



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.03.1999  
COM(1999) 111 final

99/0066 (CNS)

Proposal for a

COUNCIL DECISION

**CONCERNING COMMUNITY PARTICIPATION  
IN THE EUROPEAN AUDIOVISUAL OBSERVATORY**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. BACKGROUND AND ROLE OF THE EUROPEAN AUDIOVISUAL OBSERVATORY

1.1. The Ministers or Representatives of 26 European States<sup>1</sup> as well as the President of the Commission of the European Communities, meeting in Paris on 2 October 1989, adopted the Joint Declaration establishing Audiovisual Eureka. In this Declaration, they *inter alia* mandated the Co-ordinators' Committee<sup>2</sup> to "examine questions relating to the institution, role and organisation of a European Audiovisual Observatory, as well as the modalities of its establishment and functioning, in cooperation with the professionals of the sector". The Council of Europe was invited "to examine what measures could be taken to support the activities of the Observatory" (Article 9 of the Joint Declaration).

1.2. The Ministers or Representatives of 29 European States, as well as a Member of the Commission, meeting in Helsinki on 12 June 1992 decided to establish the European Audiovisual Observatory and stated that its objectives were to improve the transfer of information within the audiovisual industry and to promote a clearer view of the market and a greater transparency. The Observatory was to "focus in the first instance on the main categories of information requested by the professionals".

It was also noted that France and Germany had offered to host the Observatory.

1.3. The Observatory was accordingly established in Strasbourg on the basis of a "Partial Agreement" of the Council of Europe adopted on 15 December

---

<sup>1</sup> Including all the then and present Member States.

<sup>2</sup> The governing body of Audiovisual Eureka, of which all the Member States and the Commission are Members.

- 1992.<sup>3</sup> The Statute appended to the Resolution stipulates that "the aim of the Observatory shall be to improve the transfer of information within the audiovisual industry, to promote a clearer view of the market and a greater transparency and specifically, the task of the Observatory shall be to collect and process information and statistics on the audiovisual sector (namely, legal, economic and programme information)".
- 1.4. The Observatory having been established for a pilot phase by the 1992 Resolution, an external evaluation was carried out after three years of operation. This involved extensive consultation of the audiovisual industry, which expressed, in an opinion of the Advisory Committee, its support for the continuation of the Observatory. Accordingly, the Committee of Ministers of the Council of Europe adopted, on 20 March 1997, a Resolution<sup>4</sup> "confirming the continuation of the European Audiovisual Observatory" for an indefinite period. The Commission was represented at this meeting and a recital in the Resolution "takes note of the position of the Commission of the European Communities, following the Arrangement between the Council of Europe and the European Community, concluded on 16 June 1987 and supplemented of 5 November 1996, in favour of the continuation of the Observatory". The new Statute appended to the Resolution confirmed the aims of the Observatory. Its services are to be mainly aimed at catering for the needs of professionals in the industry. They exclude explicitly "any standard-setting or regulatory activities".
- 1.5. The Commission has been a Member of the Observatory since its foundation, and is represented in its constituent bodies (the Executive Council and the Advisory Committee) as well as in its various functional organs such as the Financial Committee and the Editorial Board of IRIS (the legal information newsletter). It has contributed to the Observatory's operating budget since its inception according to a financial weighting which puts the Commission on a par with the larger Member States i.e. 12,25% of the overall budget (thus the Commission's contribution in 1999 will be 200.000 Euros).<sup>5</sup>
- 1.6. Several Commission departments benefit regularly from the Observatory's core services, in particular DGs IV, XIII and XV as well as DGX, free of charge. Eurostat has also had an on-going cooperation with the Observatory since 1993. Notwithstanding, the Observatory's main "customers" are undoubtedly the audiovisual industry and related sectors themselves, representatives of which also compose the majority of the Members of the

---

<sup>3</sup> Resolution (92)70 establishing a European Audiovisual Observatory adopted by the Committee of Ministers. The Commission was represented at the meeting. The Resolution refers explicitly, in connection with the Commission's participation, to the Arrangement between the Council of Europe and the European Community concluded on 16 June 1987.

<sup>4</sup> N°(97)4.

<sup>5</sup> This contribution is provided for in the commentary to budget line B3-2016.

Advisory Committee. Other frequent users of the Observatory's services are its Member States and the European Parliament.

