Meeting in Brussels

Wednesday, 11 February 2009
3.00 p.m. - 6.30 p.m.
Thursday, 12 February 2009
9.00 a.m. - 12.30 p.m.

Room: József Antall 6Q2

1. ADOPTION OF THE DRAFT AGENDA

The item 9 is postponed after item 16 on Thursday, 12 February 2009.

2. ANNOUNCEMENTS

- The PES Group announce the arrival of
  - Mr Alin Lucian Antochi as Member in replacement of Mr Titus Corlăţean
  - Mr Bernard Soulage as Substitute in replacement of Mr Michel Rocard.

- The coordinators decide to propose the appointment of:
  - Mr Zwiefka as rapporteur for the "Bilateral agreements between Member States and third countries concerning sectoral matters and covering applicable law in contractual and non-contractual obligations"
  - Mr Sakalas as rapporteur for the "Request for defence of Mr Aldo Patriciello's parliamentary immunity"
  - Ms Wallis as rapporteur for opinion for the "Consumer rights" (Responsible: IMCO)
  - Ms Siitonen as rapporteur for opinion for the "Taxation of savings income in the form of interest payments" (Responsible: ECON)
  - Ms Bowles as rapporteur for opinion for "Credit rating agencies" (Responsible: ECON)
  - Mr Zvěřina as rapporteur for opinion for the "Standards of quality and safety of human organs intended for transplantation" (Responsible: ENVI)
  - Mr Papastamkos as rapporteur for opinion for the "Rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) N° 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws" (Responsible: TRAN)
  - Mr Zwiefka as rapporteur for opinion for the "Bilateral agreements between Member States and third countries on judgments and decisions in matrimonial matters, parental responsibility and maintenance obligations" (Responsible: LIBE)

- JURI delegations during the first semester of 2009:

  Taking into account that only 6 members of the committee are allowed to travel during the first semester of 2009 and that the time limit to hold the visits is 31 March, the coordinators propose postpone the planned visit to Hungary to the second semester of 2009.

  The visit to Rome will take place in March, from the afternoon of Wednesday 4th to the morning of Friday 6th. The programme will be circulated as soon as possible. As agreed,
the programme will focus on the application of Community Law at national and regional level.

Note of the Policy Department:

The coordinators decide to request a Handbook "ABC..." summing up EC legislation on the legal fields falling within its competences.

33. ANY OTHER BUSINESS

ELECTION OF A VICE-PRESIDENT

The Committee on Legal Affairs will proceed to the election of a first Vice-President.

The PES Group propose the candidature of Mr Alin Lucian Antochi as first Vice-Chair of the Committee on Legal Affairs in replacement of Mr Titus Corlățean.

PRESENTATION


The study has been commissioned to ECAS - European Citizen Action Service.

CONSIDERATION OF A DRAFT REPORT

4. REPORTING AND DOCUMENTATION REQUIREMENTS IN THE CASE OF MERGER AND DIVISIONS


The 3rd and the 6th Company Law Directives currently contain a number of detailed reporting requirements that companies involved in a merger/division have to comply with and which impose considerable costs on them. In certain situations, the conjunction with the 2nd Company Law Directive can lead to a further increase in costs. Furthermore, the means provided for in the Directives to inform shareholders about the details of the transactions were designed 30 years ago and therefore do not take into account today's technological possibilities. This leads to unnecessary costs, including environmental costs that can be avoided. Finally, changes in other Directives during the last years and in particular to the 2nd Company Law Directive in the area of creditor protection have lead to certain inconsistencies between the different directives.

At this meeting the rapporteur will present her draft report. The presentation will be followed by the exchange of views.

EXCHANGE OF VIEWS

5. 25TH ANNUAL REPORT FROM THE COMMISSION ON MONITORING THE APPLICATION OF COMMUNITY LAW (2007)
CONSIDERATION OF A DRAFT OPINION

6. EQUAL TREATMENT BETWEEN MEN AND WOMEN ENGAGED IN AN ACTIVITY IN A SELF-EMPLOYED CAPACITY

La directive 86/613/CEE du Conseil, du 11 décembre 1986, a pour objet l’application du principe de l’égalité de traitement entre les hommes et les femmes exerçant une activité indépendante, y compris une activité agricole, ainsi que la protection de la maternité.

La directive 86/613/CEE n’a pas atteint son objectif consistant à donner aux conjoints aidant, véritables travailleurs invisibles, un statut professionnel clairement défini et à fixer leur droits et garantie minimales.

La directive 86/613/CEE couvre deux catégories différentes de personnes:

1) les “travailleurs indépendants”, à savoir toute personne exerçant, dans les conditions prévues par le droit national, une activité lucrative pour son propre compte, y compris les exploitants agricoles et les membres des professions libérales
2) leurs conjoints non salariés ni associés qui participent, de manière habituelle et dans les conditions prévues par le droit national, à l’activité du travailleur indépendant en accomplissant soit les mêmes tâches, soit des tâches complémentaires.

En décembre 2007, le Conseil a sollicité la Commission à “examiner s’il convenait de modifier la directive 86/613/CEE du Conseil afin de garantir aux travailleurs indépendant et à leurs conjoints aidants l’exercice de leurs droits liés à la maternité ou à la paternité”.

