

# EUROPEAN PARLIAMENT

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FINAL  
**A5-0432/2001**

28 November 2001

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position with a view to the adoption of a decision of the European Parliament and of the Council on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (12170/1/2001 – C5-0490/2001 – 2000/0187(COD))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Angelika Niebler

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

## CONTENTS

	<b>Page</b>
PROCEDURAL PAGE .....	4
DRAFT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT .....	10

## PROCEDURAL PAGE

At the sitting of 5 July 2001 Parliament adopted its position at first reading on the proposal for a decision of the European Parliament and of the Council on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (COM(2000) 407 - 2000/0187 (COD)).

At the sitting of 25 October 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Industry, External Trade, Research and Energy (12170/1/2001 - C5-0490/2001).

The committee had appointed Angelika Niebler rapporteur at its meeting of 13 September 2000.

It considered the common position and draft recommendation for second reading at its meetings of 5 November 2001, 21 November 2001 and 27 November 2001.

At the last meeting it adopted the draft legislative resolution unanimously with 1 abstention.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman; Nuala Ahern and Renato Brunetta, vice-chairmen; Angelika Niebler, rapporteur; Konstantinos Alyssandrakis, Carmen Cerdeira Morterero (for François Zimeray), Giles Bryan Chichester, Harlem Désir, Raina A. Mercedes Echerer (for Caroline Lucas), Christos Folias, Neena Gill (for Glyn Ford), Norbert Glante, Michel Hansenne, Malcolm Harbour (for Christian Foldberg Roving), Roger Helmer, Hans Karlsson, Bernd Lange (for Rolf Linkohr), Werner Langen, Eryl Margaret McNally, Erika Mann, Marjo Matikainen-Kallström, Angelika Niebler, Reino Paasilinna, Yves Piétrasanta, Elly Plooij-van Gorsel, Samuli Pohjamo (for Colette Flesch), John Purvis, Godelieve Quisthoudt-Rowohl, Imelda Mary Read, Konrad K. Schwaiger, Anna Terrón i Cusí (for Elena Valenciano Martínez-Orozco), Astrid Thors, Antonios Trakatellis (for Umberto Scapagnini), Claude Turmes (for Nelly Maes), Jaime Valdivielso de Cué, W.G. van Velzen, Adriaan Vermeer (for Willy C.E.H. De Clercq), Alejo Vidal-Quadras Roca, Anders Wijkman, Myrsini Zorba and Olga Zrihen Zaari.

The recommendation for second reading was tabled on 28 November 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the Council common position with a view to the adoption of a decision of the European Parliament and of the Council on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (12170/1/2001 – C5-0490/2001 – 2000/0187(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (12170/1/2001 – C5-0490/2001),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2000) 407<sup>2</sup>),
  - having regard to the Commission's amended proposal (COM(2001) 524<sup>3</sup>),
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 80 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on Industry, External Trade, Research and Energy (A5-0432/2001),
1. Amends the common position as follows;
  2. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> OJ C not yet published.

<sup>2</sup> OJ C 365, 19.12.2000, p. 256.

<sup>3</sup> OJ C not yet published.

## Amendment 1

## Recital 1

(1) On 10 November 1999 the Commission presented a Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions proposing the next steps in radio spectrum policy on the basis of the results of the Public Consultation on the Green Paper on Radio Spectrum Policy in the context of European Community policies such as telecommunications, broadcasting, transport and R&D. This Communication was welcomed by the European Parliament in a Resolution of 18 May 2000. It should be emphasised that a certain degree of further harmonisation of Community policy on the radio spectrum is desirable, ***in particular for pan-European*** services and applications, and that it is necessary to ensure the Member States make applicable in the required manner certain decisions of the European Conference of Postal and Telecommunications Administrations (CEPT).

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*Justification*

*The new wording is more precise.*

## Amendment 2

## Recital 3

(3) Radio spectrum policy in the Community should contribute to freedom of expression, including freedom of opinion and freedom to receive and disseminate information and

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ideas, irrespective of borders, **as well as** freedom and plurality of the media.

ideas **without interference by the public authorities and** irrespective of borders, **together with the** freedom and plurality of the media.

### *Justification*

*The amendment in part repeats the wording of Amendment 3 from Parliament's first reading. Although that the Council partially incorporated this amendment into the common position, the development of radio spectrum policy in the Community should expressly guarantee the right to freedom of expression without interference by the public authorities and irrespective of borders, together with the freedom and plurality of the media. This achieves clarity concerning this right and the objective of safeguarding it within the Community legal order.*

*It should be noted that both the Commission and the Council have expressed their support for the amendment and the relevant part of amendment 13 from Parliament's first reading (see rewording of Article 1(2) of the common position to include a reference to 'freedom of expression').*

*Freedom of expression is included as a right in the text of the Charter of Fundamental Rights which was jointly proclaimed by the Council, Parliament and the Commission and which sets out together individual, political, economic and social rights, as well as citizens' rights within society.*

