



EBLIDA

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In this issue:

- Access: new draft regulation on public access to documents
 - E-Commerce Directive: implications of the Brussels Convention
 - Convergence: European Parliament drafted opinion
 - WIPO Copyright Treaty: ratification process in European Community
 - Media Plus: New Initiative in the field of Audiovisual Affairs
 - Information Society: Euro-Mediterranean programmes
 - New TACIS Regulation enters into force
 - Fixed-Book Prices: European Parliament adopted resolution
 - Research: Strategy for a real research policy in Europe
 - Information Society: E-Ping - European Parliamentarians Internet Group
 - Information Society: Parliament launches "Foundation for European Network Society
 - Lisbon European Summit: Strategies for the Information Society
 - Intergovernmental Conference: launch on 14 February 2000
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Access: new draft regulation on public access to documents

On 26 January 2000, the Commission adopted a proposed regulation on public access to European Parliament, Council and Commission documents aiming at ensuring the greatest possible public access to the documents of the European Union institutions. This would implement Article 225 of the Amsterdam Treaty, which states that access to documents should become a right to citizens within two years of its taking effect and no longer depend on an arbitrary practice of the institutions, described in internal codes and decisions. The proposal also gives an opportunity to amend the regime in force. However, some members of the European Parliament and NGOs criticised it already as increasing the numbers of exceptions to this right.

This proposal will apply to all documents relating to the policies, activities and decisions of the three institutions in question, whether the documents are produced by the institutions or received from third parties. This extends the rights of the public in the sense that access currently limited would be extended to all documents retained by the Institutions and documents received by them, unless the third party opposes so. A document may be written, electronic or audiovisual. The right to obtain documents is granted to all citizens of the Union but not to citizens living in countries applying for membership to the European Union.

Documents intended for discussion, internal administrative notices and informal messages are excluded from this rule. There is also a series of exceptions intended to protect the public interest, the privacy of the individual, commercial, economic or industrial secrecy, and confidentiality where it is requested by a third party providing information or documents. This point was agreed as a response to the need of maintaining a balance between a broad access to documents and the institutions' privacy. However, this limit provides them with the right to refuse access to their preparatory documents. Other limitations to the draft are the exclusion of Community agencies, the Committee of the Regions, the European Investment Bank or the European Central Bank, bodies that may decide to follow the example of the three Institutions

but are not obliged to do so.

When preparing this draft, the Commission took into account legislation that existed in Member States, in particular those which have a 'long tradition to openness'.

[Back to top](#) / [back to homepage](#)

E-Commerce Directive: implications of the Brussels Convention

Frits Bolkestein, the Commissioner for the Internal Market has met with Commissioners David Byrne (Consumer Protection), Erkki Liikanen (Enterprise) and Antonio Vitorino (Justice) to discuss alternatives to the Brussels Convention - a European law that could have unfortunate consequences for electronic commerce. The Brussels Convention on the recognition and enforcement of judgements in civil and commercial matters was originally adopted in 1968 under Article 220 of the EEC Treaty and has been adapted upon each accession. It has been extremely successful in achieving "free movement of judgements". It is intended to protect consumers by letting them sue businesses under their own national laws. This also opens up web traders to litigation in all 15 member states, rather than just the one where they are based.

MEP Diana Wallis fears that the new European electronic commerce framework will no longer meet with existing legislation. On 10 January, at the European Parliament Legal Affairs Committee meeting, she proposed to set up a pan-European dispute resolution system that will provide a simplified set of laws for business. On her proposal, the Council is asked to defer adoption of the regulation until the Brussels Convention has been amended, and the Commission to propose alternative dispute-resolution machinery without delay.

More information on the E-commerce Directive can be found at:
<http://europa.eu.int/comm/dg15/en/media/eleccomm/index.htm>

[Back to top](#) / [back to homepage](#)

Convergence: European Parliament drafted opinion

Convergence is the gradual coming together of previously independent or non-existent sectors such as telecommunications, the audiovisual media, information technology and the Internet. It is a phenomenon which has a direct impact on markets, business operators, and technology.

On 11 January, the European Parliament Committee on Culture drafted its opinion on the Green Paper on convergence of the telecommunications, media and information technology sectors, and the implications for regulation. In this opinion, the Committee identifies existing barriers to convergence as well as a number of potential barriers which regulation should address.

