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EUROPEAN CONVENTION ON TRANSFRONTIER TELEVISION

DRAFTING GROUP ON THE REVISION OF THE EUROPEAN CONVENTION ON TRANSFRONTIER TELEVISION

(T-TT-GDR)

1st meeting
29 and 30 March 2007
Council of Europe Office, 55 avenue Kléber, 75016 Paris
(Room 2)

REPORT

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Introduction

1. The first meeting of the Drafting Group on the Revision of the Convention on transfrontier television (T-TT-GDR) took place in Paris, from 29 to 30 March 2007 under the Chairmanship of Mr Chris Bone (UK). The annotated agenda and the list of participants are included in Appendices I and II to this report.

Examination of the present status of the legislative process of the proposal for an EU Audiovisual Media Services Directive

2. The Drafting Group considered the present status of the EU Audiovisual Media Services Draft Directive (draft amended TVWF Directive (Council Directive 89/552/EEC)) and examined the proposed amendments of the European Convention on Transfrontier Television (ECTT) contained in doc. T-TT(2006)019 in the light of the comments made by the Standing Committee on Transfrontier Television (T-TT) during its 41st meeting.

3. At the initiative of the Austrian delegate, the Group furthermore considered a report (Interinstitutional file: 2005/0260 COD) produced by the EU Presidency and addressed to the Permanent Representatives Committee (Coreper) containing comments on the draft amended TVWF Directive (Council Directive 89/552/EEC) as it stands, and an addendum containing a consolidated version with proposed amendments to the draft Directive. The report issued 28 March 2007 would be discussed by the Coreper on 30 March.

4. Concerning the consequences of the most recent drafting proposals of this draft Directive for the proposed amendments of the ECTT and to facilitate the drafting process, the Group decided to identify in the draft EU Directive, taking into account the Presidency proposals, non-controversial issues, discuss controversial issues and provide the Secretariat with guidelines for the drafting.

5. The Group discussed the following non –controversial issues in the above mentioned Report by the EU – Presidency:

a) Access for disabled persons (cf Recitals 30+46c in draft Directive): the Group proposed to insert in the ECTT an article encouraging Parties to take measures to ensure access for disabled persons to audiovisual media services, taking into account feasibility criteria (in particular for small broadcasters) and containing a reporting obligation to the T-TT in view of a general assessment.

b) Media literacy: There seems to be an agreement that it would not be appropriate to include legally binding obligations to media literacy in the amended TVWF Directive. The Group agreed that the ECTT, given that it would be impossible to monitor a binding provision on this issue, should either limit itself to making a reference to Recommendation Rec(2006)12 on empowering children in the new information and communications environment¹ in its Explanatory memorandum (EM) - in connection with provisions on the protection of minors- or introduce a non compulsive reference to media literacy in the text of the Convention.

¹ Link to Recommendation (2006)12

[http://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2006\)12&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](http://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2006)12&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75)