### Amendment 3 Recital 5a (new)

***(5a) The Commission may with the support of the Radio Spectrum Committee examine the use of radiospectrum in the Member States and issue recommendations to the Member States on how to approximate their use of radio frequencies wherever an approximation would lead to efficiency gains in the use of radio spectrum or would increase the competition on spectrum-related European product- or service markets.***

### *Justification*

*With a view to delimiting powers, it should be stated that the Member States have the right to determine radio spectrum policy themselves where Community policy which depends on radio spectrum is not affected.*

Amendment 4  
Article 1, paragraph 3a (new)

***(3a) The Commission shall submit any new Community policy initiative relating to radio spectrum to the European Parliament and Council. The proposal should include, inter alia, information on the impact of the envisaged policy on existing spectrum user communities as well as indications regarding any general radio frequency re-allocation that this new policy would require.***

*Justification*

*Where the Commission proposes new Community policy measures relating radio spectrum, the proposal shall include information on the impact on existing groups of radio spectrum users, and in particular information concerning whether rights to use spectrum may be withdrawn and made available to other groups of users (frequency re-allocation). This will mean radio spectrum policy decisions being adopted by the Council and Parliament in the basic act, whilst technical implementation will be left to be dealt with under the subsequent committee procedure.*

Amendment 5  
Article 1, paragraph 4

(4) This Decision is without prejudice to measures taken at Community or national level, in compliance with Community law, to pursue general interest objectives, in particular relating to content regulation and audio-visual policy, to the provisions of Directive 1999/5/EC and to the right of Member States to organise and use their radio spectrum for public order and public

(4) This Decision is without prejudice to measures taken at Community or national level, in compliance with Community law, to pursue general interest objectives, in particular relating to content regulation and audio-visual policy, to the provisions of Directive 1999/5/EC and to the right of Member States ***to determine radio spectrum policy themselves, where***



security purposes and defence.

***Community policy which depends on radio spectrum is not affected, and to organise and use their radio spectrum for public order and public security purposes and defence.***

*Justification*

*With a view to delimiting powers, it should be stated that the Member States have the right to determine radio spectrum policy themselves where Community policy which depends on radio spectrum is not affected.*

Amendment 6  
Article 3, paragraph 3

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. Where reference is made to this paragraph, Articles 5 ***(1), (2), and (6)*** and ***Article 7*** of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

*Justification*

*This amendment aims at preserving the possibilities of intervention of the Parliament in the case of comitology procedures.*

Amendment 7  
Article 4, paragraph 8 (new)

***8. The technical implementation measures which the Commission intends to adopt according to the paragraphs 2 and 4 shall be forwarded to the European Parliament, which shall have a period of four weeks within which to state its position. If during that period Parliament has not adopted a resolution stating that the proposed technical implementation measures exceed the implementing powers laid down in the Decision, the Commission shall adopt those measures. If Parliament has done so, the Commission shall present new proposals to Parliament compatible with the above-mentioned resolution.***

### *Justification*

*The European Parliament does not at present have complete safeguards with regard to its legislative role. It therefore seems essential to stipulate a mechanism enabling the European Parliament to exercise democratic control over the technical implementing measures which the Commission intends to adopt, the framework for which is laid down by the Decision.*

## EXPLANATORY STATEMENT

1. The primary aim of the decision on a regulatory framework for radio spectrum policy in the European Community is to provide a basis for improved coordination of Member States' radio spectrum policy at Community level. To that end, the Common Position of 12 October 2001 provides that the Commission is to be responsible for the adoption, under the committee procedure, of technical implementing measures required to be taken in connection with decisions on Community policy which depends on radio spectrum.

2. Important reservations expressed by the European Parliament at first reading fail to be dispelled by the Common Position, which, in particular, does not clearly state that decisions on a matter as important from a social and economic point of view as radio spectrum policy should be adopted under legislative procedures and above all by elected representatives of the people. In particular, decisions regarding how limited radio spectrum should be allocated among the various groups of users should not be taken under the committee procedure.

The Common Position also does not refer to the division of powers between the Community and the Member States in the area of radio spectrum policy. It is necessary to state that EU action in relation to radio spectrum matters should be confined to services and applications with Community or European coverage which depend on radio spectrum.

The Common Position does not, furthermore, mention in what form Parliament could be involved at the earliest possible stage in the shaping of radio spectrum policy.

3. As rapporteur, I have had the task, in discussions with the Council and more particularly with the Council Presidency and the Commission, of trying at the earliest possible stage to find compromises which both take account of the reservations expressed by Parliament at its first reading and which are able to be supported by the Member States in the Council. As a result of these discussions, it has been possible to create a basis permitting the decision on radio spectrum to be adopted at the same time as directives specifically concerned with communications.

4. On condition that the Council officially signals its support for the proposed amendments, I recommend making only these amendments at second reading and foregoing any others.

5. In addition, the Council, the Commission and the European Parliament should, independently of this decision, conclude an interinstitutional agreement, pursuant to which Parliament would send observers to an expert group on radio spectrum matters set up on an informal basis by the Commission. This group would discuss all radio spectrum-related issues associated with the introduction of new Community policies which depend on radio spectrum.