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# EUROPOLITICS

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### FOCUS

## Mandelson warns against confronting China

EU Trade Commissioner Peter Mandelson has warned against a direct confrontation with China over Tibet. Mandelson, who said he was expecting calls for a trade boycott as the Beijing Olympic Games come closer, called for realism, on 15 April in London, before the China-Britain Business Council, an organisation which helps British companies establish a presence in China.

"We can and should insist on our values and our concerns. But we must also not lose sight of the fact that we are bound to work with China, to live alongside China, to help China succeed," he said. "I say this because some appear to assume that a course of direct confrontations in connection with the Olympics and Tibet serves our interests, and indeed Tibet's," he added. He nevertheless acknowledged that "modern China presents us with a dilemma. Our concerns, our protest must go hand in hand with a strategy for ensuring that China continues to look outwards, to pursue internationalism".

Commenting on the predictable calls for a boycott against China, Mandelson stressed that he would not support them as they would only hurt the interests of ordinary European and Chinese citizens.

### COMMUNICATION

## Commission to launch action plan on audiovisual media

By Célia Sampol

The European Commission will launch an action plan on audiovisual media, the first source of information for Europe's adult population. The goal is to help the media provide more information to citizens on the Union and to develop a European political sphere.

It is from this point of view that EU Institutional Relations Commissioner Margot Wallström will present, on 25 April, a communication titled 'Communicating Europe through audiovisual media'. The draft document that *Europolitica* has procured proposes launching a three-stage process. The first point consists of facilitating the coverage of EU news by broadcasters. The EU executive is therefore counting on increasing the content of the free inter-institutional information service Europe by Satellite (EBS), going so far as to "double its capacity". This tool, which in particular provides pictures of EU events and live coverage of press conferences, will have to be developed with an eye toward 2009, which will see "the coming into force of the Lisbon Treaty, the creation of a president of the EU Council, the European elections and greater application of the co-decision procedure".

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This reinforcement will take place through an increase in the scope of events followed as well as the number of languages available. A personalised service for television channels and journalists will be offered on demand,



The goal is to help the media provide more information to citizens on the Union

and programmes suitable for different groups (regional press, specialised press, NGOs and researchers) are planned.

Still on this point, the role of the audiovisual library is expected to be reinforced as well as the centralised access point for all audiovisual material produced by the Commission. Finally, an agenda of upcoming events, localised in a sort of 'one stop shop', will give access to background documents, videos and figures allowing journalists to prepare their reports.

### REINFORCED SUPPORT FOR EURONEWS

The second point of the action plan consists of pro- **(continued on page 9)**

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Chairman and Publisher:  
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### TELEPHONE

Central: +32 2 737 77 00  
Fax: +32 2 732 66 51  
Direct lines:  
Instead of 00, dial the two digits  
after the person's name.

### E-MAIL

Editorial staff:  
editorial@europolitics.info  
Subscriptions:  
subscriptions@europolitics.info  
Direct:  
firstname.surname@  
europolitics.info

### EDITORIAL TEAM

Executive Publisher &  
Editor-in-Chief:  
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Marc Paolosi, Rory Watson  
Production Editor:  
Eric Van Puvelde (22)

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Ryan Stephens

### Agenda, layout and website:

Philippe De Clercq (57)  
Geneviève Jourdain (13)  
Grégoire Maus (15)  
Christine Serville (14)

### ACCOUNTING:

Pascal Duvent  
Tel: +33 1 42 74 28 93  
Fax: +33 1 42 47 29 00  
accounting@europolitics.info

### MARKETING/SUBSCRIPTIONS

Director: Frédérique Carton  
Head of Marketing:  
Stéphanie Pacchiano (41)  
Aurélié Aromatario (09)

### ADVERTISING

Commercial Director: Jérôme Milan  
Tel: +33 1 42 74 29 04  
jmilan@siac.fr  
Benelux: Eurintro - M. Dourinck  
Tel: +32 475 271 382  
mdourinck@eurintro.be  
France: Anne Rougé  
Tel: +33 6 72 43 70 79  
or +33 6 72 62 22 47  
Other countries:  
advertising@europolitics.info

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**FINANCIAL SERVICES****Uncertainty hangs over UCITS**

By Ruth Milligan

The European Commission admitted, on 14 April, that the future of a proposed new regime for retail investment funds is hanging in the balance – with Internal Market Commissioner Charlie McCreevy still “making up his mind finally” on the best way forward.