## 2. THE COMMUNITY'S STATISTICAL ACTIVITIES IN THE AUDIOVISUAL FIELD

- 2.1. The Commission (EUROSTAT, in conjunction with DGX) ran a series of pilot activities between 1993 and 1997 in cooperation with the Member States under the implementation of Council Decision 93/464/EEC "on a framework for priority actions in the field of statistical information"<sup>6</sup>. This decision 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. As a follow-up, and in order to establish a multi-annual legal basis for the required expenditure in the succeeding phase, the Commission proposed, on 27 July 1998, a Council Decision "establishing a Community statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors"<sup>7</sup>. This proposal is based on Art. 213 EC. It is a specific action that fits in with the overall framework for Community statistics created by Council Regulation 322/97 of 22 February 1997<sup>8</sup>.

In the Explanatory Memorandum the Commission explained that all the Member States have structures for collecting statistical data on certain branches of the audiovisual industry. In some cases these structures are well developed but in others they still need to be improved. Moreover, the recent emergence of new broadcasting technologies and their consequences mean that new services and products need to be covered. For a number of years the Member States have regularly supplied data to the Commission on a voluntary basis. The proposed Decision seeks to provide a harmonized framework for the Member States' efforts in order to make best use of them and reap the full benefits of synergy. The decision is designed to encourage the necessary adjustments in the different Member States to ensure that optimum use is made of existing statistics and that suitable information is obtained about the various audiovisual markets. By virtue of the principle of subsidiarity, the objectives of the proposed action can be achieved only by a Community legal act, as only the Commission is in a position to coordinate the requisite harmonisation of information at Community level.

- 2.2. The proposal has received a positive response from the European Parliament and the Council. Its adoption can be expected in the near future. There is consensus that Eurostat's activities and those of the Observatory are complementary and strengthen each other. Both actions are necessary. The reasons for this are as follows:

---

<sup>6</sup> O.J. L019, 18.8.1993.

<sup>7</sup> SEC(1998)1325 final; 98/0269(CNS).

<sup>8</sup> O.J. L52, 22.2.1997, p. 1.

- Eurostat's primary preoccupation is to meet the statistical needs of its users. These are the Commission and other Community institutions, governments of Member States, operators on the internal market and the public at large. Its primary contribution to the statistical coverage of the audiovisual sector is to promote the development of officially collected statistics. This is oriented to the regular collection of harmonised and comprehensive series of data, which are structural or functional in nature.
- The Observatory's mission, while specifically excluding standard-setting or regulatory activities, is focused on providing functional information, i.e. information pertinent to the operative needs of companies and professionals. Its officially recognised target groups are professionals of various categories, governments and public authorities taking last priority. This approach makes for a flexible operational mode with an emphasis on rapidly providing succinct data from available sources.

Statistical fields naturally falling under Eurostat's competence are macro-economic questions, like balance of payment figures, impact of "copyright industries" and audiovisual employment. Eurostat's emphasis is on a stable knowledge of the sector in order to be able to make national and time comparisons. Detailed market information needed by operators in the field naturally falls within the Observatory's competence. Moreover, while some functional statistics foreseen in Eurostat's project fall outside the Observatory's remit (radio, the record industry and information technology), a major area of the Observatory's activities – provision of legal information – is not dealt with at all by Eurostat.

Finally, the Observatory's geographical remit covers the markets of its 34 Member States (including all the European Union Member States, the parties to the European Economic Area, all the candidate countries, Switzerland and Russia).

- 2.3. Taking account of the above, regular contacts are organised between the Observatory and Eurostat which have resulted in a "modus operandi" enshrined in the agreed minutes of a meeting that took place on 15 September 1998.

### **3. CONCLUSIONS AND PROPOSAL FOR A COUNCIL DECISION CONCERNING COMMUNITY PARTICIPATION IN THE EUROPEAN AUDIOVISUAL OBSERVATORY**

In the course of the discussions in Council of the afore-mentioned proposal for a Council Decision "establishing a Community statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors", a majority of Member States called for the Commission to put forward proposals to establish a legal basis for the Community's contribution to, and participation in, the Observatory<sup>9</sup>. The European Parliament has expressed similar concerns. This

---

<sup>9</sup> The subject was brought up at the Council meeting on 17 November 1998. Similarly, the Observatory's Executive Council, which includes all Member States, adopted a "communication" expressing an identical wish on 16 November 1998.

position is motivated *inter alia* by the European Court of Justice's decision of 12 May 1998 (case C106/96) on legal bases. The Commission shares the view that it is appropriate to ensure that the Community's participation in, and financial contribution to, the European Audiovisual Observatory is put on a firm legal footing. This needs to be done urgently, in order to cover the contribution foreseen in 1999. The Commission accordingly submits the appended proposal for a Council Decision. The proposal is based on Art. 130(3)EC because the Observatory's main aim is to contribute to improving the competitiveness of the Community's audiovisual industry, notably by improving the transfer of information within the industry and promoting a clearer view of the market.<sup>10</sup>

---

<sup>10</sup> It is relevant to note that Council Decision 95/563/EC in the implementation of a programme encouraging the development and distribution of European audiovisual works (MEDIA II) is also based on Art. 130(3)EC.

