



Conference of Committee Chairs  
The Chair

Mr Jerzy BUZEK  
President of the  
European Parliament

203313    12.09.2011

Geda ref.: D(2011)35636

Subject: Request for a non-legislative own-initiative report by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) entitled "EU Charter: Standard settings for Media Freedom across the EU" and contested by the Committee on Culture and Education (CULT)

Dear President,

By letter dated 25 March 2011, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) has requested authorisation, under Rules 42 and 50 of the Rules of Procedure, to draw up a legislative own-initiative report entitled "EU Charter: Standard settings for Media Freedom across the EU". The Committee on Culture and Education (CULT) has opposed the LIBE request on grounds of conflicting competences. Following the CULT opposition, LIBE has modified its request to a *non-legislative* own-initiative report; however, CULT maintains its opposition on the same grounds.

Despite the attached exchange of letters, bilateral contact between the committees and consideration in the Conference of Committee Chairs, it has not been possible to find a solution amenable to both LIBE and CULT. It is therefore my duty, as Chair of the Conference of Committee Chairs, to make a recommendation concerning the LIBE request.

LIBE justifies its initial request by stating that LIBE is the committee responsible for the European Charter of Fundamental Rights, and that Art. 11(2) of the Charter stipulates that "The freedom and pluralism of the media shall be respected". According to LIBE, the aim of the report is to set out guidelines or recommendations defining minimum essential standards for media freedom in the EU. The report would outline the developments in the legislation and practices in the Member States. It would draw on the 2003 EP Resolution on the issue,<sup>1</sup> the ongoing preparatory work of the Commission, and on the requested updated version of the 2004 "Study on the Information of the citizen in the EU: obligations for the media and the Institutions concerning the citizen's right to be fully and objectively informed".

CULT opposes the LIBE citing its specific competence over audiovisual policy under Annex VII to the Rules of Procedure. CULT points out that the principal legal instrument at Community level in the field is the "2007 Audiovisual Media Services Directive" for which CULT was responsible during the legislative process. CULT further stresses that Art. 51(1) of the Charter specifies that the Charter is directed at Member States only when they are implementing Union law which in this case means the aforementioned Audiovisual Media Services Directive.

<sup>1</sup> LIBE INI report "Risk of breaches of freedom of expression and information in the Union, particularly in Italy (art. 11,2 Charter of FR)" adopted by plenary on 22 April 2004.

As you will recall, Annex VII states that the LIBE Committee is responsible for "*the protection within the territory of the Union of citizens' rights, human rights and fundamental rights, including the protection of minorities, as laid down in the Treaties and in the Charter of Fundamental Rights of the European Union*".

Annex VII also allocates the CULT Committee the competence over "*audiovisual policy*" and "*information and media policy*".

The question of competence therefore becomes one of whether the general LIBE competence over fundamental rights extends over and above the specific CULT competence over audiovisual policy and media policy.

It should be noted that the Treaty confers on the EU no general competence in the field of media freedom. Nor does the Charter of Fundamental Rights add new Union competences. Rather, the Charter sets out a series of principles (e.g. Article 11(2): "The freedom and pluralism of the media should be respected") which are "addressed to the institutions ... of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law" (Article 51(1)). Hence any Community competence over media freedom and standards thereof must remain within the specific context of existing EU legislation.

Further, Rule 36 of the Rules of Procedure sets out a clear division of competence between standing committees with a specific competence in a policy field and the committee generally responsible for the interpretation of the Charter under which the committee responsible maintains its competence over the report while LIBE delivers an opinion on the compatibility of the proposed act with the Charter:

"Where the committee responsible for the subject matter, a political group or at least 40 Members are of the opinion that a proposal for a legislative act or parts of it do not comply with rights enshrined in the Charter of Fundamental Rights of the European Union, the matter shall, at their request, be referred to the committee responsible for the interpretation of the Charter. The opinion of that committee shall be annexed to the report of the committee responsible for the subject-matter."

Although this provision only applies to legislative proposals, it would be logical to apply it *mutatis mutandis* to own-initiative reports as well.

Given the explicit focus of the requested report by LIBE on "Media Freedom across the EU" and "guidelines or recommendations defining minimum essential standards for media freedom in the EU"; the specific competence of the CULT committee for "audiovisual policy" and "media policy"; and the fact that neither the Treaty nor the Charter of Fundamental Rights confer any general competence over media freedom to the EU, my recommendation to the Conference of Presidents would be:

- 1) That the LIBE request to draw up a non-legislative own-initiative report entitled "EU Charter: Standard settings for Media Freedom across the EU" be rejected.