The Culture Committee calls on the European Parliament Committee on Industry, as the committee responsible, to incorporate in its draft some of the following points:

- in view of technological convergence affecting communications, audiovisual media, content and the Internet sectors, that existing European legislation in these sectors needs

to be revised. The development has made it possible for identical or similar services to be provided independently of the network or transmission system. Current regulation is based on the definition of the network or technology used. The same service can be regulated in different ways with different conditions, rights and obligations;

- the fundamentals of the earlier forms of regulation regarding to general interest, public service, diversity and quality, consumer protection and protection of under-age children, public information, advertising and sale of regulated products and intellectual property rights need to be reviewed as to extending to the internal market, because the concept underlying many regulations have been rendered obsolete in some fields as a result of globalisation;
- network and service operators seek to cut transmission costs through storage and duplication techniques. These techniques raise new questions regarding intellectual property rights;

More information can be found at: <http://www.ispo.cec.be/convergencegp/>

[Back to top](#) / [back to homepage](#)

WIPO Copyright Treaty: ratification process in European Community

In December 1996 two international treaties relating to intellectual property were adopted: the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. For the Treaties to enter into force, the ratification by the EC and its Member States is fundamental, as 30 ratifications are needed, and only nine countries (including the US) have so far ratified them. Both Treaties have been signed by the European Community and its Member States.

On 8 October 1999 the Council of Ministers adopted a political agreement on the draft decision to ratify the Treaties on behalf of the European Community. The proposal on ratification was sent to the European Parliament for its opinion on 25 October. On 11 January 2000 the Legal Affairs Committee adopted a draft recommendation by MEP Cederschiöld giving its assent to the conclusion of both WIPO Treaties. This is to be discussed and adopted at the plenary session on 14 February.

Among others, MEP Cederschiöld recollects in her document the controversy about the European Community's right to conclude international agreements in the area of intellectual property. In 1994, when the agreement establishing the World Trade Organisation was to be signed, the European Commission sought the opinion of the Court of Justice which ruled that the European Community and the member states were only **jointly** competent to conclude the TRIPs Agreement. Therefore also the WIPO Treaties must be concluded jointly by the Community and the member states. In order to enable the Community to become party to the WIPO Treaties, in view of its joint competence with member states, a special membership clause was required.

The Council decision on the ratification of the WIPO Treaties differs from the version contained in the Commission proposal of 24 April 1998 in some significant respects, implying postponement of ratification and reduction of the Commission's role. Under Article 2 of the "new version" the President of the Council is authorised to deposit the instrument of ratification **as of the date on which the Member States are to have transposed** the Community act required in the light of the WIPO Treaties **into national law**. Under the Commission proposal, the Council President was authorised to deposit the instruments **when the relevant Community act was adopted**. In practice,

this implies a delay of at least two years. The Council also cuts back the Commission's negotiation powers by altering another paragraph to the effect that it must seek **authorisation to open negotiations and negotiating directives from the Council in each case.**

[Back to top](#) / [back to homepage](#)

Media Plus: New Initiative in the field of Audiovisual Affairs

In December 1999, Viviane Reding, the European Commissioner for Culture presented to the Council and the European Parliament two new initiatives in the field of audiovisual affairs: a communication on new perspectives of audiovisual policy in the digital age, and a proposal for a new support programme to the audiovisual industry, MEDIA PLUS - the follow-up programme to MEDIA II, for the period 2000-2005. This programme will take over from the current MEDIA II programme, which expires on 31 December 2000 with a budget increasing by 30%, that is a total of Euro 400 million. The programme comprises two sections:

- development which aims at understanding, distribution and promotion of European audiovisual works, with a budget of Euro 350 million and which should be adopted unanimously by the Council after consultation of the European Parliament;
- training to support professionals in the audiovisual industry, with a budget of Euro 50 million, and which has to be adopted by Council majority, in codecision with the European Parliament.

The 'Plus' in the title of the programme refers to the part devoted to digital technologies. This programme will be a complement to national audiovisual support systems and complementary to other Community actions such as the Fifth Framework Programme or the eEurope Initiative.

More details can be found at: http://europa.eu.int/comm/dg10/avpolicy/media/index_en.html

[Back to top](#) / [back to homepage](#)

Information Society: Euro-Mediterranean programmes

The Barcelona declaration was signed in 1995 by the 15 Member States, 12 MED partners (Morocco, Algeria, Tunisia, Jordan, Lebanon, Egypt, Syria, Israel, Palestinian AA, Cyprus, Malta and Turkey) and the European Commission. The Declaration contains, among others, a social, cultural and human affairs area of cooperation to develop human resources and, promote understanding and exchanges between civil societies. The MED-programmes are designed to facilitate formation of networks between partners on both sides of the Mediterranean.