En mars 2008, le Parlement européen a également attiré l’attention de la Commission pour qu’elle procède au réexamen de la directive afin d’améliorer la situation des conjoints aidant dans l’agriculture.

Lors de cette réunion, un échange de vues aura lieu.
The Commission has recently come up with an unusual justification for Community competence to legislate. It has argued that, when shared competence has been exercised in such a way as to render it practically impossible for Member States to deviate from Community rules, a new EC act amending European legislation in the field in question is no longer exercised under shared competence, but under exclusive competence. Consequently, the principle of subsidiarity would not apply. Such a change would be “constitutional” in nature, and therefore needs further attention, given that exclusive competence would depend only on the scope and content of previously enacted EC measures. It may seem more appropriate to argue, as Commission has in fact done in a similar case, that the scope and content of a legislative act do not cause the nature of the alleged competence to change; more simply, when a (shared) competence has been exercised, a subsequent amending act which does not exceed the boundaries established by the amended act is deemed to comply with the principle of subsidiarity on the same grounds already set forth in the justification of the amended act. Therefore, on this view, the amending act still falls within shared competence and the principle of subsidiarity still applies, whilst the justification is based on the same reasoning as the amended act. The point is of practical importance: under the regime of shared competence, Member States still retain their right to legislate in the event that the Community should withdraw its measures or otherwise choose not to regulate the subject; whereas, where a matter falls within exclusive competence, if the Community should cease to exercise it, in no case would national legislation be competent to deal with the matter. The Rapporteur responsible for questions of subsidiarity - Mr Speroni - will open the discussion, setting forth some key concerns.

The Commission’s White Paper puts forward proposals for policy choices with a view to ensuring that victims of infringements of EC competition law have access to effective redress mechanisms. Both the main committee’s rapporteur, Klaus-Heiner Lehne, and JURI’s draftsman, Francesco Speroni, have noted that parallel proposals as regards consumer protection will be forthcoming in the near future from Commissioner Kuneva. It would also be possible to envisage proposals on collective redress for questions relating to the environment and public health.

In view of this, amendments have been put forward to the effect that the Commission should envisage a proposal for a horizontal collective redress procedure.

Since this raises a legal basis problem, the Committee requested an opinion from the Legal Service, which will be presented and discussed at this meeting.

La commission des affaires juridiques examinera les conséquences à tirer de l’arrêt C-133/06, en particulier la pertinence de présenter une question orale à la Commission.

At this meeting the Committee on Legal Affairs will have to examine whether it recommends to the President that Parliament should intervene in support of the appeal brought by the European Commission before the Court of First Instance in Case T-572/08 P, Commission v. Traore, against the judgment of the Civil Service Tribunal of 13 November 2008 (F-90/07).
13. REQUEST FOR THE DEFENCE OF THE IMMUNITY OF MR RENATO BRUNETTA

Procédure 2008/2147 (IMM)
Rapporteur Aloyzas SAKALAS
Administrateur respons. Giorgio Mussa

PRELIMINARY TIMETABLE
Echange de vues 11.02.2008

At the sitting of 4 June, the President of Parliament announced that he had received a request for the defence of the parliamentary immunity of Renato Brunetta (former MEP) by letter of 15 May 2008, which was forwarded to the Committee on Legal Affairs, pursuant to Rule 6(3°) of the Rules of Procedure.

At this meeting a first exchange of views will take place.

14. REQUEST FOR THE DEFENCE OF THE IMMUNITY OF ALDO PATRICIELLO

Procédure 2008/2323 IMM
Rapporteur Aloyzas SAKALAS
Administrateur respons. Andrea SCRIMALI

PRELIMINARY TIMETABLE
Echange de vues 11-12.02.2009

At the sitting of 20 November 2008 the President announced, under Rule 6 of the Rules of Procedure, that he had received a request for the defence of the parliamentary immunity from Mr Aldo Patriciello MEP, in connection with criminal proceedings brought against him before the District Court of Campobasso (Italy).

The President referred the request to the Committee on Legal Affairs pursuant to Rule 6(3). At this meeting a first exchange of views will take place.

15. VERIFICATION OF CREDENTIALS

Procédure 2008/2323 IMM
Rapporteur Giuseppe GARGANI
Administrateur respons. Andrea SCRIMALI

PRELIMINARY TIMETABLE
Echange de vues 11-12.02.2009
Adoption JURI 11-12.02.2009

The President announced to the plenary that the competent national authorities had given notice of the appointment of the following as Member(s) of the European Parliament, with effect from the date(s) shown below:

