

## ESBA Bulletin of April 1999 – Volume 1 – Number 3



### HEADLINES

In this issue:

<a href="#">Main Activities In April at ESBA Brussels:</a>	
	<a href="#">List Of Recent ESBA Activities In Brussels</a>
<a href="#">Berlin Summit (24/25 March 1999): Agreement on Agenda 2000</a>	
	<a href="#">The European Council reached an overall agreement on Agenda 2000:</a>
	<a href="#">Public Procurement and SMEs</a>
<a href="#">Late Payment Draft Directive: latest developments</a>	
<a href="#">Electronic commerce: review of the main issues</a>	
	<a href="#">General framework</a>
	<a href="#">EU focus points</a>
	<a href="#">Latest and future developments</a>
<a href="#">Corpus Juris: Towards a European judicial area?</a>	
<a href="#">The Fifth Framework Programme (5FP) for Research, Technological and Development (RTD) activities (1998/2002)</a>	
<a href="#">Attachment To ESBA Monthly Bulletin Vol 1 N° 3</a>	
	<a href="#">Work in progress in the European Parliament on relevant issues for ESBA</a>
	<a href="#">Introductory note to the table relating the work in progress in the European Parliament:</a>
	<a href="#">Social affairs</a>
	<a href="#">Competition</a>
	<a href="#">Taxation</a>
	<a href="#">Electronic commerce</a>
	<a href="#">Company Law</a>
	<a href="#">Miscellaneous</a>
<a href="#">Agenda 2000 and Budget</a>	

### Main Activities In April at ESBA Brussels:

This month, we will be busy drafting the first part of the ESBA Millenium declaration. This project suggested after the last Board Meeting was agreed during the last Executive meeting. The work will be carried out with an ad hoc Committee which will work via exchanges of faxes and teleconference.

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

The objective is to prepare a first draft which will be discussed at the next Board Meeting at the end of this month

- Following the last Executive Committee, ESBA Brussels agreed to carry out the necessary steps to speed-up the registration of the association in Belgium.
- A report will be prepared on the «Liaising activities» as suggested in the Work Programme agreed at the first Board Meeting in January
- The screening of all EU issues of interest to ESBA will be achieved. The database of EU sheets should be fully operational.

### List Of Recent ESBA Activities In Brussels

- Lore Genand, LOGOS, covered the March DG XXIII meeting for ESBA (see memo dated
- Frédéric Soudain met with Mr. Tony O'Rourke, Secretary General of AEFC (see letter dated
- Frédéric Soudain met with Mr. Philippe Carbonnel (see memo dated
- Lore Genand, LOGOS, covered a meeting on «Electronic Commerce» (see article in this Monthly)
- Horizontal screening of the activities of the European Parliament (see attachment to this memo)

### Berlin Summit (24/25 March 1999): Agreement on Agenda 2000

European Union leaders agreed a compromise on the Agenda 2000, at the end of a special European Council held in Berlin, the 24/25 March 1999. The Agenda 2000 was adopted by the Commission on 15 July 1997. It faces three main points: to *reform the Union's policies* (notably the Common Agricultural Policy -CAP- and the Social and Economic Cohesion), to *negotiate enlargement*, to *set a new financial framework for the period 2000/2006*.

#### The European Council reached an overall agreement on Agenda 2000:

The CAP will be implemented with a budget of 40,5 billion €, with a special view for rural development. The cereals intervention price will be reduced by 15%, and the reform of the milk sector has actually been postponed to 2005/2006.

The structural and Cohesion funds will be allocated with 213 billion €. The structural fund assistance will now concentrate on three main objectives. The Community initiatives will also be reduced to three: INTERREG, LEADER AND EQUAL. The presidency also planned a special phasing out treatment for objective 1, and provided 12 Member States with "special gifts".

The budget (Financial Perspectives for 2000/2006 and Own Resources System) has been discussed under a strict budgetary discipline. The traditional own resources will be maintained with the percentage retained by the Member States in the form of collection costs increasing to 25%. The financing of the UK abatement by other Member States will be modified: Austria, Germany, the Netherlands and Sweden will see their financing share to 25% of the normal share.