Proposal for a

COUNCIL DECISION

**CONCERNING COMMUNITY PARTICIPATION  
IN THE EUROPEAN AUDIOVISUAL OBSERVATORY**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130(3) thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>,

- (1) Whereas Resolution (97)4 adopted by the Committee of Ministers of the Council of Europe on 20 March 1997 confirmed the continuation of the European Audiovisual Observatory initially established by Resolution (92)70 adopted by the Committee of Ministers on 15 December 1992;
- (2) Whereas all the Member States are members of the European Audiovisual Observatory;
- (3) Whereas the Council adopted on ..... 1999 Decision 99/---/EC establishing a Community statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors<sup>4</sup>;
- (4) Whereas it is necessary to ensure complementarity between the work undertaken under the afore-mentioned Council Decision and the European Audiovisual Observatory;
- (5) Whereas the European Audiovisual Observatory contributes to strengthening the competitiveness of the Community's audiovisual industry notably by improving

---

<sup>1</sup> O.J.

<sup>2</sup> O.J.

<sup>3</sup> O.J.

<sup>4</sup> O.J.

the transfer of information with the industry and promoting a clearer view of the market.

HAS DECIDED AS FOLLOWS:

**Article 1**

The Community shall be a member of the European Audiovisual Observatory.

**Article 2**

The Commission shall represent the Community in its relations with the Observatory.

**Article 3**

The appropriations required for the Community's financial contribution to the Observatory's operating budget shall be authorised by the Budgetary Authority in accordance with the financial perspective in force.

**Article 4**

This decision shall expire on the last day of the last month of the fifth year following the year of its adoption.

**Article 5**

Before the end of the third year following the year of adoption of this decision, as well as upon expiry of this decision, the Commission shall present to the European Parliament, the Council and the Economic and Social Committee a report on its implementation.

Done at Brussels,

For the Council  
The President



**FINANCIAL STATEMENT**  
**ON THE PROPOSAL FOR A COUNCIL DECISION**  
**CONCERNING COMMUNITY PARTICIPATION IN THE**  
**EUROPEAN AUDIOVISUAL OBSERVATORY**

# FINANCIAL STATEMENT

## 1. TITLE OF OPERATION

Participation in, and financial contribution to, the European Audiovisual Observatory.

## 2. BUDGET HEADING INVOLVED

Section III (Commission), Part B (operational expenditure)

B3-2016

## 3. LEGAL BASIS

Council Decision 99/---/EC concerning Community participation in European Audiovisual Observatory (OJ L----, ----- 1999).

## 4. DESCRIPTION OF OPERATION

### 4.1. General objective

In complementarity with the proposed Council Decision establishing a Community statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors (SEC(1998)1325 final), collection and processing of information on legal and economic matters in the audiovisual field, and on audiovisual programmes, and making them available to the professionals, by and through the European Audiovisual Observatory.

### 4.2. Period covered and arrangements for renewal

Multiannual.

The measures are provided for by the proposed Council Decision and cover the period specified in Art. 4 thereof.

Period covered: 1999-2004

## 5. CLASSIFICATION OF EXPENDITURE OR REVENUE

### 5.1. Compulsory/non-compulsory expenditure

Non-compulsory expenditure.

### 5.2. Differentiated/non-differentiated appropriations

Differentiated appropriations.

### 5.3. Type of revenue involved

None.

## 6. TYPE OF EXPENDITURE OR REVENUE

The Community contribution to the Observatory represents 12.25% of the total budget, fixed annually by the Executive Committee and adopted by the Financial Committee (composed of representatives of members of the Observatory, including the European Commission). The remainder of the budget is contributed by the Member States of the Council of Europe which are also members of the Observatory, according to the weighting applied for Eureka Audiovisual.

### *Reimbursement*

Reimbursement may be requested in whole or in part in respect of activities for which financing was granted but which are not executed or executed only in part.

### *Reallocation of revenue*

Revenue from the sale of publications or services by the Observatory serves to cover part of its operating costs (the remaining expenditure is covered by the members according to the pre-determined weighting).

