MUUDATUSETTEPANEK 156
Muudatusettepaneku esitaja(d): Marco Pannella, Emma Bonino ja teised

Soovitus teisele lugemisele **A6-0207/2005**
Michel Rocard
Arvutil põhinevate leiutiste patentsus

Nõukogu ühine seisukoht (11979/1/2004 – C6-0058/2005 – 2002/0047(COD))

Nõukogu ühine seisukoht	Euroopa Parlamendi muudatusettepanek

Muudatusettepanek 156
Artikkel 3 a (uus)

Artikkel 3 a

Andmetöötlust ei peeta patendiõiguse kohaselt tehnikavaldkonnaks ja uuendusi andmetöötluse valdkonnas ei peeta patendiõiguse kohaselt leiutisteks. Teabe töötlemine, käsitlemine ja esitamine ei kuulu tehnoloogiavaldkonda, isegi kui selleks kasutatakse tehnoloogilisi vahendeid.

Or. en

Justification

This amendment clarifies Art 27 TRIPs by a negative definition of "fields of technology".

Data processing is a branch of mathematics, a mental activity whose innovative advances lie in the area of abstraction, and whose technical aspects, if existent at alle, are known and trivial. This amendment in no way affects the patentability of the computers themselves, or of any processes involved in implementing the abstract data processing machine into silicon, wood or DNA.

Strictly speaking, the amendment does not even exclude software from patentability. Rather, it forbids certain extensive interpretations of Art 27 TRIPs which have been used to circumvent Article 52 of the European Patent Convention and to reduce the freedom of the judiciary to interpreting this article in meaningful ways (i.e. this amendment makes sure that one cannot interpret TRIPs in a way which makes it require software patents, but does not say anything about whether or not it allows them).

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Nõukogu ühine seisukoht	Euroopa Parlamendi muudatusettepanek
Muudatusettepanek 157 Artikli 4 lõige 1	
1. ***Arvutiprogramm iseenesest ei kujuta endast patenditavat leiutist.***	1. ***Arvutiprogrammid ole patendiõiguse kohaselt leiutised.***

Or. en

Justification

Art 52(2) EPC states that programs for computers are not inventions in the sense of patent law. It is a good idea to transfer this provision into EU law. The additional provision of Art 52(3) (exclusion only pertains to computer programs as such) should be reflected in an additional clause (amendment to Art 4.2), which also clarifies the above provision. The EU law should be clearer, not less clear, than Art 52 EPC.