#### Public Procurement and SMEs

The Commission decided the 23 February 1999 to launch a round of consultations on how the Single Markets rules should be applied to partnerships involving public bodies and the private sector, and in particular concessions. This will be based on a draft interpretative communication (the final version will be adopted in May 1999 at the end of the consultations), which is the first in a series of measures

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

implementing the action plan outlined by the Commission in its communication on public procurement of 11 March 1998.

At the beginning of February 1999, the European Parliament approved for its first reading the resolution by M. Tappin, on the communication from the Commission on public procurement. The European Parliament, during the plenary session and the Committee responsible expressed its desire to see continued efforts to facilitate procurement for SMEs. To that end, the Committee called on the Commission and the Member States to set voluntary targets for SME penetration, and to offer greater assistance for SMEs, for example by setting up national procurement advice centres.

### Late Payment Draft Directive: latest developments

The Commission launched a Proposal the 25 March 1998 (*COM (98) 126 final*) to encourage compliance with contractual payment deadlines to the benefit of all enterprises, to provide a legal framework intended to dissuade late payment and provide adequate compensation to creditors. The European Parliament (17 September 1998) has adopted in first reading under the co-decision procedure, the report by the Committee on Economic and Monetary Affairs and Industrial Policy (report by Lyndon Harrisson, PSE). The Commission has adopted the substance of the amendments in its modified proposal the 29 October 1998 (*COM (98) 615 final*). A Council common position is expected for the next Industrial Council, the 29 April 1999.

The German Presidency provided a new compromise on the Proposal for a Directive on late payment in commercial transactions. The new version of the draft directive reduces the areas covered to focus exclusively on the harmonisation of payment deadlines and interest charges (to be imposed 30 days and not 21 as in the Commission proposal, after receipt of an invoice by the clients. The Presidency has proposed stipulating that any exemption to this rule will need to be justified and the Commission informed.

The delegations remain divided over the rate of interests debtors should be charged in case of late payment. The Commission has proposed a rate set on the basis of the European Bank's key interest rate plus eight points.

A majority of delegations (Denmark, Italy, Ireland, Luxembourg, the Netherlands, Portugal, Sweden and the United-Kingdom) were anxious to withdraw Article 4 covering a reserved ownership (a legal mechanism deferring the transfer of ownership of goods until such time as the purchase price has been paid fully).

The bar associations of England, Wales, France, Germany and Spain are disquieted about Article 6 of the Draft Directive, setting a ceiling (20 000 Euro) under which debt recovery procedures must be simplified (and may restrict the use of lawyers).

### Electronic commerce: review of the main issues

#### General framework

Electronic commerce is one aspect of the Information Society. This new form of business is growing rapidly and its legal framework needs to be clear-cut, since electronic business represents a major economic issue for the European Community. The main stake lays in the definition of the legal framework of electronic commerce. The developments of technologies require a quick answer to ensure a safe use of electronic transactions.

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

### EU focus points

At any level of decision, even European or international, the question is whether electronic commerce can «live» within the «classical rules of traditional trade». Therefore, the European Community launched several propositions related to electronic commerce: the Commission first published a communication called «*European initiative in electronic commerce*» [1]. It also focused on specific fields and made several proposals with 2 main common points: to apprehend new technologies and define a legal base, and to find the way to adapt the Single Market existing framework.

The main domains are *electronic signatures* [2], *financial services* [3], *copyrights and related rights* in the Information Society [4], and *indirect taxation* [5]. Recently, the Commission proposed a coherent *legal framework* for the development of electronic commerce within the Single Market [6].

This proposal on a legal framework would ensure that information society services benefit from the Single Market principles of free movement of services and freedom of establishment, as long as they comply with their country of origin. It also aims to clarify the liability of intermediaries and to define commercial communications. Some rules for its implementation are also proposed.

It should be borne in mind that consumer [7] and SMEs are taken into great consideration in the view of developing electronic commerce, and therefore, several actions regarding those two issues have been launched.