## 7. FINANCIAL IMPACT

### 7.1. Method of calculating total cost of operation (relation between individual and total costs)

The amount earmarked for the Community contribution to the Observatory is based on the weighting for common costs applied for Eureka audiovisual.

### 7.2. Itemised breakdown of cost

This expenditure corresponds to the Community contribution to the Observatory's budget as described in point 6.

### Commitment appropriations (EURO thousands at current prices)

Breakdown	1999	2000	2001	2002	2003	2004	Total
Contribution to the operating budget of the European Audiovisual Observatory	200	215	220	225	230	235	1325

### 7.3. Schedule of commitment and payment appropriations

#### Commitment appropriations (EURO thousands)

	1999	2000	2001	2002	2003	>2004	Total
<b>Commitment appropriations</b>	200	215	220	225	230	235	1325
<b>Payment appropriations</b>	200	215	220	225	230	235	1325
<b>Total</b>	200	215	220	225	230	235	1325

### 8. FRAUD PREVENTION MEASURES

The information supplied is checked by Commission departments before payment, in the light of contractual commitments, and the principles of economy and sound financial management. Fraud prevention measures (control, report, etc.) are included in all agreements or contracts concluded between the Commission and recipients of payments.

The annual budget of the Observatory is subject to an outside audit which checks that the bookkeeping procedures are sound. An annual report is drawn up by the auditors.

### 9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

#### 9.1. Specific and quantified objectives: target population

##### *Specific objectives*

The Observatory's objectives are to contribute to strengthening the competitiveness of the European Audiovisual Industry through improving the transfer of economic and legal information and promoting a clearer view of the market and transparency.

##### *Target population*

The beneficiaries of this operation are: the Audiovisual Industry, the Community institutions, Member States' governments, economic and social decision-makers in the Member States, research institutes, universities and the media.

## **9.2. Grounds for the operation**

*Why this particular operation rather than any other that might bring the same objectives within reach?*

The measures complement those provided for by the Draft Council Decision "establishing a statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors" (SEC(1998)1325 final). They are also necessary to fulfil the Commission's obligations as a Member of the European Audiovisual Observatory.

*Need for Community financial aid*

With respect to the Community contribution to the Observatory, Community participation in the Observatory gives it access to information on economic and legal matters and professional practice in the audiovisual and related markets.

The expected spin-off and multiplier effects supplement those planned in the proposed Council Decision (SEC(1998)1325 final) and will contribute to improving statistical and legal information on the audiovisual and related sectors in the European Union and where possible in greater Europe. Reliable and up-to-date information is essential for monitoring, evaluating and formulating Community programmes, and is of vital importance to the industry itself.

## **9.3. Monitoring and evaluation of the operation**

Each year the European Audiovisual Observatory reports on progress in the previous year, summing up the substance of the measures implemented and analysing the main results achieved. The Observatory is also subject to external audit. The proposed Council Decision stipulates mid- and full term Reports to the European Parliament, Council and ECOSOC.

## **10. ADMINISTRATIVE EXPENDITURE (SECTION III, PART A OF THE BUDGET)**

Actual mobilisation of the necessary administrative resources will depend on the annual budgetary decision on the allocation of resources by the budgetary authority. The Commission's participation in the Observatory's constituent and functional bodies already require the following resources.

### 10.1. Effect on the number of posts

Type of post		Staff to be assigned to managing the operation		Source		Duration
		Permanent posts	Temporary posts	Existing resources in Directorate-General/department concerned*	Additional resources	
<b>Officials or temporary staff</b>	<b>DGX</b>					
A		½		½		6 years
B						
C						
<b>Other resources</b>						
<b>Total</b>		½		½		6 years

Note: \*Existing resources (officials) in DGX

### 10.2. Overall financial impact of human resources (cf. 10.1)

Indicator: annual personnel expenditure, 1999

	Amounts*	Method of calculation
<b>Officials</b>	324.000	(108 000 EUROS x ½) x 6 years
<b>Temporary staff</b>		
<b>Other resources (Indicate budget heading)</b>		
<b>Total</b>	324.000	

Note\*: By using existing resources necessary to manage the operation (calculation based on titles A-1, A-2, A-4, A-5, and A-7).

### 10.3. Increase in other administrative expenditure as a result of the operation

None.

ISSN 0254-1475

COM(99) 111 final

# DOCUMENTS

EN

16 06 15

---

Catalogue number : CB-CO-99-113-EN-C

---

Office for Official Publications of the European Communities

L-2985 Luxembourg