- Ms Maria BERGER (to replace Ms Karin SCHEELE), as from 11 December 2008;
- Ms Eva-Riitta SIITONEN (to replace Ms Piia-Noora KAUPPI), as from 1 January 2009;
- Mr Alin Lucian ANTOCHI (to replace Mr Titus CORLĂȚEAN), as from 21 January 2009;
- Mr Călin Cătălin CHIRIȚĂ (to replace Ms Mihaela POPA), as from 22 December 2008;
- Ms Vasilica Viorica DĂNCILĂ (to replace Mr Cătălin-Ioan NECHIFOR), as from 21 January 2009;
- Mr Daniel Petru FUNERIU (to replace Mr Dumitru OPREA), as from 22 December 2008;
- Mr Adrian MANOLE (to replace Ms Roberta Alma ANASTASE), as from 22 December 2008;
- Mr Iosif MATULA (to replace Ms Monica Maria IACOB-RIDZI), as from 22 December 2008;
- Mr Alexandru NAZARE (to replace Mr Petru FILIP), as from 22 December 2008;

According to Rule 3 of the Rules of Procedure, on the basis of a report by the JURI Committee, Parliament shall verify the credentials without delay and rule on the validity of the mandate of each of its newly elected Members. Parliament will also rule on any dispute referred to it pursuant to the provisions of the Act of 20 September 1976, except those based on national electoral laws. It is not possible to confirm the validity of the mandate of a Member unless the written declarations required on the basis of Article 7 of the Act of 20 September 1976 and Annex I to the Rules have been made. Until such time as a Member’s credentials have been verified or a ruling has been given on any dispute, the Member shall take his seat in Parliament and on its bodies and shall enjoy all the rights attaching thereto.

16. REQUEST FOR THE WAIVER OF THE IMMUNITY OF MR ANTONIO DI PIETRO

Procédure 2008/2146 IMM
Rapporteur Aloyzas SAKALAS
Administrateur respons. Giorgio Mussa

PRELIMINARY TIMETABLE
Hearing 11.02.2008

By letter of 15 May 2008, the Permanent Representation of Italy to the EU forwarded to the European Parliament the order of the Civil
Court of Rome of 10 April 2007 in civil case No 85124/2003 between Filippo VERDE (claimant) and Antonio DI PIETRO (defendant).

In its order, the Italian Court, in considering the defence raised by Mr DI PIETRO by way of objection of inadmissibility, asks the European Parliament to rule on the immunity of Mr DI PIETRO, given that he was a member of the European Parliament at the material time.

### CONSIDERATION OF A DRAFT REPORT

#### 17. PARLIAMENTARY IMMUNITY IN POLAND

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<td>Diana WALLIS</td>
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<td>Ewa Wojtowicz</td>
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#### PRELIMINARY TIMETABLE

- **Echange de vues**: 19.01.2009
- **Presentation projet de rapport**: 12.02.2009
- **Délai d'amendements**: 5.03.2009
- **Examen des amendes**: 9.03.2009
- **Adoption JURI**: 31.03.2009
- **ADOPTION PLENIERE**: avril II 2009

Le projet de rapport aborde principalement deux questions : celle de la recevabilité des demandes de levée de l'immunité présentées par des citoyens individuels et celle du traitement inégal des députés européens par rapport aux députés nationaux en ce qui concerne les conséquences d'une condamnation pénale sur leur éligibilité.

### CONSIDERATION OF A DRAFT REPORT

#### 18. BILATERAL AGREEMENTS BETWEEN MEMBER STATES AND THIRD COUNTRIES CONCERNING SECTORAL MATTERS AND COVERING APPLICABLE LAW IN CONTRACTUAL AND NON-CONTRACTUAL OBLIGATIONS

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<td>Rapporteur</td>
<td>Tadeusz ZWIEFKA</td>
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<td>Administrateur responsable</td>
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<td>Roberto Bianchini</td>
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<td>Rosalind Donhove-Mason</td>
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<td>Comm. avis/rapporteur</td>
<td>LIBE/Gérard DEPREZ</td>
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#### PRELIMINARY TIMETABLE

- **Echange de vues**: 10-11.02.2009
- **Délai d’amendements**: 10.03.2009
- **Adoption JURI**: 31.03.2009

Apart from pre-existing bilateral agreements, there may also be a need for the conclusion of new agreements with third countries governing areas of civil justice that come within Title IV of the EC Treaty.

In Opinion 1/03 of 7 February 2006 relating to the conclusion of the new Lugano Convention, the Court of Justice held that the Community has acquired exclusive competence to conclude international agreements with third countries, on matters affecting the rules set out inter alia in Regulation (EC) No 44/2001 ("Brussels I"), in particular on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. In its opinion the Court found that analysis of the provisions of the new Lugano Convention relating to the rules on jurisdiction showed that those provisions affected the uniform and consistent application of the Community rules on jurisdiction and the proper functioning of the system established by those rules. With regard to the proposed Convention's rules on recognition and enforcement of judgements the Court came to a similar conclusion. It found that the Community rules on the recognition and enforcement of judgments were indissociable from those on the jurisdiction of courts, with which they formed a unified and coherent system, and that the new Lugano Convention would affect the uniform and consistent application of the Community rules as regards both the jurisdiction of courts and the recognition and enforcement of judgments and the proper functioning of the unified system established by those rules.

Consequently, the Commission considers that it must be assumed that the Community has acquired exclusive competence for the negotiation and conclusion of many of the bilateral agreements referred to above. It must be noted, however, that no all commentators agree with the view taken by the Court.

