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REPORT

on the proposal for a European Parliament and Council decision amending Council Decision 1999/784/EC concerning Community participation in the European Audiovisual Observatory
(COM(2003) 763 – C5-0622/2003 – 2003/0293(COD))

Committee on Culture, Youth, Education, the Media and Sport

Rapporteur: Marieke Sanders-ten Holte

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 10 December 2003 the Commission submitted to Parliament, pursuant to Articles 251(2) and 157(3) of the EC Treaty, the proposal for a European Parliament and Council decision amending Council Decision 1999/784/EC concerning Community participation in the European Audiovisual Observatory (COM(2003) 763 – 2003/0293(COD)).

At the sitting of 15 December 2003 the President of Parliament announced that he had referred the proposal to the Committee on Culture, Youth, Education, the Media and Sport as the committee responsible and the Committee on Budgets and to the Committee on Industry, External Trade, Research and Energy for their opinions (C5-0622/2003).

The Committee on Culture, Youth, Education, the Media and Sport appointed Marieke Sanders-ten Holte rapporteur at its meeting of 27 January 2004.

The committee considered the Commission proposal and draft report at its meetings of 15 March and 6 April 2004.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Michel Rocard (chairman), Vasco Graça Moura (vice-chairman), Theresa Zabell (vice-chairwoman), , Pedro Aparicio Sánchez, Ruth Hieronymi, Ulpu Iivari, Lucio Manisco, Antonio Mussa, Doris Pack, Roy Perry, Christa Prets, Sabine Zissener, Juan José Bayona de Perogordo (for Marielle de Sarnez), Säid El Khadraoui (for Lissy Gröner).

The opinion of the Committee on Budgets is attached. The Committee on Industry, External Trade, Research and Energy decided not to deliver an opinion.

The report was tabled on 7 April 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a European Parliament and Council decision amending Council Decision 1999/784/EC concerning Community participation in the European Audiovisual Observatory
(COM(2003) 763 – C5-0622/2003 – 2003/0293(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 763)¹,
 - having regard to Articles 251(2) and 157(3) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0622/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Culture, Youth, Education, the Media and Sport and the opinion of the Committee on Budgets (A5-0241/2004),
1. Approves the Commission proposal as amended;
 2. ***Considers that the financial statement of the Commission proposal is compatible with the ceiling of heading 3 of the Financial Perspective without restricting other policies;***
 3. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 4. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
RECITAL 1 A (new)

(1a) Multimedia and the new technologies will play an ever greater role in the audiovisual sector; the European Audiovisual Observatory could continue to play its important role if its capacity to follow these new developments were strengthened in due course.

Justification

With the development of the new technologies the Observatory will have to invest in expertise.

¹ Not yet published in OJ.

This should be born in mind when the new Action plans with their budgetary implications after 2006 are being drawn up.

Amendment 2
RECITAL 1 B (new)

(1b) Although free movement of persons (article 2), goods (article 23) and services (article 49) is embedded in the Treaty, the lack of information on the many differences in national regulations in the field of fiscal and labour laws restrains the free circulation of audiovisual goods and services. The European Audiovisual Observatory could offer a positive contribution by collecting and providing expertise and systematic information in the fields of tax and labour laws, copyright and consumer protection law.

Amendment 3
RECITAL 1 C (new)

(1b) Further to the Parliament's report on the fourth implementation report on the Television Without Frontiers Directive (2003/2033 INI) which called for an annual benchmarking report on making digital TV accessible for people with disabilities, the Observatory should be invited to collect data on an annual basis on the levels of television services that are being provided to assist disabled people, such as subtitling, audio description and sign language in all EU (or Council of Europe) Member States.

Justification

Both the European Parliament and the European Commission have recognised the importance of services to assist blind and partially sighted people and deaf and hard of hearing people in the EU in being able to enjoy broadcasts just like their non-disabled counterparts, but there is an acute lack of statistical information and benchmarking between EU Member States about the level of provision of those services. Given that the observatory has the possibility to monitor the audiovisual policies of the Member States, it is appropriate for the observatory to take on the role of collecting and publishing this information.

EXPLANATORY STATEMENT

In times of intense and rapid technological changes and transformations, it is crucial to ensure transparency of the markets. The audiovisual sector is undergoing a continuous and radical innovation process, in terms of broad socio-economic and technological aspects, in which the convergence of different communication means plays a primary role. This new era offers huge opportunities, especially in terms of economic growth, as well as challenges. The audiovisual industry is also an important vehicle for promoting cultural diversity and European values.

In view of these changes it is essential that detailed information on market tendencies and structural changes, statistical data and comparative analyses are available to ensure the development of innovative and competitive skills and to improve the competitiveness of the Community's audiovisual industry.