The Commission had been due to publish a draft version of a new UCITS (Undertakings for Collective Investment in Transferable Securities) Directive at the end of April. However, McCreevy’s spokesperson, Oliver Drewes, said on 14 April that the commissioner “might first have to consider consulting some advisory bodies” as “there are too many uncertainties at this stage”. In short, he continued, “the situation is wide open”. However, one thing is clear: publication by the late April deadline “is very very unlikely”. There are even signs that the whole project might be shelved. The shock news comes just a week after the Commission hosted a high-level open meeting to thrash out ideas on what shape the new regime should take.

The proposed changes to the UCITS rules have been under discussion for the past five years, with a green paper in 2005, a white paper in 2006 and a number of specific expert group reports. The proliferation of new types of financial products and the market pressure to distribute these to retail investors are behind the moves for revisions which would extend the scope of the UCITS

regime and bring these currently non-harmonised funds under one set of EU-wide regulations. Exactly how wide to spread the net has not been decided but likely contenders for inclusion are private equity, open-ended real estate funds and funds of hedge funds.

The advantage to any product of being in UCITS is the passporting regime – so that if a product is given recognition in one member state, it can be sold throughout the Union. However, hand-in-hand with this comes the highly controversial management passport. This would allow fund managers themselves to conduct business in all the member states, no matter where they were based, without the necessity of setting up branch offices. It is estimated that this could save €1 million per year for the average asset management company. Some member states – such as France, the Netherlands, the UK and Germany – are all for this. Others, including Ireland and Luxembourg, argue that it would lead to a dangerous lack of local regulatory oversight. This may well be the issue currently putting a spanner in the UCITS proposals, since some see an extended UCITS without such a passport as lacking the tools needed to deliver full benefits.

**UCITS V MiFID – CULTURE CLASH**

Another problem faced by the proponents of extending the UCITS family is how this would fit with another piece of major financial market regulation, MiFID (Markets in

Financial Instruments Directive). This directive approaches financial market regulation from a principle-based viewpoint. Instead of examining every type of product and deciding whether it should be in or out of the rules, ie whether it can or cannot be distributed as a pan-European product, MiFID sets out a series of standard tests: if a product passes these tests, it qualifies for inclusion. UCITS, on the other hand, works from the opposite stance and must stipulate in advance which products it covers. The problem then arises with how to fit the two together. Jean-Pierre Casey raises just such a question in a recent paper published by the Brussels think tank CEPS (Centre for European Policy Studies). Commenting in *The Times*, Casey writes that this ex-ante approach has led to “pressure on the Commission to shoe-horn various alternative investment products into UCITS”. However, he continues, the process by which eligible assets are defined under UCITS is “outdated and unsustainable”. In a world where new products are coming onto the market every day, industry cannot wait for the legislative process to catch up. Indeed, underlying all of the Commission’s recent financial services legislation has been the principle-based approach – a shift away from the type of legislation favoured when UCITS was conceived. Ironically, the success of UCITS may be compounding the problem as no-one would want to fundamentally alter a regime which has become such a world-recognised brand. ■

**TEXTILE INDUSTRY****Commission to probe Iteima’s buy of BarcoVision**

By Eric van Puyvelde

The proposed acquisition of Belgian company BarcoVision, manufacturer of electronic control systems for textile machinery, by the Italian textile machine manufacturer Iteima poses competition problems due to the vertical relationship which exists between the parties. The European Commission therefore opened an in-depth investigation into the transaction, on 14 April, under the EU’s merger regulation.

Iteima is one of the three main companies supplying textile mill owners with

winders, which are machines used to stock yarn before it is woven or knitted. BarcoVision is one of the two main companies currently producing sensors for winders, an essential device for ensuring textile quality. The company also produces software systems specifically designed for the textile industry.