The Commission takes the view that it is necessary to assess whether there exists a sufficient Community interest for the Community to replace all such existing or proposed agreements between Member States and third countries with Community agreements. For that reason it is necessary to establish a procedure with a twofold purpose.
The first is to allow the Community to assess whether there is such a sufficient Community interest in the conclusion of a particular agreement. The second is to authorise Member States to conclude the agreement at issue if there is no current Community interest in the conclusion of a Community agreement.

The Commission has accepted that a procedure should be devised also for agreements affecting the Rome II and Rome I Regulations.

Accordingly, the Commission proposes that such a procedure should be devised for certain bilateral agreements concerning sectoral matters. The proposed procedure therefore covers two different categories of sectoral subject matters. One proposal relates to sectoral matters pertaining to jurisdiction, recognition and enforcement in matrimonial matters, matters of parental responsibility and maintenance obligations and applicable law in matters relating to maintenance obligations. The other proposal concerns sectoral matters pertaining to the law applicable to contractual and non-contractual obligations.

This proposal is for a procedure for granting authorisation to Member States in the area of sectoral matters pertaining to the law applicable to contractual and non-contractual obligations. At the same time, the Commission is putting forward a separate proposal for a similar procedure for the area of the jurisdiction, recognition and enforcement in matrimonial matters, matters of parental responsibility and maintenance obligations and applicable law in matters relating to maintenance obligations. Since the area related to the law applicable to contractual and non-contractual obligations is subject to the codecision procedure, two separate proposals have been presented.

The Legal Affairs Committee has appointed Mr ZWIEFKA to act as rapporteur for both proposals. He proposes to deal with the two files in parallel and in close cooperation with Mr DEPREZ, who is the rapporteur for LIBE.

In view of the fact virtually all the Member States are convinced of the desirability of such an instrument, Mr ZWIEFKA wishes to explore the possibilities of concluding an agreement in first reading. To this end, he will be arranging a series of informal meetings between the Czech Presidency and the shadow rapporteurs. He is conscious, however, of the legal delicacy and difficulty of the matter.

At this meeting, the rapporteur will present a draft report in English and a deadline for amendments will be set.

**CONSIDERATION OF A DRAFT OPINION**

**19. BILATERAL AGREEMENTS BETWEEN MEMBER STATES AND THIRD COUNTRIES ON JUDGMENTS AND DECISIONS IN MATRIMONIAL MATTERS, PARENTAL RESPONSIBILITY AND MAINTENANCE OBLIGATIONS**

**Procédure** 2008/0266 (SNS)

**Doc de base** COM(2008)894

**Base juridique** Arts 61(c), 65, 67(2) and 67(5) EC

**Rapporteur pour avis** Tadeusz ZWIEFKA

**Administrateur respons.** Roberto Bray

**Comm. fond/rapporteur** Robert Bray

**Adoption JURI** Rosalind Donhowe-Mason

**PRELIMINARY TIMETABLE**

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Apart from the Community law *acquis*, the field of civil justice is also characterised by a number of bilateral agreements concluded by Member States with third countries prior to the entry into force of the relevant provisions of the Amsterdam Treaty or prior to their accession to the European Community. To the extent that such pre-existing agreements contain provisions that are not compatible with the EC Treaty, Member States need to take all steps to eliminate the incompatibilities, pursuant to Article 307 of the EC Treaty. The European Court of Justice has confirmed that if necessary, Member States are required to denounced agreements that are incompatible with the *acquis.*

Apart from pre-existing bilateral agreements, there may also be a need for the conclusion of new agreements with third countries governing areas of civil justice that come within Title IV of the EC Treaty.

In Opinion 1/03 of 7 February 2006 relating to the conclusion of the new Lugano Convention, the Court of Justice held that the Community has acquired exclusive competence to conclude international agreements with third countries, on matters affecting the rules set out inter alia in Regulation (EC) No 44/2001 (“Brussels I”), in particular on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. In its opinion the Court found that analysis of the provisions of the new Lugano Convention relating to the rules on jurisdiction showed that those provisions affected the uniform and consistent application of the Community rules on jurisdiction and the proper functioning of the system established by those rules. With regard to the proposed Convention’s rules on recognition and enforcement of judgements the Court came to a similar conclusion. It found that the Community
rules on the recognition and enforcement of judgments were indissociable from those on the jurisdiction of courts, with which they formed a unified and coherent system, and that the new Lugano Convention would affect the uniform and consistent application of the Community rules as regards both the jurisdiction of courts and the recognition and enforcement of judgments and the proper functioning of the unified system established by those rules.

Consequently, the Commission considers that it must be assumed that the Community has acquired exclusive competence for the negotiation and conclusion of many of the bilateral agreements referred to above. It must be noted, however, that no all commentators agree with the view taken by the Court.

The Commission takes the view that it is necessary to assess whether there exists a sufficient Community interest for the Community to replace all such existing or proposed agreements between Member States and third countries with Community agreements. For that reason it is necessary to establish a procedure with a twofold purpose. The first is to allow the Community to assess whether there is such a sufficient Community interest in the conclusion of a particular agreement. The second is to authorise Member States to conclude the agreement at issue if there is no current Community interest in the conclusion of a Community agreement.