This is the rationale behind the launch of the European Audiovisual Observatory (EAO), created in 1992 and based on an Enlarged Partial Agreement of the Council of Europe, with the participation of 35 states (including all present and future EU Member States). The Commission has been an important partner of this organisation. The Council decision of 1999/ 784 provided the basis for EU participation in the EAO for the period ending on 31 December 2004. The Commission is now proposing to extend this participation to the end of 2006, without any modification of the yearly budget ceilings of 235.000 euros or 12.5% of the budget of the Observatory, i.e. the same percentage of the contribution by the largest member countries.

The rapporteur shares the view that such extension will guarantee continuity and stability to the Observatory and to the different operators benefitting from its services before the adoption of the new financial perspectives post 2006. Financial continuity becomes more relevant as the Observatory has to negotiate each year the contributions by other members. She regrets, however, the lack of a more visionary approach by the Commission to the rapidly changing developments.

The EAO is managed by an Executive Council composed of one representative per Member. This Council meets twice a year to decide the activity programme, the budget and to examine the financial results. An annual Action Plan, approved by the Executive Council at unanimity, is drawn up on the basis of recommendations coming from the Advisory Committee, comprising representatives of European professional organisations in the audiovisual sector. The rapporteur underlines the importance of this inclusive structure and bottom-up approach.

The Rapporteur has recently discussed with the Observatory their budgetary needs, which appear to be fully in line with the proposal by the Commission. However, multimedia and the new technologies will play an ever greater role in the audiovisual sector. It is the opinion of the rapporteur that the European Audiovisual Observatory will only be able to continue to play its important role if its capacity to follow these new developments is strengthened in due course.

The Commission has presented an intermediate report describing bilateral relations between the Commission and the Observatory and illustrating the main activities carried out by the

Observatory. It is important to note that the functions of the Observatory do not overlap with those of Eurostat and that some past minor financial divergences between the Commission and the Observatory have been positively solved.

The rapporteur welcomes the fact that the activities of the Observatory cover legal, financial and marketing aspects of the audiovisual sector, offering detailed information and elaborations to target groups of the main branches of the audiovisual industry (film, broadcasting, video/DVD, multimedia), of the related service sectors (financial services, specialised press, lawyers and consultants) as well as of the authorities at national, European and international level.

The Observatory has been offering a variety of products including online services and publications, databases, contributions to conferences and responses to individual information requests, with particular regard to statistics and information on legal aspects. These products have been very useful for industry and policy makers. Efforts have been made also to improve the EAO WebSite and the interactivity of some services. The EAO has aimed at the largest dissemination possible through a mix of publications free of charge for dissemination at festivals and publications on charge.

The Observatory, in close synergy with the European Commission, is working on a new strategy and action plan for the coming years. It is a matter of interest for the Parliament to be fully informed on this process and be able to provide input and ideas towards the strengthening and consolidation of the Observatory and its functions. This renewal strategy is an opportunity that the EP should take.

The rapporteur wishes to underline the high complexity of the audiovisual sectors. This complexity is increased by the rapidity of the changes such as for instance the switchover towards digital TV, convergence of different media and interoperability. In this framework the reliability, compatibility and comparability of information (criteria set up in the Statute of the EAO) are essential.

The services of European Audiovisual Observatory are not only intended specifically for businesses in the audiovisual sector but can also make an important contribution to the audiovisual policies of the Member States and of the Union. The full comprehension of processes such as the democratic consistency of media pluralism can be only founded on a well informed discussion.

Though not altering the substance of the proposal of the Commission, the Rapporteur wishes to extend some reflections which could be taken into consideration in the Action Plan of the EAO related to the next financial period.

1. New technologies and multimedia should be considered a priority: there are a growing number of requests related to these fields of activity. In particular, the status of technological convergence, the comparison of different regulatory systems for newly developed means, the integration of markets and economic sectors (as for instance the new techniques of the advertising industry) offer a broad field of analysis. The further integration of new technologies and multimedia in the work of the EAO should be encouraged.

2. The legal framework applicable to the audiovisual production and distribution of films

continues to be of great relevance to the industry. This area is only partly covered by the Observatory. Therefore, **reporting on film issues must be intensified**. Expertise and systematic information are essential for fiscal and labour laws. These are key regulatory fields of immense significance to political and professional decision-makers in the audiovisual sector constantly put under pressure by the ongoing technological changes. The Observatory should be able to cover the fields of tax and labour laws and, more intensively, copyright and consumer protection law.

3. In view of the extension of the above-mentioned objectives, **the budget might need to be increased by the budgetary authority bearing in mind the regulation on the Financial Perspectives (2007-2013)**.