The aim of the social, cultural and human dimension of the Partnership is to bring people closer, promote understanding between them and improve their perception of each other. These goals apply in a variety of areas including education, youth, the media, the development of civil society and the dialogue between cultures and civilisations.

Following these aims, a group of EU experts met on 14 January to discuss the situation on the

evolution of the Euro-Mediterranean process and the different projects of regional cooperation envisaged. They agreed on the launching of the Euro-Mediterranean programme for promoting the information society. Calls for tender for the commitment of pilot projects should be published in the near future.

[Back to top](#) / [back to homepage](#)

New TACIS Regulation enters into force

On 21 January 2000, a new regulation on the provision of assistance to the partner States in Eastern Europe and Central Asia entered into force. The Regulation sets the framework for 3.138 Euro billion of assistance over the next seven years (2000-2006). The countries covered by the regulation are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. On the basis of a Commission proposal of 8 January 1999, the European Council adopted the Regulation on 29 December 1999, following consultation of the European Parliament. This programme has provided assistance to the countries of Eastern Europe, the Caucasus and Central Asia since 1991, and Mongolia who joined in 1995. The new regulation includes a number of innovative features, which include, among others:

- links with the Partnership and Cooperation Agreements (PCA) on several areas of cooperation;
- concentration on a restricted number of essential cross-sectoral themes (public administration reform, private sector development);
- promoting lasting partnerships;
- an incentive scheme aimed at improving the quality of projects.

The new [TACIS programme](#) will be more related to the EU's political priorities in the region and better adapted to deal with the impact of EU enlargement. It will finance national, inter-state and cross-border cooperation between beneficiary countries, between these countries and the EU, and between these countries and the countries of Central and Eastern Europe.

The Council stresses that a long-term strategic partnership between the EU and Russia can only be developed successfully if it is based on common values and shared objectives, in particular respect for human rights, the rule of law and freedom of information and the media. That is why the new Regulation contains a suspension of part of the provisions of the Partnership and Cooperation Agreement until a satisfactory solution is found in Chechnya.

The Helsinki European Council conclusions on Chechnya with regard to TACIS were discussed between the Council and the European Commission at the General Affairs meeting on 24 January 2000. The Council welcomed the action taken to follow up the declaration of the Helsinki European Council, notably the revision of the Presidency's work plan for the implementation of the Common Strategy of the EU and the suspension of the signature of the Scientific and Technological Agreement.

[Back to top](#) / [back to homepage](#)

On 17 December 1999, the European Parliament adopted a resolution inviting the Commission to identify and maintain national and regional measures for the promotion of books, including the fixing of book prices. The resolution adds that it would be beneficial to harmonise by a directive the rules on the fixing of book prices on the basis of French law principles. It also invites the Commission to rule on the agreement between Germany and Austria based on the principles of French law, giving time to the German and Austrian book trade to adapt the fixed-price system to these principles.

Furthermore, the European Parliament calls for the directive on electronic commerce to include provisions to prevent the fixed-price system from being circumvented by electronic commerce.

Mario Monti, EU Competition Commissioner explained that the fixing of book prices can be based on legislation or on agreements between enterprises. In both cases, the fixed-price system can only be accepted if it does not involve a significant change in trade conditions beyond frontiers.

[Back to top](#) / [back to homepage](#)

Research: Strategy for a real research policy in Europe

On 18 January 2000, the European Commission adopted a document describing the way towards a European research area. This intends to create a frontier-free area for research where scientific resources are used more to create jobs and increase Europe's competitiveness. Major issues will be the networking of centres of excellence and developing a European approach to large research infrastructures. This will be taken along with measures to promote spin-offs from research such as action on patents and easier access to risk capital.

The Union's overall research effort in relation to its gross domestic product has been declining for 10 years. The gap between the EU and the United States and Japan is widening not only in terms of spending but also in terms of new patents, and the number of researchers is also low compared to these countries.

Philippe Busquin, EU Research Commissioner wants to open a debate on the goals of European research to the widest possible public hoping to help launch a policy that suits European needs and responds to citizens' expectations and demands.

[Back to top](#) / [back to homepage](#)

Information Society: E-Ping - European Parliamentarians Internet Group

A new discussion forum for Internet issues was launched on 19 January. [E-Ping](#) has been set up by MEP Diana Wallis with MEP Glyn Ford and MEP Johannes Vogenhuber. The forum aims to enhance understanding of online technology issues in the European Parliament, with as much cross-party input as possible. This would give all interested groups the opportunity to openly discuss and exchange points of view with members of the European Parliament.