The Commission has accepted that a procedure should be devised also for agreements affecting the Rome II and Rome I Regulations.

Accordingly, the Commission proposes that such a procedure should be devised for certain bilateral agreements concerning sectoral matters. The proposed procedure therefore covers two different categories of sectoral subject matters. One proposal relates to sectoral matters pertaining to jurisdiction, recognition and enforcement in matrimonial matters, matters of parental responsibility and maintenance obligations and applicable law in matters relating to maintenance obligations. The other proposal concerns sectoral matters pertaining to the law applicable to contractual and non-contractual obligations.

This proposal is for a procedure for granting authorisation to Member States in the area of sectoral matters pertaining to jurisdiction, recognition and enforcement in matrimonial matters, matters of parental responsibility and maintenance obligations and applicable law in matters relating to maintenance obligations. At the same time, the Commission is putting forward a separate proposal for a similar procedure for the area of the law applicable to contractual and non-contractual obligations. Since the area related to matrimonial matters, parental responsibility and maintenance obligations subject to unanimity in the Council and Parliament is merely consulted, two separate proposals have been presented.

The Legal Affairs Committee has appointed Mr ZWIEFKA to act as rapporteur for both proposals. For this proposal, the main committee is LIBE (rapporteur Mr DEPREZ). In view of the fact that the other proposal on the law applicable to contractual and non-contractual obligations will be dealt with under codecision, the rapporteur proposes to deal with the two files in parallel and in close cooperation with Mr DEPREZ.

In view of the fact virtually all the Member States are convinced of the desirability of such an instrument, Mr ZWIEFKA wishes to explore the possibilities of concluding an agreement in first reading. To this end, he will be arranging a series of informal meetings between the Czech Presidency and the shadow rapporteurs. He is conscious, however, of the legal delicacy and difficulty of the matter.

At this meeting, the rapporteur will present a draft opinion in English and a deadline for amendments will be set.

**EXCHANGE OF VIEWS**

**20. CONSUMER RIGHTS**

**Procédure**

2008/0196(COD)

**Doc de base**

COM(2008)0614

**Base juridique**

Article 95 EC

**Comm. avis/rapporteur**

JURI/Diana WALLIS

**Comm. fond/rapporteur**

Elfriede Kretschmer

**Comm. avis/rapporteur**

IMCO/ Arlene MCCARTHY

**ECON**

**PRELIMINARY TIMETABLE**

Echange de vues

12.02.2009

The Commission proposal for a directive on consumer rights merges four directives, which provide for consumer contractual rights (i.e. Directive 85/577/EEC on contracts negotiated away from business premises, Directive 93/13/EEC on unfair terms in consumer contracts, Directive 97/7/EC on distance contracts, Directive 99/44/EC on consumer sales and guarantees), into a single horizontal instrument regulating the common aspects in a systematic fashion, simplifying and updating the existing rules, removing inconsistencies and closing gaps. It is based on a horizontal approach, aims at better regulation and simplification and opts for full harmonisation. The proposal covers core aspects of business-to-consumer contracts and has to be seen in the broader context of the ongoing discussion on a Common Frame of Reference for European Contract Law. The general provisions on consumer contract law are at the heart of European contract law and will have a great
impact on the systems of civil law of the Member States.

The opinion of the Committee on Legal Affairs will focus in particular on these issues related to contract law. Enhanced procedure according to Rule 47 of the Rules of Procedure applies.

At this meeting the committee will have a first exchange of views without document.

VOTE
ADOPTION OF A DRAFT REPORT
21. TERM OF PROTECTION OF COPYRIGHT AND RELATED RIGHTS

The Rapporteur supports the Commission proposal which aims to improve the social situation of performers, and in particular sessions musicians, taking into account that performers are increasingly outliving the existing 50 year period of protection for their performances.

The main proposal of Directive involve extending the term of protection for performers and phonogram producers countries from 50 to 95 years but they also provide for several accompanying measures such as establishing a fund for session musicians.


The intention of the proposals is to benefit both performers and record producers.

The extended term would benefit performers who could continue earning money over an additional period. The extended term would also benefit the record producers. It would generate additional revenue from the sale of records in shops and on the Internet.

At this meeting the Committee will vote the Draft Report

VOTE
ADOPTION OF A DRAFT REPORT
22. COOPERATION BETWEEN THE COURTS OF THE MEMBER STATES IN THE TAKING OF EVIDENCE IN CIVIL OR COMMERCIAL MATTERS

La production de preuves devant le tribunal est généralement essentielle pour établir le bien-fondé de la demande. A cet effet, il peut être nécessaire de recueillir des preuves dans un autre Etat membre que celui où les poursuites judiciaires sont ou peuvent être engagées, par exemple, il pourrait être nécessaire d'entendre des témoins dans d'autres Etats membres, ou le tribunal pourrait souhaiter descendre sur les lieux dans un autre Etat membre.