### Footnotes:

1	Communication from the Commission to the European parliament, the Council, the Economic and social Committee, the Committee of the Regions, «European initiative in electronic commerce», COM (97) 157 final of 15 April 1997.
2	Communication from the Commission, «Proposal for a European Parliament and Council Directive on a common framework for electronic signatures», COM (98) 297 final of 13 May 1998.
3	Commission proposal for regulatory framework for distance selling of financial services: the proposed Directive would complement Directive 97/7/EC, which establishes distance selling rules for goods and services other than financial services (OJ L 144 of 4 June 1997).
4	Proposal for a Directive, COM (97) 628 final of 10 December 1997.
5	Communication from the Commission to the Council, the European Parliament and to the Economic and Social Committee, «E-Commerce and indirect taxation», COM (98) 374 final of 17 June 1998.
6	Commission proposal for a Directive on a legal framework for electronic commerce, COM (98) 586 final of 18 November 1998.
7	See “the Consumer Dimension of the Information Society”, Council Resolution of 19 January 1999, adopted at the Council meeting “Consumer Affairs”, Brussels, 3 November 1998, OJ C 23 of 28 January 1999.

### Latest and future developments

The Telecom Council of 27 November 98 did not reach an agreement on the electronic signatures proposal, but it is likely to attain a compromise the 22 April 99. The European Parliament rendered a generally favourable opinion on the proposal on its first reading.

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

The proposal on a *legal framework* for electronic commerce is now being discussed and a first compromise could be reached for the next Internal Market Council of 21 June 1999. The proposal on a legal framework for electronic commerce is under discussion in the European Parliament (Report Oddy for the Committee on legal affairs, report Hoppenstedt for the Committee on economic affairs, report Whitehead for the committee on environment), and would probably be adopted during the next plenary session from 3 to 7 May 1999.

Regarding the proposal for a Directive on *copyrights and related rights*, the debate is still alive: the European Parliament made some amendments, and the Council is therefore waiting for the new proposition of the Commission. It seems difficult to reach a common position for the 21 June 1999.

### Corpus Juris: Towards a European judicial area?

The concept of a single judicial area for the European Union, known as Corpus Juris, was launched in 1995 at the request of the European Parliament, and emerged after a seminar attended by 140 legal experts in Spain in April 1997. The purpose of the Corpus Juris is to “harmonise” criminal prosecutions for fraud against Community financial interests. But it might also form the basis for a unified criminal justice system: Jose-Maria Gil-Robles, the President of the European Parliament, has called it “an important model for the realisation of a common European juridical and judicial space”.

Recently (17 February 99), the Committee on Civil Liberties and Internal Affairs of the European Parliament voted on a draft report concerning the Corpus Juris. This report, written by Mr. Wiebenga, calls for the gradual establishment of a European criminal law system and lists a number of offences likely to lead to a gradual harmonisation: offences against children, terrorism, corruption, fraud and drug trafficking. This also could lead to the establishment of a European Public Prosecutor.

The draft report will be put to the vote in the beginning of April, during the plenary session of the European Parliament, and the Commission will have to bring it in by majority voting under Article 209a (208) of the treaty of Rome as amended by Amsterdam. British interests should be regarded, as the Corpus Juris has been considered as incompatible with its adversarial legal system. In some ways, the EEP’s powers would then abolish the principles laid down in Habeas Corpus and Magna Carta.

### The Fifth Framework Programme (5FP) for Research, Technological and Development (RTD) activities (1998/2002)

The fifth Framework Programme sets out the priorities for the European Union's research, technological development and demonstration activities for the period 1998-2002. It is divided into two parts, one covering the EC programme (with a budget of 13 700 millions €) and the other one dealing with the Euratom framework (with a budget of 260 millions €).

The specific EC programme focuses on 4 thematic Programmes complemented with 3 horizontal Programmes, such as «promotion of innovation and encouragement of SME participation». This would be done through 2 actions: «Innovation –SMEs» and «SME specific measures». The first calls for proposal were published the 23 March 1999.

---

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

### Attachment To ESBA Monthly Bulletin Vol 1 N° 3

#### Work in progress in the European Parliament on relevant issues for ESBA

#### Introductory note to the table relating the work in progress in the European Parliament:

The following table on the work in progress in the European Parliament is provided in order to provide ESBA members with an horizontal overview of the work achieved by MEPs on issues of interest to ESBA.

