

SK – CBR

COUNCIL FOR BROADCASTING AND RETRANSMISSION

COUNTRY REPORT

June 2012 – May 2013

During reported period one of the main concerns was the successful and quick legislative change that would finalize the AVMS Directive transposition process. Three topics that needed legislative change were indentified during the talks after the European Commission's review of the transposition. One was a minor (but necessary) correction of used terminology. Second one was a possible problem with jurisdiction where the Act. No 308/2012 Coll. on broadcasting and retransmission (hereinafter "Slovak Act") referred to European Convention on Transfrontier Television (hereinafter only "the Convention"). In exceptional circumstances this reference could cause that based on Slovak Act the broadcaster from non-member of EU state (but a party of the Convention) would not fall under the jurisdiction of Council for broadcasting and retransmission of Slovak republic despite the fact that under the jurisdiction provisions of AVMS Directive it should have. After the consultation with European Commission it was agreed that the reference needs to be removed from given provisions however (especially from legal point of view) the fact that the Convention is still valid in Slovak republic (and the European Commission does not find it necessary for member states to denounce the Convention) was not fully resolved. Third problematic topic was the promotion of the European works in on demand audiovisual media services. The amendment of the Slovak Act set 20% quota for European works in catalogues of the on-demand services (for more you may see the article on this topic in the newsletter of IRIS 2013-2, <http://merlin.obs.coe.int/newsletter.php?year=2013&issue=2>).

The Amendment came into effect on 1 January 2013 and the European Commission was officially notified about the change of legislation.

Other topic that Slovak Council frequently dealt with during reported period was the sponsorship announcements that qualified as an advertising spot (for more on the beginning of this problem you may see the Slovak country report from Dresden). After unsuccessful effort to resolve this problem through cooperative approach with the industry (proposed guidelines were refused by the broadcasters with reasoning that the final interpretation of what is the allowed amount of promotion in sponsorship announcements may be established only by courts). During reported period many of the Council's decisions were reviewed by courts unfortunately with very inconclusive results where some courts confirmed the Council's decisions and some of them cancelled them. Even though the approach of the Council was the same in each decision (the mere fact that spot states who is the sponsor of given programme does not mean that such spot may not meet the definition of advertising) some courts (including Supreme court) in its reasoning refused the whole concept (confirmed by other courts) and gave the opinion that even when the sponsorship announcement contain promotional messages it should be assessed strictly under the rules for sponsorship (not on advertising). Council appealed and besides other arguments also suggested that if the courts are not unified on the interpretation of the wording of the AVMS Directive they should

address the ECJ on given matter. However so far no relevant decision was reached in this matter.

Last but not least Slovak Council held CERF meeting in Bratislava during reported period (September 2012). Topics like protection of minors, promotion of European works, objectiveness and impartiality of the news and current affairs programs, audiovisual commercial communication among others were discussed by participating CERF members from Czech Republic, Poland, Hungary, Romania, Slovenia and friends of CERF delegations from Cyprus, Croatia, France and the host of the meeting regulatory authority of Slovak republic.

6th April 2013

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