commission's general policy of promoting risk capital in the Community⁽³¹⁾. The Commission

⁽²⁸⁾ Evaluation report from the Commission to the European Parliament and the Council on the application of the Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity, COM(2001) 106 of 27 February 2001, http://europa.eu.int/comm/avpolicy/regul/new_srv/pmhd_en.htm

⁽²⁹⁾ See note 7.

⁽³⁰⁾ OJ C 235, 21.8.2001.

⁽³¹⁾ Risk capital, a key to job creation in the European Union, SEC(1998) 552 final of 31 March 1998.

has approved a number of schemes launched by the Member States to create such funds. Encouraging exchanges of information and 'best practice' between the Member States and the Commission to identify the best means by which the various Member States could help the cinema sector, and to consider opportunities to develop them in every Member State. In this regard it could be useful to create transnational networks of European professionals in the film industry. Others identified a need for the Commission to define broad principles for the Member States and to address key issues such as the need for national approaches to avoid inhibiting trans-frontier production or circulation.

It was suggested that the European Commission should use its e-Learning initiative that seeks to mobilise the educational and cultural communities, in order to speed up changes in the education systems to introduce the knowledge of classic European films to Europe's young citizens.

Finally, there was support for the creation of a European Union TV channel to broadcast 'European films'.

The Commission considers that the exchange of information and best practice is extremely important in the sector. The audiovisual production industry is extremely complex, and faces a number of both technological and market challenges. The Commission intends to create a group of experts to discuss these issues and provide an input for the Commission for the elaboration of policy in this area. This group should gather together multidisciplinary expertise. Its objective should be to provide information and ideas on the technological and market developments in the audiovisual production sector. It should not represent Member States as such but gather the experience and knowledge in all Member States.

The Commission will examine which action could be taken in the context of its e-Learning initiative to develop image education and the knowledge of European films to Europe's young citizens.

The Commission also intends to launch a study on the identification and evaluation of financial flows within the European cinema industry, based on the analysis of the financial records of a selected number of films marketed between 1996 and 2000. This study will identify and evaluate the key factors determining the economic characteristics of the cinema industry. In particular, it will analyse the different project phases of pre-production, development, production, post-production, promotion, distribution and import and export. A description of the impact that possible relations between specific investors and amount of revenues may have had on the film performances will also be carried out.

8. QUESTIONS TO BE CONSIDERED IN THE 2002 REVIEW ⁽¹²⁾ OF THE TELEVISION WITHOUT FRONTIERS DIRECTIVE

8.1. Definitions

The definition of a European work: Different definitions of a European work exist at international, Community and national levels. The main issues identified were whether there is a need for an agreed definition at European level, what the level of detail of that definition should be, and whether it should be binding for the various uses envisaged. At Member State level a number of different definitions exist for 'European works'. It has been argued that the differences could create barriers to the circulation of European productions. These definitions have been adopted at Member State level both to implement the provisions of the TVWF Directive and for the application of national support schemes for audiovisual works.

There was widespread recognition that the issue of 'definitions' was important for all types of production. Many commentators stressed the need for such definitions to take account of the relevant context, notably support schemes, co-productions etc. and highlighted the links with the review of the TVWF Directive in 2002. Some felt that certain political objectives would benefit from a harmonised definition or, as an alternative, from coordination or mutual recognition of Member State definitions; this could simplify the creation of European co-productions and the combination of different (national or European) support schemes.

A number of commentators (including broadcasters and national authorities) felt that the differences in definition identified did not create difficulties for transfrontier production. Others (notably, film and television producers) considered that the existence of different definitions, as well as the different national interpretation of these definitions, hampers any attempt to clearly assess the economic development of the European production industry as a whole. Opinions were also divided as to whether a more detailed definition should be provided in Community law, with some asserting that this was not necessary whilst others called for harmonisation.

In respect of the criteria that should be adopted a number of different views were expressed. Views were divided between the merits of the widest possible definition or a stricter approach, and of cultural or economic criteria. Certain criteria such as the control of rights were the subject of disagreement. Other commentators put forward criteria such as the use of a labour-based definition, or 'cultural' elements.

The definition of an independent producer: A number of different definitions of an 'independent producer' and 'independent production' exist across Europe. Many Member States use the notion of independent producer to delimit the

beneficiaries of national State aid schemes. The issues of the meaning of 'independence' and the criteria to establish whether a producer is independent were raised.

There was broad agreement that it was necessary to clarify the underlying policy objectives, in particular in the light of new industry structures. Certain commentators noted a potential tension between the objectives of increasing European competitiveness and that of promoting cultural diversity within Europe. The latter goal would appear to be in line with the original aims of the TVWF Directive to stimulate the creation of new sources of TV production, notably by favouring the creation of SMEs, which will compete with the existing established producers. It would imply focusing the protection offered by the current system on SMEs, rather than extending it to larger groups linked to broadcasters. In this respect, it was also noted that the distinction between producers and broadcasters is not as clear as it used to be, as they frequently form part of vertically integrated groups and the relationship is therefore increasingly complex. Any definition should therefore include links with interests in different parts of the audiovisual value chain. There was a certain amount of support for a European definition, which could ensure that Member States used the same interpretation. The general opinion was that the issue should be considered in the review of the TVWF Directive.