Yours/sincerely,



Klaus-Heiner LEHNE

cc: Mr Juan Fernando LÓPEZ AGUILAR, Chair of the Committee on Civil Liberties, Justice and Home Affairs  
Mrs Doris PACK, Chair of the Committee on Culture and Education

Annexes



ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET  
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Committee on Culture and Education  
The Chairwoman

Mr. Juan Fernando LÓPEZ AGUILAR  
Chairman

Committee on Civil Liberties, Justice and Home Affairs

ASP 11G306

310395 22.06.2011

European Parliament

B-1047 Brussels

D(2011)32677

Dear Mr. López Aguilar,

**Subject: LIBE request to draw up a legislative initiative report on "EU Charter: Standard settings for Media Freedom across the EU"**

Thank you for your letter of 7 June, in which you explained the latest position of the LIBE committee coordinators on this request: I drew it to the attention of the CULT coordinators in the course of their meeting on 15 June.

The CULT coordinators welcomed the decision of the LIBE coordinators to downgrade their request and no longer seek authorisation to draw up a legislative initiative report but rather only a "normal" (Rule 48) INI report.

Nevertheless, the view of coordinators speaking for a large majority of Members of the Committee was that:

- CULT is the responsible committee under Annex VII of the Rules for "media";
- CULT was accordingly the committee responsible for the 2007 Audiovisual Media Services (AVMS) Directive (the principal instrument of EU law in the media field);
- they therefore remain opposed to LIBE's request;
- their opposition to LIBE's request should not be seen as prejudging any decision about whether CULT might draw up an INI report on implementation of the provisions of AVMS Directive (this, they emphasised, is a separate decision).

Finally, the coordinators could see no realistic prospect of reaching a mutually acceptable compromise between our two committees on this issue: several of them expressed the view that this is a straightforward question of the division of responsibilities between different parliamentary committees for Union law in different fields.

I am copying this letter to our colleague Klaus-Heiner Lehne, in his capacity as Chair of the Conference of Committee Chairs, with the request it be included in the meeting papers for the next CCC.

Yours sincerely,  


Doris PACK

cc: Mr. Klaus-Heiner LEHNE, Chair of the Conference of Committee Chairs

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Committee on Civil Liberties, Justice and Home Affairs  
The Chairman

202504   07.06.2011

Ms Doris PACK  
Chairwoman of the Committee on Culture and Education  
ASP 1E 102

Subject: LIBE request to draw up an initiative report on "EU Charter: Standard settings for Media Freedom across the EU"

Dear Ms Pack,

I would like to inform you on the updated stance of the LIBE Committee regarding the request to draw up an initiative report entitled "EU Charter: Standard settings for Media Freedom across the EU", following the discussion by the LIBE coordinators of your letter of 4 May 2011 reflecting the position of the Committee on Culture and Education on this matter.

During their meeting of 24 May 2011, LIBE coordinators have decided to downgrade LIBE's request and ask for the authorisation to draw up an own-initiative report on the subject, under rule 48 of the Rules of Procedure.

The aim of the report is setting guidelines or recommendations defining minimum essential standards for media freedom as protected by Art.11 of the EU Charter of Fundamental Rights. The report would outline the developments in the legislation and practices in the Member States. It would draw on the previous EP Resolution<sup>1</sup> and the preparatory work of the Commission in this field, as well as on the requested updated version of the 2004 "Study on the Information of the citizen in the EU: obligations for the media and the Institutions concerning the citizen's right to be fully and objectively informed".

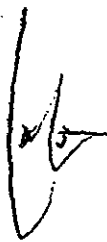
As in previous procedures, we are looking forward to continuing the fruitful cooperation between our committees.

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<sup>1</sup> European Parliament resolution on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2) of the Charter of Fundamental Rights) (2003/2237(INI))

We consider that the valuable input of the European Institute for the Media, the Venice Commission, the Legal Services of the institutions, the OECD, and the Max Planck Institute would ensure a more comprehensive approach on this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'JF' followed by a stylized flourish.

Juan Fernando LÓPEZ AGUILAR

CC:

Mr Klaus-Heiner LEHNE, Chair of the Conference of Committee Chairs  
Mr Simon BUSUTTIL, coordinator for EPP  
Mr Claude MORAES, coordinator for S&D  
Ms Renate WEBER, coordinator for ALDE  
Ms Judith SARGENTINI, coordinator for VERTS/ALE  
Mr Timothy KIRKHOPE, coordinator for ECR  
Mr Rui TAVARES, coordinator for GUE/NGL  
Mr Mario BORGHEZIO, coordinator for EFD.