Ainsi, faute d'instrument contraignant entre tous les Etats membres concernant l'obtention des preuves, le Conseil de l'Union européenne a adopté en 2001 le règlement (CE) n°1206/2001 relatif à la coopération entre les juridictions des Etats membres dans le domaine de l'obtention des preuves en matière civile ou commerciale, qui fixe des règles de procédure destinées à faciliter l'obtention de preuves dans un autre Etat membre.

Le présent règlement est applicable dans toute l'Union européenne, à l'exception du Danemark, depuis le 1er janvier 2004. Il remplace, entre les Etats membres concernés, la convention de La Haye de 1970.

Un certain nombre d'amendements ayant été déposés, le projet de rapport sera mis au vote.
The committee has decided to draw up a report, in enhanced cooperation with the Committee on Economic and Monetary Affairs, on the Commission's Green Paper: Effective enforcement of judgments in the European Union: The transparency of debtor's assets.

What is behind the Commission's consultative document is concern that problems of cross-border debt recovery may be an obstacle to the free circulation of payment orders within the European Union and impede the proper functioning of the Internal Market. "Late payment and non-payment jeopardise the interests of businesses and consumers alike. This is particularly the case when the creditor and the enforcement authorities have no information about the debtor's whereabouts or his assets."

It should be noted that in 2006 the European adopted a sister Green Paper on improving the efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts. Whereas that Green Paper focused on one specific measure to improve the enforcement of monetary claims, namely the attachment of bank accounts, the latest Green Paper aims more generally at improving the transparency of the debtor's assets, i.e. through registers and a "debtor's declaration".

The Green Paper, albeit purporting to be a consultative paper, is question-begging in that by asking a few questions about a limited number of solutions posited to the problem of transparency of debtor's assets, it in fact limits the solutions to those which it proposes.

First, the Commission proposes drawing up a Manual of National Enforcement Laws and Practices. Secondly, it seems to advocate increasing the information available in and access to commercial registers. Thirdly, the idea seems to be to improve access to population registers and to social security and tax registers.

Fourthly, the question is raised of improving the exchange of information between enforcement authorities. Fifthly, the idea is introduced of a "European Assets Declaration".

The rapporteur's draft contains some novel ideas with regard to the possible introduction of European provisional measures.

A number of amendments were tabled by the deadline. At this meeting, the draft report will be put to the vote.
La présente proposition vise la mise en œuvre du principe de l'égalité de traitement entre les personnes sans distinction de religion ou de convictions, de handicap, d'âge ou d'orientation sexuelle, en dehors du marché du travail. Elle définit un cadre pour l'interdiction de toute discrimination fondée sur ces motifs et établit un niveau de protection minimal uniforme à l'intérieur de l'Union européenne pour les personnes victimes de telles discriminations.

La présente proposition complète le cadre juridique communautaire existant, qui ne prohibe la discrimination fondée sur la religion ou les convictions, un handicap, l'âge ou l'orientation sexuelle qu'en ce qui concerne l'emploi, le travail et la formation professionnelle.

Cette proposition se situe dans le prolongement des directives 2000/43/CE, 2000/78/CE et 2004/113/CE, qui interdisent la discrimination fondée sur le sexe, la race ou l'origine ethnique, un handicap, l'orientation sexuelle, la religion ou les convictions.

Lors de cette réunion, la Commission procédera au vote du projet d'avis.
The rapporteur, Monica FRASSONI, will present her assessment, after which the Committee should adopt its opinion immediately in view of the timetable adopted by the lead committee (rapporteur: John BOWIS).

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<th>VOTE CODIFICATION</th>
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| Procédure | 2008/0181(CNS) |
| Doc. de base | COM(2008)0575 |
| Rapporteur | Lidia Joanna GERINGER DE OEDEMBERG |
| Administrateur respons. | Andrea SCRIMALI |

**PRELIMINARY TIMETABLE**

**Echange de vues**
11-12.02.2008

**Adoption JURI**
11-12.02.2008

On 21 October 2008 the abovementioned proposal was referred to the Committee on Legal affairs as the main committee. The Consultative Working Party of the three Legal Services examined it on 9 and 25 October and concluded nem. con., that it constituted a straightforward codification of existing texts, without any change in their substance.

Under Rule 80 of the Rules of Procedure, when a Commission proposal for codification of Community legislation is submitted to Parliament, it shall be referred to the committee responsible for legal affairs. The latter shall examine it in accordance with the Interinstitutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts, in order to ascertain that it is a straightforward codification, with no changes of a substantive nature.

Amendments to the text of the proposal shall be inadmissible. However, at the rapporteur’s request, the chairman of the committee responsible for legal affairs may submit for the latter’s approval, amendments relating to technical adaptations, provided that those adaptations are necessary in order to ensure that the proposal complies with the codification rules and do not involve any substantive change to the proposal.

If the committee responsible for legal affairs concludes that the proposal does not entail any substantive change, it shall refer it to Parliament for approval.

If the committee takes the view that the proposal entails a substantive change to Community legislation, it shall propose that Parliament reject the proposal.

In either case, Parliament shall take a decision by means of a single vote, without amendments or debate.

By letter to Mr Gargani, the Chair of the Committee on Civil Liberties, Justice and Home Affairs has raised the question of the legal basis of the abovementioned proposal for a Council decision.