The Commission’s preliminary investigation revealed that BarcoVision has a strong position as a supplier of sensors for winders. In view of Iteima’s position on the market for winders, the Commission has serious concerns that the proposed transaction might increase the cost or affect the quality

of sensors purchased by other winder producers. The Commission’s in-depth investigation will therefore in particular focus on ascertaining whether the new entity would have an incentive to negatively influence the availability of sensors.

“Sensors are a key component of textile machines and are essential to ensure the quality of textiles sold throughout the world,” commented EU Competition Commissioner Neelie Kroes. “It is therefore important for European consumers that the Commission checks that access to these sensors will not be negatively affected by this merger.” ■

## EUROPEAN RESEARCH AREA

**Research ministers launch 'Ljubljana process'**

By Radek Honzak

The EU's ministers responsible for research held an informal Competitiveness Council meeting in Brdo, Slovenia, on 15 April, with one goal in mind – to overcome their differences over the creation of the European Research Area and to finally kickstart the project. Slovenian Minister of Higher Education and Research Mojca Kucler Dolinar has set two dominant topics for the session, each divided into several parts.

The morning meeting was dedicated to the 'ERA vision'. Ministers discussed the

objectives of ERA, including its links to the Lisbon strategy objectives as well as the most important features of the project (ie the free movement of researchers and knowledge, EU-wide cooperation and EU-level initiatives). They stressed that the common vision should be upgraded as soon as possible with a view to framing policy and action plans to put it into practice. In the afternoon session, the ministers took on the issue of 'ERA governance'. The question of what role EU member states, associated countries, parliaments and regions should have, and how the principal stakeholders should be


engaged, proved most difficult. That is why ministers called for an "improved political management". They also agreed on several management methods which should help ERA, under the heading of a new 'Ljubljana process'. Improved cooperation will be crucial if ERA is to get off the ground. For example, member states have shown much reluctance to form international consortia needed to develop 35 research infrastructures, which are to form the cornerstone of ERA (see *Europolitics* 3174). EU members cite legal difficulties regarding liability, taxation or staffing as the main obstacles (3448).

The discussion was based on the outcome of the consultations on the European Commission's green paper on ERA. The consultation drew 685 replies and the results, published on 2 April, clearly show the differences between the views of member states and stakeholders. ■

**An "internal market for research"**

The Commission defines ERA as an "internal market for research," ie an area with free circulation of researchers, technology and knowledge. The broad concept, originally launched by previous Research Commissioner Philippe Busquin, is based on the idea of effective EU-level coordination of national and

regional research policies and activities. The Commission should unveil specific plans for the development of ERA this year, with one legislative proposal to create a legal framework for the construction and operation of new EU-wide research infrastructures. The creation of ERA is formally listed as one of EU's goals in the Lisbon Treaty.

 The results of the public consultation on ERA are available at [www.europolitics.info](http://www.europolitics.info) > Search > 223709

## INFORMAL HEALTH COUNCIL

**Cancer, cross-border care, alcohol and antibiotics on agenda**

By Nathalie Vandystadt

The EU's health ministers will meet in Brdo, Slovenia, on 17 and 18 April, for an informal meeting focused on the fight against cancer. The Slovenian EU Presidency aims to launch common actions at European and national level to "bring the disease under control" (see *Europolitics* 3467).

Some 3.2 million new cases of cancer are detected in Europe every year, with breast, prostate, lung and colon cancer being the most frequent. The number of cancer deaths is expected to rise significantly by 2015. "But the burden of cancer does not affect different parts of the Union in the same way," noted recently the new EU Health Commissioner, Androulla Vassiliou (Cyprus). She mentioned the case of cervical cancer, which is four times more frequent in Bulgaria than in Finland and almost five times more likely to be fatal in Lithuania than in Italy, according to statistics.

The 27 ministers are expected to focus on the areas and activities where EU support represents "important added value": screening for early diagnosis, access to treatment and palliative care and investments in research.

The results of their meeting will be drafted into conclusions to be submitted to the Health and Employment Council on 9 and 10 June in Luxembourg.

In 2009, the European Commission plans to propose an action plan for the EU based on these priorities.

**'SOCIAL PACKAGE'**

For her first meeting with the EU health ministers, Commissioner Vassiliou will meet representatives of the troika – Germany, Portugal and Slovenia – and participate in a separate meeting with Slovenian Minister Zofija Mazej Kukovic.