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Committee on Culture and Education  
The Chairwoman

Mr. Klaus-Heiner LEHNE  
Chairman  
Conference of Committee Chairs  
ASP 10E205  
European Parliament  
B-1047 Brussels

307677 04.05.2011

D(2011)23588  
Dear Mr. Lehne,

**LIBE request to draw up legislative initiative report on "EU Charter: Standard settings for Media Freedom across the EU"**

I am writing to explain the grounds on which, in the course of the last meeting of the Conference of Committee Chairs, I challenged the right of the LIBE Committee to draw up a legislative initiative on "EU Charter: Standard settings for Media Freedom across the EU".

In his letter to you of 25 March requesting authorisation for this initiative, the chair of the LIBE committee refers to Article 11(2) of the Charter of Fundamental Rights ("The freedom and pluralism of the media should be respected") and to the EP resolution of 10 March on "Media law in Hungary", particularly paragraph 6 thereof, which "Calls on the Commission to act, on the basis of Article 265 TFEU, by proposing a legislative initiative pursuant to Article 225 TFEU on media freedom, pluralism and independent governance before the end of the year, thereby overcoming the inadequacies of the EU's legislative framework on the media, ...".

As you know, Article 51(1) of the Charter specifically provides that: "The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties" (my emphasis).

In the media field, the principal instrument of what the Charter calls "Union law" and Mr. Aguilar López calls "the EU's legislative framework on the media" is the 2007 Audiovisual Media Services Directive. Under Annex VII of the Rules of Procedure, it is the Committee on Culture & Education which is responsible within the EP for "audiovisual policy" and it was, indeed, this Committee which was responsible for the legislative procedure which brought the AVMS Directive into being. Moreover,

given this division of responsibilities, it is likely that any future Commission legislative initiative on "media freedom, pluralism and independent governance" would be referred to this Committee.

I would therefore be grateful if you would recommend to the CCC that it reject the request of the LIBE committee set out in Mr. Aguilar López's letter.

Yours,

A handwritten signature in dark ink, appearing to read 'Doris Pack', with a stylized, cursive script.

Doris PACK



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The Committee on Civil Liberties, Justice and Home Affairs  
The Chairman

IPOL-COM-LIBE D(2011)15633

Mr. Klaus-Heiner LEHNE  
Chair of the Conference of Committee Chairs  
ASP 10 B 205  
Bruxelles

305270 25.03.2011

**Subject:** Request for authorization for a legislative initiative pursuant to article 225 of the TFEU under Rule 42 of the Rules of procedure

Dear Mr. Lehne,

In 2004 the Conference of Presidents charged the LIBE committee to submit to the plenary an initiative report<sup>1</sup> dealing with the risk of violation in the EU of the freedom of expression and information as protected by art. 11 (2) of the European Charter of Fundamental Rights according to which "The freedom and pluralism of the media should be respected".

This initial report has been followed by several other EP resolutions<sup>2</sup> the latest of which has called the Commission to act, on the basis of Article 265 TFEU, "(...) by proposing a legislative initiative pursuant to Article 225 TFEU on media freedom, pluralism and independent governance before the end of the year, thereby overcoming the inadequacies of the EU's legislative framework on the media, making use of its competences in the fields of the internal market, audiovisual policy, competition, telecommunications, State subsidies, the public-service obligation and the fundamental rights of every person resident on EU territory, with a view to defining at least the minimum essential standards that all Member States must meet and respect in national legislation in order to ensure, guarantee and promote freedom of information and an adequate level of media pluralism and independent media governance;"

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<sup>1</sup> P5\_TA(2004)0373

<sup>2</sup> See the latest on the topic, texts adopted, P6\_TA(2011)0094



Bearing in mind this Plenary statement and without having yet received the confirmation from the Commission that it will submit a legislative proposal within the set deadline, on behalf of the LIBE coordinators (decision of the LIBE coordinators meeting on 28 February 2011) I kindly request the authorisation for a legislative initiative pursuant to article 225 of the TFEU under Rule 42 of the Rules of procedure with the title "EU Charter: Standard settings for Media Freedom across the EU".

Given the scope of the future initiative, the opinion of the other mostly concerned EP committees should be authorised as well.

I look forward to hearing from you.

Yours sincerely,



Juan Fernando LÓPEZ AGUILAR

CC:

Mr Simon Busuttil, coordinator for EPP  
Mr Claude Moraes, coordinator for S&D  
Ms Renate Weber, coordinator for ALDE  
Ms Judith Sargentini, coordinator for VERTS/ALE  
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