Some of these issues are being monitored and have already been covered in our previous memos or monthly bulletin. Some others might be new

This table will give ESBA members an opportunity to identify some of the MEPs they would like to get in contact with in order to influence the decision-making process on selected issues.

#### Social affairs

<i>Report</i>	<i>Committee and MEP</i>	<i>Background and perspectives</i>
Recognition of qualification: professional activities: craft trades and other business activities	Conciliation delegation GEBHARDT Evelyne (PSE, D)	Aim to introduce new arrangements for the recognition of diplomas for professional activities not yet covered by the general system.  After the European Parliament second reading, the conciliation is now running.
Undeclared work	Employment  GLASE Anne-Karin (PPE, D)	Report on the Commission communication on undeclared work.  Awaiting vote in plenary session.
Safety and health at work: work equipment	Employment  SKINNER Peter (PSE, UK)	2 <sup>nd</sup> amend. Directive 89/655/EEC, in the context directive 89/391/EEC, to propose minimum safety and health requirements for the use of work equipment.  Awaiting vote in plenary session.
Organisation of working time: sectors and activities excluded	Employment  CHANTERIE Raphaël (PPE, B)	Amend. Directive 93/104/EC, to cover sectors and activities excluded from it.  Awaiting vote in plenary (probably 12/16 April 99).
Organisation of work: modernising.	Employment  RIBEIRO Sergio (GUE, P)	Follow-up of the Green Paper on partnership COM (97) 0128, aim to stimulate and strengthen partnership for the modernisation of work organisation.  Awaiting vote in plenary session (probably 12/16 April 99).

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

Information and consultation of employees: general framework	Employment	Aim to establish a general framework for informing and consulting employees in the EC.
	GHIRLARDOT-TI Fiorella (PSE, I)	Awaiting vote in plenary session (probably 12/16 April 99).

### Competition

<i>Report</i>	<i>Committee and MEP</i>	<i>Background and perspectives</i>
Categories of agreement and concerted practices (amend. Reg.19/65/EEC)	Economic	Aim to extent the scope of the block exemption with regard to vertical agreements.
	THYSSEN Marianne (EPP, B)	Awaiting vote in plenary session (probably 12/16 April 99).
Vertical restrictions: amend. Reg.17/62/EEC, 1 <sup>st</sup> regulation implementing Art.85 and 86 EC Treaty	Economic	Aim to relax the notification procedure provided for in Regulation n°17.
	THYSSEN Marianne (EPP, B)	Awaiting vote in plenary session (probably 12/16 April 99).

### Taxation

<i>Report</i>	<i>Committee and MEP</i>	<i>Background and perspectives</i>
VAT: level of the standard rate	Economic	Aim to amend directive 77/388/EEC on the common system of value added tax with regard to the level of the standard rate. The Commission proposed another rate band.
	SECCHI Carlo (PPE, I)	Awaiting final decision from the European Parliament (possibly plenary session 12/16 April 99)
VAT: determination of the person liable for payment	Economic HARRISON Lyndon (PSE, UK)	Aim to amend directive 77/388/EEC, as part of the Commission SLIM programme (simplifying the common system of VAT).  Awaiting vote in plenary session.
VAT: arrangements applicable to telecommunications	Economic COX Patrick (ELDR, Ir.)	Aim to amend the VAT rules applicable to telecommunications services in order to prevent distortions of competition resulting from the current legislation (Directive 77/388/EEC).  Awaiting vote in plenary session (probably 3/7 May 99).

### Electronic commerce

<i>Report</i>	<i>Committee and</i>	<i>Background and perspectives</i>
---------------	----------------------	------------------------------------

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

	<i>MEP</i>	
Establishment of a legal framework for electronic commerce	Legal ODDY Christine (PSE, UK)	Proposal on certain aspects of electronic commerce in the internal market, aim to remove the legal obstacles which remain to the on-line provision of services.  Awaiting a vote in plenary session (probably 3/7 May 99).
Common regulatory framework for electronic signatures	Legal ULLMANN Wolfgang (V, D)	Aim to create a harmonised and appropriate legal framework for the use of electronic signatures within the Community, and to establish a set of criteria for their legal recognition.  Awaiting a Council common position (after 1 <sup>st</sup> reading in the European Parliament).
Information society: copyright and related rights	Legal BARZENTI Roberto (PSE, I)	Aim to adapt legislation on copyright and related rights to new technologies.  Awaiting Council common position.
Distance marketing of consumer financial services	Environment OOMEN-RUIJTEN M.G.H (PPE, NL)	Aim to establish a harmonised and appropriate legal framework for distance contracts pertaining financial services.  Awaiting vote in plenary session.