The aim of the proposed Decision is to set up a secure information, communication and alert system – Critical Infrastructure Warning Information Network (CIWIN) - with the aim of assisting Member States to exchange information on shared threats, vulnerabilities and appropriate measures and strategies to mitigate risks related critical infrastructure protection. Critical Infrastructure is defined as those assets, systems or parts thereof located in Member States which are essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which would have a significant impact in a Member State as a result of the failure to maintain those functions.

LIBE asks whether the Commission’s choice of legal basis (Art. 308 EC, Art. 203 Euratom) is appropriate or whether it would not be more fitting to opt solely for Article 308 EC, which the Court of Justice interprets relatively strictly. LIBE further asks what the position would be, if the Lisbon Treaty were in force.

The rapporteur, Monica FRASSONI, will present her assessment, after which the Committee may adopt its opinion immediately.

**PRELIMINARY TIMETABLE**

**Echange de vues**
11.02.2009

**Adoption JURI**
11.02.2009 (possibly)

**Background**

By letter to Mr Gargani, the Chair of the Committee on Civil Liberties, Justice and Home Affairs has raised the question of the legal basis of the abovementioned proposal for a Council decision.

The aim of the proposed Decision is to set up a secure information, communication and alert system – Critical Infrastructure Warning Information Network (CIWIN) - with the aim of assisting Member States to exchange information on shared threats, vulnerabilities and appropriate measures and strategies to mitigate risks related critical infrastructure protection. Critical Infrastructure is defined as those assets, systems or parts thereof located in Member States which are essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which would have a significant impact in a Member State as a result of the failure to maintain those functions.

LIBE asks whether the Commission’s choice of legal basis (Art. 308 EC, Art. 203 Euratom) is appropriate or whether it would not be more fitting to opt solely for Article 308 EC, which the Court of Justice interprets relatively strictly. LIBE further asks what the position would be, if the Lisbon Treaty were in force.

The rapporteur, Monica FRASSONI, will present her assessment, after which the Committee may adopt its opinion immediately.
VOTE ON CORRIGENDUM

30. REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ADAPTING A NUMBER OF INSTRUMENTS SUBJECT TO THE PROCEDURE REFERRED TO IN ARTICLE 251 OF THE TREATY TO COUNCIL DECISION 1999/468/EC, AS AMENDED BY DECISION 2006/512/EC, WITH REGARD TO THE REGULATORY PROCEDURE WITH SCRUTINY

ADAPTATION TO THE REGULATORY PROCEDURE WITH SCRUTINY - PART TWO (2007/0293(COD))

CONSIDERATION OF A DRAFT OPINION

31. CREDIT RATING AGENCIES

In the above file an error occurred in the comitology provision referring to the urgency procedure.

Pursuant to Rule 204a of the Rules of Procedure, where an error is identified in a text adopted by Parliament, the President shall, where appropriate, refer a draft corrigendum to the committee responsible. Where an error is identified in a text adopted by Parliament and agreed with other institutions, the President shall seek the agreement of those institutions on the necessary corrections before proceeding in accordance with the above Rule.

The Committee on Legal Affairs, as the committee responsible, shall examine the draft corrigendum and submit it to Parliament if it is satisfied that an error has occurred which can be corrected in the proposed manner. The corrigendum shall be announced at the following part-session. It shall be deemed approved unless, not later than forty-eight hours after its announcement, a request is made by a political group or at least forty Members that it be put to the vote. If the corrigendum is not approved, it shall be referred back to the committee responsible which may propose an amended corrigendum or close the procedure. Approved corrigenda shall be published in the same way as the text to which they refer.

The Commission’s proposal is part of a package of proposals to deal with the financial crisis and adds to Commission’s proposals on Solvency II, Capital Requirements Directive, Deposit Guarantee Schemes and accounting. The new rules are designed to ensure high quality credit ratings which are not tainted by the conflicts of interest which are inherent to the ratings business.

This proposal for a regulation has four overall objectives aiming at improving the process of issuance of credit ratings:

1) to ensure that credit rating agencies avoid conflicts of interest in the rating process or at least manage them adequately;

2) to improve the quality of the methodologies used by credit rating agencies and the quality of ratings;

3) to increase transparency by setting disclosure obligations for credit rating agencies;

4) to ensure an efficient registration and surveillance framework, avoiding ‘forum shopping’ and regulatory arbitrage between EU jurisdictions.

The Commission intends to develop the regulatory framework for the issuance of credit ratings in order to ensure a high level of investor confidence and consumer protection.

The proposal lays down conditions for the issuance of credit ratings. It introduces a registration procedure for credit rating agencies to enable European supervisors to control the activities of rating agencies whose ratings are used by credit institutions, investment firms, insurance, assurance and reinsurance undertakings, collective investment schemes and pension funds within the Community.

Credit rating agencies will have to comply with rigorous rules to make sure (i) that ratings are not affected by conflicts of interest, (ii) that credit rating agencies remain vigilant on the
quality of the rating methodology and the ratings and (iii) that credit rating agencies act in a transparent manner. The proposal also includes an effective surveillance regime whereby European regulators will supervise credit rating agencies.

