

WRITTEN QUESTION P-1217/04
by Marco Cappato (NI)
to the Commission

Subject: Compatibility between the Urbani law-decree and EU legislation

On 22 March 2004, Italy's Council of Ministers adopted a law-decree enabling urgent action to be taken in respect of cultural artefacts and activities.

Article 1 of that law-decree provides for certain 'measures designed to combat the illegal telematic dissemination of cinematographic and similar works'. In particular, the law-decree defines as a punishable offence 'the public dissemination by telematic means (networks and connections of any kind, including shared-line programmes) of all or part of a cinematographic or similar work protected by copyright'.

Pursuant to the law-decree, providers of on-line services are required to 'forward to the police authorities any information which they may hold which will enable website administrators and individuals guilty of the above offence to be identified' and to 'take any appropriate action designed to prevent access to sites or to remove the content described above'.

In view of the fact that such measures create disharmony and establish differing terms and conditions for EU operators in the sector, does the Commission not think that the Italian Government should notify the above-mentioned law-decree, pursuant to Directive 98/34/EC¹?

Article 1 of the law-decree appears to conflict with certain provisions of Community law, in particular Directive 2000/31/EC². Does the Commission not think that the Italian Government should have notified the law-decree in advance with a view to ascertaining whether or not it is compatible with EU law?

Does the Commission not consider that, on account of its failure to notify (on either procedural or substantial grounds), the Italian Government should be required to withdraw the above-mentioned law-decree and to notify it to the Commission prior to re-approving it?

Lastly, does the Commission not consider that, on account of the Italian Government's failure to notify the measures laid down in Article 1, the provisions contained therein are not applicable?

¹ OJ L 204, 21.7.1998, p. 37

² OJ L 178, 17.7.2000, p. 1