- c) Quantitative limits for television advertising: EU institutions seemed to adopt a convergent position on this issue.
- d) Media pluralism: This issue was also identified as non-controversial in the EU draft Directive. The Group, considering draft Article 10a ECTT, concluded that it would not be feasible to go beyond the political statement it contains. The Explanatory memorandum on this issue should refer to Recommendation Rec(2007)2 of the Committee of Ministers to member states on media pluralism and diversity of media content as well as to the Declaration of the Committee of Ministers on protecting the role of the media in democracy in the context of media concentration, adopted on 31 January 2007. The issue of cultural diversity, addressed in Article 10, should be aligned with Article 3h of the Draft Directive with regard to non-linear services. The issue of quota in this context remained to be further discussed.
6. The Group furthermore made comments on the following, still controversial, issues listed in the EU-Presidency report to the Coreper:
- a) Right of reply (Rec 38a): the Group notes that the EU Parliament had proposed to extend the right of reply (currently a requirement under Article 23 of the TVWF Council Directive) to on-demand services. The Presidency prefers to add a new recital recalling the Recommendation on the protection of minors and human dignity and the right of reply. The Group felt that it would not be feasible to reach an agreement on this issue to be in the body of the ECTT but felt it should be addressed in the Explanatory Memorandum with a reference to Recommendation Rec (2004)16 of the Committee of Ministers to member states on the right of reply in the new media environment².
- b) Advertising of unhealthy foods for children (recital 46): The Parliament proposed that member states and the Commission should be obliged to encourage the development of codes of conduct to address this issue, while the Presidency proposes to insert this in a recital. The Group instructed the Secretariat to draft a provision along these lines in the advertisement section of ECTT, also highlighting the possible dangers of toys and games. As an alternative, it could also be envisaged to mention this issue in the Explanatory memorandum.
- c) Regulatory bodies (Article 23b and Recitals 46d and 47): The EP proposal requires member states to establish national regulatory authorities and guarantee their independence and gender balance. EP proposes to confer on regulatory authorities the task of ensuring compliance with the Directive. The Presidency would prefer the initial Commission proposal i.e. that where member states choose to establish regulatory authorities, they should be independent of operators and governments (cf recital 46). The term “bodies” is preferred to “authorities”. The Group agreed that the ECTT cannot oblige Parties to have regulatory authorities, however, the Explanatory memorandum should contain a reference to Recommendation Rec(2000)23 on the independence and functions of regulatory authorities for the broadcasting sector³ and the need for gender

² Link to the text of Rec (2004)16

[http://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2004\)16&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](http://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2004)16&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75)

³ Link to the text of Rec (2000) 23

[http://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2000\)23&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](http://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2000)23&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75)

balance and representation of minorities should be highlighted, also in connection with broadcasters.

d) Independent producers: the EU position remains still to be determined. The ECTT makes no reference to this issue. It is noted that this could be discussed in the framework of “cultural objectives” and that it could be considered to transpose the text of Article 5 of the Directive into the ECTT. The Group decided to postpone the decision on this to its next meeting.

Consolidation of the preliminary draft amendments to the Convention

7. The Group furthermore reconsidered the preliminary draft amendments to the ECTT (doc T-TT(2006)019) taking into account the comments made by the T-TT during its 41st meeting and made several proposals for further amendment as indicated in the table attached in Doc T-TT-GDR(2007)003. It was decided inter alia to harmonise definitions with the draft amended TVWF Council Directive to the extent possible.

Examination of the discussion document on issues concerning the role of the Standing Committee

8. On issues concerning the role of the Standing Committee, the Group reconsidered the discussion document (Doc T-TT (2006) 17) taking into account the comments received by T-TT delegates since its 41st meeting. The Turkish delegate recalled the main issues addressed in the above mentioned discussion document: the need to extend the role of the Standing Committee so as to reinforce the monitoring of the application of the ECTT (Article 1a), to address provisions which are never or hardly ever applied (e.g. Articles 9a, 21.1(d) and (f), 21.2, 25) and to be more productive in formulating opinions.

9. Concerning the proposal to reinforce the role of the Standing Committee by adding to its functions the regular monitoring of the implementation of the Convention, the Group felt that adequate monitoring could not be achieved by the Standing Committee but would require an independent body and substantial resources. It was felt that the possibilities foreseen in Article 21 in connection with Article 24a paragraph 3c would leave sufficient scope for its functions. Concerning the proposal to increase the role of the chair, the Group decided that the rules of procedure (Article 20.8) include a duty for the chair to put on the agenda issues concerning the application of the Convention.

10. The Group furthermore decided that the rules of procedure should foresee the possibility of on-line decision-making so as to shorten the decision-making procedures.

11. Concerning the letter addressed, on 1 February 2005, by Mr Fabio Colasanti, Director General for the Information Society and Media at the European Commission, concerning new subject matters for the ECTT, the Group felt that the subjects suggested (the role of public service broadcasting for a democratic society, media pluralism and television and the role of independent regulatory authorities) seemed less relevant now that the draft amended EU TVWF Directive addresses most of these issues. This consideration should however not preclude the possibility of introducing in the new ECTT other subjects not covered by the future Directive.