Before launching her initiative, Diana Wallis met with US officials, lawyers and consumer organisations, who are looking to the European Union to set the world standards on current issues in particular jurisdiction on e-commerce, data protection and digital signatures.

Enterprise Commissioner Liikanen expressed his interest on the subject by speaking at the first E-Ping meeting. A CD showing how the Internet works and a discussion on the development of the global Internet were also held at this meeting.

[Back to top](#) / [back to homepage](#)

Information Society: Parliament launches "Foundation for European Network Society"

On 18 January, members of the European Parliament together with political groups discussed the launch of the "Foundation for European Network Society" which is formally taking place on 22 February, in Brussels. The new Foundation is to be co-chaired by the member of the European Parliament Elmar Brok, Erika Mann and Elly Plooij-van Gorsel, and its Steering Committee made up of the Members of the European Parliament Ioannis Averoff, Massimo Carrao, James Elles, Jonathan Evants, Alain Lamassoure, Angelika Niebler, Imedlda Read and Astrid Thors. It aims to intensify the dialogue at European level on issues relating to the information society and is to be open to all members of the European Parliament and players in the information society world. The foundation will remain independent from the Commission or public funding. The foundation is in discussion with European and global industry leaders regarding the provision of the initial funding of the Foundation Secretariat. The Foundation will establish relationships with the Global Cities Dialogue, the Global Business Dialogue and the Transatlantic Policy Network at a later stage.

[Back to top](#) / [back to homepage](#)

Lisbon European Summit: Strategies for the Information Society

A special European Council to re-define the European strategy for growth, competitiveness and employment will be held on 23-24 March 2000 in Lisbon. The title is: "Employment, economic reforms and social cohesion - for a Europe of innovation and knowledge". It will take account of developments like globalisation, the Seattle round, and technological change. The preparatory stage has already begun and will focus on several documents which are presented by the European Commission and the Portuguese Presidency.

These documents include the "e-Europe initiative - an Information Society for all" already presented by Commissioner Liikanen (see Hot News December 1999) which focuses among others on fast Internet for researchers and students, public access points and Internet access in schools.

The document of the Portuguese Presidency on the subject is available on the presidency website in all official EU languages <http://www.portugal.ue-2000.pt/>. To pick out just a single point: under the heading of "Developing a European research area open to the world" one of the priority areas is: "Creating a high-speed, low-cost trans-European data transmission network to provide support for the construction of a European research area. This broadband network will have to support not only the development of European S&T co-operation, but also **co-operation between schools and training centres, libraries and science centres and museums.**"

A related communication on 'Strategies for jobs in the Information Society' by Commissioner Anna Diamantopoulou (Social Affairs and Employment) is to be adopted soon. It examines ways of ensuring that more European citizens become fully 'e-literate'. The document focuses on training people to develop their IT skills and promote computer use into schools and companies. The report insists on the social impact of setting an information society in place, and on access to the Internet for everyone.

[Back to top](#) / [back to homepage](#)

Intergovernmental Conference: launch on 14 February 2000

The Portuguese Presidency plans to start the work of the Intergovernmental Conference (IGC) on institutional reform to prepare enlargement on 14 February 2000. After the launch, the preparatory group as foreseen in the Helsinki Conclusions will begin its meetings. Member States' views on the three main questions - size and composition of the Commission, weighting of votes in the Council and possible extension of qualified majority voting - will be compiled as a preliminary general inventory. Together with other Treaty amendments they judge necessary and any other items to be included in the IGC agenda, these will be the basis for a report to be submitted by the Presidency to the European Council in June.

In its draft opinion of 15 December, the European Parliament Culture Committee called for the amendment of **Article 151 on culture** to introduce qualified majority in that area, where the requirement of unanimity voting makes the introduction of measures in this field rather difficult.

The Committee also calls to contain a clear legal basis for the protection of cultural minorities, which will become even more important after enlargement, and to introduce an information and communications policy that would truly inform the public of all aspects of European affairs. Amendments to the text were voted upon at the Culture Committee meeting on 26 January 2000.

In a working document, the responsible European Parliament Committee on Constitutional Affairs considered that the Intergovernmental Conference (IGC) agenda adopted in Helsinki lacked in vision as regards adapting the institutions to current problems and difficulties, and those that will arise from enlargement, such as variety, multiplicity and cultural and linguistic diversity. The Committee called on the Portuguese Presidency to enter on the IGC agenda the proposals of the European Parliament and those of the Commission and the Member States to permit a comprehensive reform to the Treaty.

[Back to top](#) / [back to homepage](#)

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