The commissioner is expected to discuss the work programme running until the end of her term of office and,

above all, the proposal for a directive on cross-border health care.

During her hearing by the European Parliament, Vassiliou made a commitment to present in June a proposal on patients' rights in terms of cross-border care and access to health care in the EU (3501, 3453 and 3438). Her predecessor, Markos Kyprianou, did not succeed in tabling a proposal on this controversial issue. This time, DG Employment is officially involved because Vassiliou's proposal will form part of a 'social package' to be launched in collaboration with Employment and Social Affairs Commissioner Vladimír Špidla.

This week's informal Council will also discuss the EU strategy to reduce alcohol-related harm. The priority is to build capacities for implementing prevention programmes and policies at European, national, regional and local levels.

The ministers will also discuss antimicrobial resistance due to excessive use of antibiotics in the EU. ■

**MULTILINGUALISM****Commission drafting strategy to promote linguistic diversity**

By Eric van Puyvelde

A new European strategy to promote multilingualism will be presented by the European Commission in September. It will focus on the role that multilingualism plays in social integration, its importance in legal and educational systems and the support which new technologies can bring to it. According to the spokesperson for Multilingualism Commissioner Leonard Orban, it will be based on the results of a consultation launched at the end of 2007, which were examined during a public hearing on 15 April in Brussels.

The consultation was carried out online between September and November 2007 and gathered around 2,500 opinions from individuals, businesses, expert organisations and policy makers from 58 countries<sup>1</sup>.

Most respondents shared the views that:

- Languages must be learnt at an early age and, if possible, in the country of the new language

- More should be done for regional languages and the linguistic diversity of the EU is an asset to be safeguarded

- The media should promote an intercultural society model, focusing on tolerance, not on confrontation

- The costs related to working in 23 official languages (1% of the budget) are worth paying.

The policy document, to be adopted by the Commission in September, will examine and define the role of languages in the EU, which has around 60 different mother tongues. For Leonard Orban, "multilingualism is a cross-cutting policy, involving people at every level of society. It is my intention to be the catalyst of this policy". ■



(1) The results of the consultation are available at [ec.europa.eu/dgs/education\\_culture/consult/index\\_en.html](http://ec.europa.eu/dgs/education_culture/consult/index_en.html)

**ENERGY****Piebalgs stresses nuclear in low-carbon economy**

By Dafydd ab Iago

Speaking at the opening session, on 15 April, of the European Nuclear Assembly<sup>1</sup> 2008, organised by the industry association FORATOM, Energy Commissioner Andris Piebalgs underlined the role of nuclear energy in "the transition towards a low carbon economy". Piebalgs told an audience of some 180 policy makers, industry experts and stakeholders that whilst nuclear energy makes an "important contribution" in the fight against climate change, and for greater security of energy supply, EU member states must strengthen cooperation as regards

safety and security of nuclear installations as well as the treatment of nuclear waste. "New nuclear power plants must be built and existing ones have their operational lifetime extended in order ensure that 2030 electricity supply goals are met," said Piebalgs. The commissioner noted that in order to make the necessary investments to replace ageing power plants in the EU, the European Commission is currently examining issues related to licensing, financing and different nuclear liability regimes. "Trends for the past three years are on track, but we need to increase speed," he said. The conference had a strong contingent of French speakers, including

France's Permanent Representative to the EU, Pierre Sellal. Discussing new nuclear power plants, Suez CEO Gérard Mestrallet stressed the need for long-term planning. "A nuclear project covers a period of almost a century – it takes ten years to build a plant, the plant operates for 60 years and the decommissioning phase takes 20 years," said Mestrallet. ENA 2008 ends on 16 April with debates on issues such as financing nuclear investments, tackling the nuclear skills shortage and reconciling economic growth with a low-carbon economy. ■

(1) ENA: [www.ena2008.org](http://www.ena2008.org)