### Company Law

<i>Report</i>	<i>Committee and MEP</i>	<i>Background and perspectives</i>
Laws on insolvency in the EC	Legal MALANGRE Kurt (PPE, D)	Awaiting vote in plenary session
Take-over bids, proposal for a 13 <sup>th</sup> directive	Legal FONTAINE Nicole (PPE, F)	Aim to ensure adequate protection of shareholders throughout the European Union by laying down minimum rules for the conduct of public take-over bids.  Awaiting Council common position.
Statute for a European Company	Legal ROTHLEY Willy (PSE, D)	Aim to create a European Society, with its own legal framework to overpass the different Member States system.  Awaiting Council common position (probably 25 May 99).
Statute for a European Company: involvement of employees	Legal ODDY Christine (PSE, UK)	Aim to complete the Statute of the European Company. Awaiting Council common position (probably 25 May 99).

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

Statute for a European Association	Legal COT Jean-Pierre (PSE, F)	Aim to create a status for a European Association to enable associations to act on the community territory.  Awaiting Council common position.
Statute for a European Association: involvement of employees	Legal COT Jean-Pierre (PSE, F)	Aim to complete the Statute of the European Association. Awaiting Council common position.
Statute for a European Mutual Society	Legal COT Jean-Pierre (PSE, F)	Aim to settle an optional tool in use for trans-nationals mutual societies.
Statute for a European Mutual Society: involvement of employees	Legal COT Jean-Pierre (PSE, F)	Aim to complete the Statute of the European Mutual Society. Awaiting Council common position.
Statute for a European Co-operative Society	Legal COT Jean-Pierre (PSE, F)	Aim to ease trans-nationals activities of co-operatives societies.  Awaiting Council common position.
Statute for a European Co-operative Society: involvement of employees	Legal COT Jean-Pierre (PSE, F)	Aim to complete the Statute of the European co-operative Society.  Awaiting Council common position.

### Miscellaneous

<b>Report</b>	<b>Committee and MEP</b>	<b>Background and perspectives</b>
Enterprises and SMEs: entrepreneurship for job creation and competitiveness	Economic KESTELIJN-SIERENS Marie-Paule (ELDR, B)	Report on the Commission's communication, following the BEST report. Aim to set out a number of priority issues for action at national level and European level to foster entrepreneurship in Europe.  Awaiting vote in plenary session.
Consumer's protection: sale of consumer goods and associated guarantees	Conciliation delegation KUHNN Annemarie (ELDR, D)	Aim to provide EU consumers with a minimum set of rights in the event of the purchase of faulty goods.  Awaiting Council/European Parliament third reading.
Environment: implementation of the	Environment JACKSON	Aim to provide minimal criteria for environmental inspections in the Member States.

## ESBA Bulletin of April 1999 – Volume 1 – Number 3

Community law, minimal criteria for inspections	Caroline (PPE, UK)	Awaiting vote in plenary (probably 3/7 May 99).
Protection of inventions by the utility model: approximating legal arrangements	Legal AÑOVEROS TRIAS de BES Julio (PPE, Es)	Aim to bring about a single market in the protection of inventions by utility models.  Awaiting Council common position.

### Agenda 2000 and Budget

The work in progress in the European Parliament on the Agenda 2000 is quite complex, since around 17 procedures are running. They are awaiting vote in plenary session, which will certainly happen during the last plenary session before the elections, the 3/7 May 1999. Regarding the budget for 2000, the European Parliament approved in its first reading, a resolution drafted by Mr. Jean-Louis Bourlanges (PPE, F), concerning the guidelines for the 2000 budget. It stressed some policy priorities, among them job creation, especially via measures to support SMEs.