12. The Secretariat was instructed to check the draft Directive and its recitals for possible subjects to be addressed in the second meeting of the Drafting Group.

Planning of future work

13. With regard to the planning of future work, the Group agreed on the following steps, as proposed by the Secretariat.

14. The Secretariat would draft a short, informal, report, of the Drafting Group meeting and would produce an updated and annotated version of the draft Convention by the end of April, beginning of May 2007.

15. Where needed, the Austrian delegate would assist the Secretariat in drafting provisions in compatibility with the draft EU audiovisual Media Services Directive. The French delegation would assist in the drafting of provisions concerned with the cultural obligations and the right of reply. The Turkish delegate would assist with regard to issues concerning the role of the Standing Committee.

16. The report and updated draft Convention, as well as relevant background documents, would be placed on a “Shared Office Space”, a new electronic interactive working tool where members of the Drafting Group will be invited to propose amendments in the text, taking into account a possible decision, on 24 May 2007, by the Council of the EU on the EU Audiovisual Media Services Directive.. Access to the “Shared Office Space” will be limited to the chair of the T-TT and the delegates of the working Group until 6 June 2007.

17. From 6 to 15 June the other delegations of the Standing Committee will be invited to join the “Shared Office Space” to make their comments or further proposals for amendment on the draft Convention for consideration by the Drafting Group at its second meeting.

Dates of forthcoming meetings

18. The second and last budgeted meeting of the Drafting Group will take place in Paris on 21 and 22 June. The 42nd meeting of the Standing Committee on Transfrontier television is to take place on 8 and 9 October 2007.

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APPENDIX I

Agenda

1. Opening of the meeting and information by the Secretariat

The meeting will be opened by the Secretariat, pending the election of the Chair for the meeting. Information of relevance to the drafting group will mainly concern recent developments in electronic working methods on the revision of the ECTT

2. Adoption of the agenda

3. Election of the chair for the meeting

4. Revision of the Convention

(i) Examination of the present status in the legislative process of the proposal for an EU Audiovisual Media Services Directive

Documents:

EU: Procedure File COD/2005/0260

Commission proposal to the European Parliament and the Council: COM(2005)0646

EP legislative Resolution, first reading P6_TA-PROV(2006)0559

The drafting group is invited to consider the present status of the text proposed for an Audiovisual Media Services Directive and to reach an agreement on the consequences of these proposals for the issues to be addressed in the draft amendments to the ECTT.

(ii) Consolidation of the preliminary draft amendments to the Convention

Documents:

T-TT(2006)019 Preliminary draft amendments to the ECTT

T-TT (2006)023 Report of the 41st meeting of the T-TT, Strasbourg 9-10 October 2006

Text of the European Convention on Transfrontier Television

The drafting group is invited to reconsider, in the light of the comments made by the T-TT during its 41st meeting, the preliminary draft amendments to the Convention prepared by the Delegates of Austria, France, Germany and Poland and to reach an agreement.

(iii) Examination of the discussion document on issues concerning the role of the Standing Committee

Document T-TT(2006)017

The drafting group is invited to reconsider, in the light of the comments received by the delegates of the T-TT since the 41st meeting, the discussion document prepared by the Secretariat with the assistance of the Delegate of Turkey and to reach an agreement on the need to amend the provisions concerning the role of the Standing Committee.

(iv) Planning of future work

The Secretariat will make proposals as to the 2007 timetable of the work to be carried out on the proposed amendments to the Convention.

5. Dates of forthcoming meetings

The second and last meeting of the drafting group is scheduled to take place in Paris on 21 and 22 June 2007. The 42nd meeting of the Standing Committee on Transfrontier Television is to take place in Strasbourg on 8 and 9 October 2007.

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