4. The European Parliament has always supported a **particular attention to SMEs** as a key characteristic and a resource of European industry. SMEs, their capacity to innovate through new products and new skills, are central also in the Audiovisual sector. Developing networks and access to market information for SMEs is a strategic issue for the dynamism of our industrial audiovisual sector.

5. **The geographic extension of the activities of the EAO is very important**. The rapporteur notices that several South Eastern European countries and Former Soviet Union countries are Member States to the Council of Europe while at the same time non-members of the European Audiovisual Observatory. This is the case, for instance, for Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Serbia and Montenegro, Ukraine. The development of activities of the EAO in these countries through the establishment of networks of independent experts could be considered an important task, certainly deserving more resources.

18 March 2004

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Culture, Youth, Education, the Media and Sport

on the proposal for a European Parliament and Council decision amending Council Decision 1999/784/EC concerning Community participation in the European Audiovisual Observatory (COM(2003) 763 – C5-0622/2003 – 2003/0293(COD))

Draftsman: Jan Mulder

PROCEDURE

The Committee on Budgets appointed Jan Mulder draftsman at its meeting of 16 December 2003.

It considered the draft opinion at its meeting of 16-17 March 2004.

At the last meeting it adopted the following amendment unanimously.

The following were present for the vote: Terence Wynn (chairman), Reimer Böge (vice-chairman), Jan Mulder (draftsman), Ioannis Averoff, Göran Färm, Salvador Garriga Polledo, Joaquim Píscarreta, Giovanni Pittella, Bartho Pronk (for Den Dover), Per Stenmarck, Ralf Walter and Brigitte Wenzel-Perillo.

SHORT JUSTIFICATION

Background

1. The European Audiovisual Observatory is an Enlarged Partial Agreement of the Council of Europe. At present, 35 States, among which all the present and future Member States, participate in the Observatory. Its aim is to improve the transfer of information within the audio-visual industry, to promote a clearer view of the market and greater transparency. In its relations with the Observatory, the Community is represented by the Commission.
2. By Decision 1999/784/EC¹, the Council adopted a legal base concerning Community participation in the Observatory for a period ending on 31 December 2004.
3. The Observatory's contribution to the achievement of the mentioned objectives will be improved by the implementation of a new strategy at present under development with the participation of the Commission. This update will be adopted by the responsible instances of the Observatory at the end of 2005 with the implementation starting in 2006, at the earliest.
4. Taking into account the positive experience of the co-operation developed in the past, which was summarised in a mid-term report², the Commission considers it appropriate to extend the Community participation in the Observatory for a period of two years, i.e. 2005 and 2006. This short extension will allow to cover a critical period for the definition of the future patterns of the Observatory activity and can be lodged in the present Community's financial perspectives without any prejudice for future decisions.

Financial impact

5. As in the past, the yearly contribution shall not exceed 12.25% of the total budget, which is fixed annually by the statutory bodies of the Observatory (Executive Council and Financial Committee). Moreover, in consideration of the nature of the extension, the proposal keeps the Community contributions for 2005 and 2006 at the same ceiling that has been foreseen for 2004 by the Decision in force (235,000 €).

6. The breakdown of appropriations thus is as follows:

	Original duration						Proposed extension	
	1999	2000	2001	2002	2003	2004	2005	2006
Membership contribution (commitments in € million)	0,200	0,215	0,220	0,225	0,230	0,235	0,235	0,235

¹ OJ L 307, 2.12.1999, p. 61

² Report from the Commission to the Council, the European Parliament and the Economic and Social Committee on the implementation of Council Decision 1999/784 EC; doc COM (2002) 619 Final.

7. Since the proposal does not foresee any increase in appropriations for the extension to 2005 and 2006 ("transition period"), these amounts seem acceptable to your draftsman. They are also compatible with the ceiling of heading 3 of the financial perspective. (Amendment 1)

Other aspects

8. In its opinion on the original proposal concerning Community participation in the European Audiovisual Observatory (A5-0024/1999), the Committee on Budgets gave its approval to the Commission proposal subject to the Observatory providing Parliament with its annual working programmes as well as with regular (every six months) information concerning "the services it has provided to both private enterprises and the European Union".
9. According to the Committee on Culture, Youth, Education, the Media and Sport, information flow from the Observatory to Parliament has been regular and satisfactory. The Commission on 11/11/2002 adopted the mid-term report on the implementation of the Council Decision. A report will be transmitted by the Commission to the European Parliament, the Council and the Economic and Social Committee upon expiration of the Decision. This cooperation and information appears satisfactory to your draftsman, who thus considers the conditions of the 1999 opinion of the Committee on Budgets fulfilled.

AMENDMENT TO THE LEGISLATIVE RESOLUTION

Amendment 1

[The European Parliament]

Considers that the financial statement of the Commission proposal is compatible with the ceiling of heading 3 of the Financial Perspective without restricting other policies;