The distinction between the notions of independent producer and independent production was highlighted by producers and directors. The important contribution of independent producers was stressed by a large number of commentators, in particular in view of the need to promote cultural diversity. In respect of possible criteria that could be used a number of commentators considered that the starting point should be the relevant recital in the TVWF Directive (Recital 31).

There was disagreement notably between broadcasters and producers as to whether the criteria should include a limitation on the duration of the transfer of rights from producers to broadcasters. Broadcasters considered that any intervention at the European level to introduce a time or other limit on rights ownership by broadcasters would be unjustified and contrary to the objectives of European audiovisual policy, as well as having an adverse effect on competition. Producers considered that the re-transfer of traditional rights back to the producer and the fair negotiation of new media rights can only benefit the circulation of audiovisual works, and increase the quantity and quality of European content available to new delivery platforms.

Key criteria put forward included the free choice of facilities, free choice of international distribution, majority participation link, company ownership and shareholdings. Others suggested that any definition should focus on the notion of 'independence' to retain the distinction between broadcasters and producers. A number of broadcasters (public service and commercial) considered that the current definition of 'independence from a broadcaster' should be altered to reflect developments in the sector, notably the increasing concentration and creation of media conglomerates and the presence of other platforms linked back to broadcasters.

⁽¹²⁾ Review provided by Article 26 of the directive;
see http://europa.eu.int/comm/avpolicy/regul/regul_en.htm

In respect of the use of this definition for the application of Community competition rules it was suggested that consideration should be given to the question of independent production when looking at mergers and joint ventures to ensure that the sector (composed mainly of SMEs) would not be adversely affected. This should include, in particular, control of production, access to distribution channels, and the retention of rights for independents in respect of catalogues.

The Commission considers that the debate launched in this context will provide useful input to the studies that have been launched in preparation of the review of the TVWF Directive in 2002, and intends to take this issue forward in that context. It notes that the review should pay particular attention to the objectives to be achieved, notably in respect of the need to promote cultural diversity and the role played by the definition in that respect as well as to the wide range of possible criteria to be evaluated.

8.2. Questions on media chronology and online rights

This issue concerns the chronology of windows for the economic exploitation of films in Member States of the European Union, which is based on agreements between the relevant economic actors⁽³³⁾. An obligation exists in Community law for Member States to ensure that broadcasters under their jurisdiction do not broadcast cinematographic works outside periods agreed with the right-holders⁽³⁴⁾.

There was widespread agreement from commentators that this was sufficient and that provided that the principle of media chronology was guaranteed at the European level, deadlines for film exploitation should be left to contractual arrangements between the parties involved. Certain commentators felt that to harmonise practices would be counterproductive. Others spoke up in favour of self-regulation.

The new issues in terms of defining on-line and new media rights created by the distribution of European production on-line were highlighted and comments on the implications for different actors in the value chain (bundling of rights etc) were requested. Broadcasters and producers disagreed as to the need to categorise rights, with producers considering that there was a need to categorise and to define the different groups of rights.

In general, producers considered that broadcasters already acquired new media rights at no additional cost, since these rights were not clearly defined in the contract and negotiated separately. Broadcasters agreed that negotiations for rights must recognise the range of platforms over which there is potential for exploitation, and make clear arrangements either to include or exclude those additional rights in any agreement, subject to fair payment (current practice). In addition, they considered

that intervention would curtail commercial freedom for both parties.

The Commission considers that the consultation has confirmed that the current position under Community law remains the best solution, permitting a flexible approach to the use of rights for different media windows. It notes the concerns expressed by producers in terms of bundling of rights and intends to consider this question insofar as it is linked to the definition of an independent producer in the context of the review of the TVWF Directive in 2002.

9. NEXT STEPS

The fundamental principles, which are at the heart of the Community's audiovisual policy, remain fully valid. The Community will develop this policy on the basis of existing regulatory instruments and support mechanisms, but also explore the possibility of using new instruments or initiatives to achieve these objectives. Technological and market developments must be seen in the light of the need to reinforce Europe's cultural and linguistic diversity and preserve our audiovisual heritage. In this respect, the Commission has identified a certain number of initiatives that could be taken to promote the circulation of works and will therefore launch the following actions:

Timetable for action

Subject	Action	Completion date
Ratings	Independent study on the evaluation of rating practices	2002
Other issues	Creation of a cinema experts group	2002
Other issues	Independent study on financial flows within the European cinema industry	2002
Protection of heritage and exploitation of audiovisual works	Stocktaking, before launch of initiative	Mid-2002
Definitions of a European work and an independent producer	Review of the Television Without Frontiers Directive	End of 2002
Tax issues	Review of Sixth VAT Directive	After 2002
e-Cinema	Inclusion in MEDIA Plus and sixth framework programme	2002-2006

⁽³³⁾ Supplemented by legislation in Germany, France and Portugal.

⁽³⁴⁾ Article 7 of the amended TVWF Directive.

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