Some of the proposed rules are based on the standards set in the International Organisation of Securities Commissions (IOSCO) code. The proposal gives those rules a legally binding character. Also, in those cases where the IOSCO standards are not sufficient to restore market confidence and ensure investor protection the Commission has proposed stricter rules.

At this meeting the rapporteur will present her draft opinion. The presentation will be followed by the exchange of views.

CONSIDERATION OF A DRAFT OPINION

32. RIGHTS OF PASSENGERS WHEN TRAVELLING BY SEA AND INLAND WATERWAY

The purpose of the Commission’s proposal for a regulation concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws is to establish the rights of domestic and international maritime passengers, including those who are disabled or persons with reduced mobility, in order to improve the attractiveness of and confidence in maritime transport, as well as to achieve a level playing field for carriers from different Member States and for other modes of transport. Essentially, the proposal lays down provisions on the following: accessibility, non-discrimination and assistance to disabled persons and persons with reduced mobility; obligations for carriers when travel is interrupted in the event of cancellation or delay; obligation to inform passengers travelling by sea and inland waterways of their rights; handling of complaints; general rules of enforcement.

In view of the speed with which the Transport Committee is having to move on this file (it is adopting its report on 31 March), the rapporteur will present a draft opinion in English only at this meeting with a view to holding the vote on it on 9 March. This will entail fixing an appropriate deadline for amendments.

33. ANY OTHER BUSINESS

VOTE (POSSIBLY)
DECISION ON LEGAL BASIS (DISPUTE)
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

VOTE (POSSIBLY)
DECISION ON LEGAL BASIS (DISPUTE)
SETTING UP A COMMUNITY FRAMEWORK FOR NUCLEAR SAFETY

The Chair of the Committee on the Environment, Public Health and Food Safety has written to Mr Gargani requesting an opinion on the legal basis of a proposal for a regulation on substances that deplete the ozone layer (recast version). According to that request, the Committee on the Environment, Public Health and Food Safety agreed on an amendment providing Article 175 paragraph 1 of the EC Treaty only as the appropriate legal basis for the proposal, without the addition of Article 133 of the EC Treaty as proposed by the Commission.

It is to be noted that, being a proposal for recast, the initiative in question had already been referred to the Committee on Legal affairs, as the committee responsible for opinion, pursuant to Rule 80a of the Rules of Procedure. An opinion was therefore adopted on 15 December 2008, which did not question the legal basis in itself, but made it clear that the addition of Article 133 of the EC Treaty was a substantive change in the existing acts.
In view of the fact that the main committee has requested an opinion by 20 February, it is proposed that the Committee on Legal Affairs vote on this question at this meeting, after hearing the views of the current rapporteur for legal basis, Monica Frassoni.

* * *

Procedure 2006/0802(CNS)
Doc de base COM(2008)790/3
Rapporteur Monica FRASSONI
Resp. administrator Giuliano Vosa
Robert Bray
Comm. fond/rapporteur ITRE/Mr HÖKMARK
Comm. avis/rapporteur ENVI/Ms HARMS

PRELIMINARY TIMETABLE

Exchange of views 11.02.2009
Adoption comm. fond 31.03.2009

On 30 January 2003, the Commission adopted two proposals of Directives dealing respectively with the safety of nuclear facilities and the management of spent fuel and radioactive waste.

At the same time, both proposals were discussed in the Council, under the Italian and Irish Presidencies. As a majority allowing the adoption or the rejection of both proposals was not possible to be obtained, it was agreed that Council conclusions would be worked out by consensus. Draft Conclusions on nuclear safety and on the safety of the management of spent nuclear fuel and radioactive waste were adopted by the Council in June 2004, leading to the creation of the Council Working Party on Nuclear Safety (WPNS).

The renewed interest in nuclear power expressed by a number of Member States, with the perspective of numerous life extensions and construction of new plants, makes the timing of this revised proposal particularly appropriate. It is evident that the effects of radiological incidents do not stop at borders, with potential consequences both for the health of workers and citizens, but also wide ranging economic implications for the energy generating industry. Adopting in binding Community legislation internationally endorsed nuclear safety principles would ensure an additional level of guarantee for the public in the EU.

The proposed directive setting up a Community framework on Nuclear Safety aims at restarting the process of establishing a common EU framework on nuclear safety, by updating and replacing the 2003 Commission proposal for a Council (Euratom) Directive setting out basic obligations and general principles on the safety of nuclear installations, included in the initial Nuclear Safety Package.

The legal basis of the proposal is Articles 31 and 32 of the Euratom Treaty, but this has been questioned in both the lead committee and the Environment Committee, which is producing an opinion. It might therefore be considered appropriate for the Committee to prepare an opinion on the legal basis on its own initiative pursuant to Rule 35(3) of the Rules of Procedure.

The rapporteur, Mr Monica FRASSONI, will present her assessment, after which the Committee will fix a timetable for its further deliberations.

34. DATE AND PLACE OF THE NEXT MEETING

Strasbourg
Monday, 9 March 2009

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