

## POLAND'S NEGOTIATION POSITION IN THE AREA OF CULTURE AND AUDIOVISUAL POLICY

### SYNTHESIS

As a definition of the time-frame for the process of harmonisation and implementation of the Community law, the Government of Poland has adopted 31 December 2002 as the date on which Poland will be prepared for accession to the European Union.

The European Union regards the national level as the most efficient in working out solutions in the cultural sphere. In order to develop culture and cultural exchange, the European Union has implemented cultural programmes concerning three major aspects: implementation of artistic programmes with a European dimension (Kaleidoscope), protection of cultural heritage (Raphael) and books and magazines (Ariane).

The major Polish legal acts standardising activities falling within cultural policy are the following:

- ❖ the Act on organising and conducting cultural activity of 25 October 1991 (OJ 110 p. 721)
- ❖ the Act on protection of cultural goods of 21 February 1962 (OJ 010 p. 48 with later amendments and annexes)

Council Directive 89/552/EEC 'Television without frontiers' of 19 June 1997 on the coordination of certain provisions laid down by law, regulations or administrative action in the Member States concerning the pursuit of television broadcasting, forms main legal basis of EU policy in the audiovisual sector.

The aim of this directive is the realisation of the Commission's basis goals, in particular ensuring the free movement of services between Member States whilst implementing the fundamental principle of freedom of speech in the sphere of electronic media.

The basic acts regulating the activity of the audiovisual sector in Poland are: the Act of 29 December 1992 on radio and television (as amended) and, issued on the basis thereof, the Regulation of the National Council of Radio and Television. Some particular issues are regulated in other legal acts such as: the Act of 26 January 1984 (the Press Law), the Act of 16 April 1993 on counteracting unfair competition, the Act of 26 October 1982 on sober upbringing and counteracting alcoholism and the Act of 9 November 1995 on protection of health against tobacco and tobacco products.



Poland, being a member of the OECD, is also bound by obligations arising from the OECD's Code on Current non-Visible Activities.

## SPECIFIC ISSUES

### 1. CULTURAL POLICY

Poland shares all the European Union's aims as regards the sphere of cultural policy. Poland perceives the possibility of participating in EU policy as a significant opportunity for the development of Polish culture and EU culture which would facilitate the efficient promotion of Polish culture in Europe and European culture in Poland. Polish law conforms fully with Community standards binding in that field.

Poland fully approves Council Directive of 22 September 1997 on the future of European cultural activities, proposing the reorganisation of cultural programmes and the acceptance of a single programme.

As regards Decision of the European Parliament and of the Council of 29 March 1996 on a support programme for artistic activities with a European dimension (Kaleidoscope), it should be underlined that Poland has participated fully in this programme since 1997.

As regards Decision of the European Parliament and of the Council of 13 October 1997 on a European action programme in the scope of cultural heritage (Raphael), Poland is fully prepared to participate in this programme.

Since 1992, Poland has been participating as a third country in the Arian Programme established by Decision of the European Parliament and of the European Council of 6 October 1997 on support, including translation, for books and magazines. In the case of this programme, Poland declares its wish to participate fully and the lack of any legal obstacles in this regard.

As concerns Council Directive of 22 September 1997, Poland, accepting the requirements of the EU concerning VAT, should be able to apply for a VAT reduction on books and magazines, which is allowed under the *acquis communautaire*. Polish legislation envisages 0% VAT rates for the aforementioned cultural goods, until the year 2000. Member States shall consider this issue individually. The Polish notion of the best solution is close to that of Italy, i.e., 0% VAT for book publications and 4% VAT for magazines.

### 2. AUDIOVISUAL POLICY

Poland accepts the *acquis* in its entirety and raises no negotiation problems with regards to the sphere of 'Culture and audiovisual policy'. Sharing all the goals of EU policy concerning the audiovisual sector, Poland will pay attention to the European requirements and to Polish cultural identity while creating Polish legal regulations in the process of harmonisation with the EU Directive 'Television without frontiers'.

Poland accepts the objectives of this directive: the need to create a Single Market for production and distribution in the audiovisual sector and freedom of television transmission, while at the same time maintaining the responsibilities of the Member States as regards organisation, financing and programme content. Poland's policy in this sphere is in con-

formity with the essence of the directive, by which the provisions incorporated therein do not have any influence on the freedom of cultural development in the Member States and on the preservation of cultural differences within the EU. Poland is convinced that the expansion of audiovisual policy to cover Poland and other countries of our region will enrich the programme range for receivers in all current and future Member States of the European Union and will support cultural differences within these countries.

Pursuant to the above directive, Poland will maintain or introduce solutions which will ensure the efficient promotion of European production and consumer protection. It should be stressed that the present degree of harmonisation of Polish law with EU legislation concerning the said sphere is significant. Once Poland joins the EU, Poland will be bound by the obligations incorporated into article 10 of the Code of Current non-Visible Operations which will have priority under EU law over the obligations of the OECD.

The above position does not cover the issue of authors' rights and neighbouring rights which are included in the area of 'Company law'.

*/Adopted by the Council of Ministers of the Republic of Poland, 27 August 1998/*





## ADDENDUM TO POLAND'S NEGOTIATION POSITION IN THE AREA OF CULTURE AND AUDIOVISUAL POLICY

### SYNTHESIS

In connection with introduction of the new *acquis communautaire* in the area of 'Culture and audiovisual policy' Poland reinstates its readiness – as included in Poland's Negotiation Position – to comply with provisions of new acts of Community law and declares that it will undertake all necessary measures aiming at their implementation together with the entire *acquis communautaire* under this chapter, so that relevant regulations become binding as of 1 January 2003.

### SPECIFIC ISSUES

#### 1. CULTURE POLICY

The new *acquis* not covered by Poland's Negotiation Position is comprised by the following Decisions:

- ❖ 397D1007(01) of the Council of 22 September 1997, on the future of European cultural activities;
- ❖ 300D0508 of the European Parliament and of the Council of 14 February 2000, establishing the programme KULTURA 2000;
- ❖ 397D1007(02) of the Council of 22 September 1997, on cross-border fixed book prices in European linguistic areas;
- ❖ 99/1419/EC of the European Parliament and of the Council of 25 May 1999, establishing a Community action for the European Capital of Culture event for the years 2005 to 2019.

Poland accepts provisions of Decisions 397D1007(01) and 300D0508, declaring its readiness to accede to programme KULTURA 2000 starting from the year 2001.

As regards Decision 397D1007(02), Poland states that provisions of this decision do not require transposition into Polish legal system.

As regards Decision 99/1419/EC Poland does not express reservations concerning the action itself; however, it states that taking advantage by Poland of the right to nominate a candidate for the European Capital of Culture, as provided by the decision, requires



prior Poland's accession to the EU and – probably – an amendment to Annex I to this decision.

## **2. AUDIOVISUAL POLICY**

The new *acquis* not covered by Poland's Negotiation Position is comprised by two Decisions:

- ❖ 99/297/EC of 26 April 1999, establishing a Community statistical information infrastructure relating to the industry and markets of the audiovisual and related sectors;
- ❖ 99/784/EC of 22 November 1999, concerning Community participation in the European Audiovisual Observatory.

As regards Decision 99/297/EC, Poland expresses its readiness to implement its provisions. As regards Decision 99/784/EC, Poland fully accepts its provisions.

*/Adopted by the Council of Ministers of the Republic of Poland, 6 February 2001/*