

POSITION PAPER OF THE CZECH REPUBLIC

on Chapter 20: Culture and Audiovisual Policy

Position of the Czech Republic

The Czech Republic accepts the Community *acquis* concerning Culture and Audio-visual Policy, the year 2003 being taken as the reference date of accession to the European Union.

There will be no problems in the Czech Republic neither with the entry into force of the respective legislation nor with its implementation by the year of accession, except for the provisions of the Articles 4 and 5 of Directive 89/552/EEC as amended by Directive 97/36/EC. The Czech republic is seeking a transitory arrangement for paid and cable TV stations till 1 January 2005 (details to be seen on page 3).

All appropriate institutions are in place and operational. They consist mainly of :

- the Ministry of Culture as a central administrative authority;
- the Council of the TV and Radio Broadcasting
- State institutions for cultural heritage (State Institute of Cultural Heritage etc.)

During the screening process it was expressed that the Czech Republic does not have a fully harmonised legislation in the area of TV and radio broadcasting. The law currently in force is the 1991 TV and Radio Broadcasting Act. A legislative intention of a law fully compatible with the *acquis* will be submitted by the end of 1998 or at early 1999. The new law is to enter into force by the end of 1999.

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Culture:

The Czech Republic is aware that the principal culture-related provision of the Treaty on European Community is its Section IX, article No. 128 and the Czech Republic is prepared to fully accept the EC's legislative principles. The contents of the mentioned provision complies, in substance, with the scope of powers assigned to the Czech Ministry of Culture (Act No.2/1969 Coll. in its last amendment as of 15 January 1998).

Decision No. 719/96/EC of the EP and of the Council of 29 March 1996 establishing a programme to support artistic and cultural activities having a European dimension (Kaleidoscope)

Decision No. 2085/97/EC of the EP and of the Council of 6 October 1997 establishing a programme of support, including translation, in the field of books and reading (Ariane)

Since both programmes will expire before the end of 1998, the Czech Republic has not joined

them. Nevertheless, similar activities are envisaged for the future and new programmes are being prepared within the EU. The Czech Republic is ready to join these programmes once they are operational.

Decision No. 2228/97/EC of the EP and of the Council of 13 October 1997 establishing a Community action programme in the field of cultural heritage (the Raphael programme)

The Czech Republic expressed its interest to join the above-mentioned programme in 1998 and expects that the appropriate Decision of the CR-EU Association Council under preparation will be adopted in November 1998. In case that the accession to this programme is postponed, the CR would have to reassess its position with a view to the date of the Raphael programme's expiration.

Council Decision of 22 September 1997 No. 1007(02)/97 on cross-border fixed book prices in European linguistic areas

This Council Decision was not included into the agenda of the bilateral screening, mainly due to the fact that this topic has not been finally solved within the EU. It may be noted that the Czech Republic does not intend to introduce fixed book prices. Such methods are prohibited in the Czech Republic by act No. 63/1991 Coll., on the protection of economic competition (the anti-monopoly law) and by act No. 526/1990 Coll., on prices.

Audio-visual policy:

95/563/EC: Council Decision of 10 July 1995 on the implementation of a programme encouraging the development and distribution of European audio-visual works (Media II-Development and distribution-1996-2000)

95/564/EC: Council Decision of 22 December 1995 on the implementation of a training programme for professionals in the European audio-visual programme industry (Media II-Training-1996-2000)

Since acceptance into the Media II programmes is conditioned by the sufficient level of alignment of the legislation in the audio-visual sector, the Czech Republic has not applied for participation in these programmes yet.

As the Czech Republic will make its legislation compatible with the Directives 89/552/EEC and 97/36/EC (ATV without frontiers \cong) by the year 2000, its intention is to negotiate the entry into the Media II programme from this year. Once Media II comes to its end, a new programme, i.e. Media III, is expected to be launched; by then the Czech Republic will be prepared to join this programme.

Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities as amended by Directive 97/36/EC of the EP and of the Council of 30 June 1997

In the area of the audio-visual sector the current Czech legislation does not comply with some of the provisions, namely articles 4 and 5 of the respective Directive stipulating the volume of European works and of works of independent producers in TV broadcasting.

The requirement of articles 4 and 5 is in practice met solely by the public station "Czech Television" (Česká televize). While commercial TV stations "Nova" and "Prima", as well as cable TV and paid TV stations, do not comply with these requirements yet.

Other sensitive provisions are contained in articles 2 and 3a stipulating the so-called "exclusive rights".

The transposition of the Directive influences certain other international obligations of the Czech Republic - above all within the OECD, where the Directive's transposition will, in its effect, lead to a collision with the OECD membership terms and conditions, which will be dealt with in cooperation with the EU.

With regard to TV broadcasting, the following schedule for gradual implementation of articles 4 and 5 of the Directive has been settled:

The new law on radio and TV broadcasting (assumed entry into force by the end of 1999) is to introduce the following deadlines for full implementation of the requirements of the said articles:

- a) 1 January 2001 for the public TV station "Czech Television" (Česká televize)
- b) 1 January 2003 for commercial TV stations, i.e. at present "Nova" and "Prima",
- c) 1 January 2005 for paid and cable TV stations.

Similarly, the remaining partial problems that have not been dealt with yet, will also be implemented through the new TV and radio broadcasting act (especially articles 2 and 3a) and other related legislative norms.

The requirement of gradual implementation of articles 4 and 5 ensues from the economic particularities of the Czech media market. Immediate implementation of these articles would lead to the liquidation of cable and paid TV stations in the Czech Republic. Moreover, both commercial TV stations, "Nova" as well as "Prima", would suffer from substantial economic losses. The evaluation of this troublesome issue reflects the reality of the rather limited and financially weak Czech media market.

The Czech Republic expects to sign the European Council's Convention on across the border TV broadcasting in October 1998. Its ratification should follow once the new TV and radio broadcasting act comes into force.

The process of audio-visual harmonisation will not require any alteration of technical parameters. The Czech Republic has confirmed that the licensing process will be modified according to the *acquis* principles.

Legislation under preparation, intended to implement both Directives in full:

- X new Act on TV and Radio Broadcasting, expected entry into force 4 qrt 1999 (including cross of ownership and concentration in media).
- X new Press Act (intended title "Act on the conditions of the edition of periodic press and other information media in the operation of the radio and TV broadcasting"), expected entry into force 3 qrt 1999.
- X new Audio-visual Act, expected entry into force 2 qrt 2000.

The Czech Republic does not expect any serious problems in relation to the acceptance of the acquis in the field of the audio-visual policy. Fully compatible Czech legislation framework will be introduced in the year 2000, i. e. before the accession. However, those provisions of by that time valid legislation, which concern articles 4 and 5 of the Directive ATV without frontiers[≡] will be applicable gradually. For the majority of TV broadcasters (c. 96 % of the market) these provisions will be fully applicable as of January 1, 2003.

With the view of the above, the Czech Republic requests to start the negotiations with the EU-Member States the terms of its membership of the EU in the area of Culture and Audiovisual.