**FISHERIES COUNCIL****Revision of cod quotas will depend on ICES data**

By Anne Eckstein

The revision of fishing quotas, anticipated according to the reconstitution plan for cod, will depend on the spring report by the International Council for the Exploration of the Sea (ICES), indicated Fisheries Commissioner Joe Borg to the ministers during the Fisheries Council of 14 April. He was replying to a question by French Fisheries Minister Michel Barnier on raising quotas for French fishermen. The Council proceeded to initially sound everybody out with regard to the proposal for a revised plan for the reconstitution of cod stocks, adopted on 2

April (see *Europolitics* 3502). Some member states (Spain, Sweden, the United Kingdom, Denmark and France) asked for the Celtic Sea to be kept outside of this plan. Barnier recalled that the December 2007 agreement on quotas anticipated its revision in spring 2008 according to scientific data on the state of cod stocks in the North Sea and the English Channel. "We have supplied scientific data which should normally make it possible to consider a re-evaluation, at least partially, of this cod quota," he indicated. These data, of which the Commission "took note," will, like that of ICES, serve to define a proposal which it will present to the Council by June.

Any decision on this point will need to be ready to enter into force on 1 January 2009.

**RED TUNA**

Commissioner Borg insisted upon the urgent need to implement the common deployment plan for the control of red tuna fishing in the Mediterranean, launched by the European Commission on 14 March, in order to avoid exceeding the quotas recorded in 2007. He also announced that, by the end of April, the EU executive will present proposals for the transfer of unused quotas in 2007 to the 2008 quotas of Cyprus, Malta, Spain, Portugal and Greece. ■

## FISHERIES COUNCIL

**Prospective IUU regulation deemed too complex**

By Anne Eckstein

The EU's fisheries ministers, meeting in Luxembourg on 14 April to discuss the proposal for a regulation relating to the fight against illegal, undeclared and unregulated (IUU) fishing, consider it to be "too complicated". This was their verdict when asked by experts from the Council – currently working on the proposal – for a political approach on three "politically difficult" points: the field of application, the certification mechanism and sanctions. They now know that all member states have difficulties, on varying levels, with these three questions.

With regard to the **field of application**, namely if the regulation should apply to ships flying the Community flag and ships from third countries or just to the latter, seven countries (United Kingdom, Belgium, France, Sweden, Ireland, Italy and Germany) consider that the Community fleet is already sufficiently controlled by the legislation in force and in particular

by Regulation EC 2847/1993 instituting a control system applicable to the Common Fisheries Policy. They consider that the new provisions must be harmonised with existing regulations, to avoid incoherence and/or duplication. For Cyprus, Estonia, Denmark, Latvia and Bulgaria, the new provisions should only apply to third countries. Apparently, only Spain agrees with the European Commission on its proposal for a single system.

The EU27 are clearly more united with regard to the proposed **certification** measures and procedures: too complex and too taxing on an administrative level, explained the Netherlands, Belgium, Cyprus, Finland, Denmark and Sweden. Furthermore, Portugal and Italy believe that, given the complexity of the system, it is necessary to assist third countries and developing countries in particular, both in terms of certification and the implementation of traceability measures. Fisheries Commissioner Joe Borg took note and, while insisting upon the need for a

single mechanism, admitted that it should be possible to simplify the procedures. With regard to developing countries, he recalled that not only will there be provisions to help them but furthermore the system will only enter into force one year after the adoption of the regulation, which provides the operators and administrations concerned with an adaptation period.

Lastly, the issue of **sanctions** is giving rise to nationalistic feelings among member states: they recall that it is a question of national competence. However, Poland, France and Sweden are calling for a "catalogue" of "infringements" to be drawn up. As for Joe Borg, he insists upon the need for a harmonised mechanism and "effective and sufficiently dissuasive" measures, which are clearly distinct from operational costs. Much work remains to be done in order to convince member states on this point.

The Slovenian EU Presidency hopes to be able to conclude a political agreement during the June Council. ■

## REGIONAL POLICY

**Good marks for EU Solidarity Fund**

By Isabelle Smets

The EU's Solidarity Fund, created in 2002 to provide financial assistance to member states that are affected by natural disasters (floods, forest fires, etc), is working quite well. The EU Court of Auditors, which published a special report on the fund on 15 April<sup>1</sup>, has no fundamental complaints about its working.

Its audit – based on an analysis of all the applications submitted to the fund from its inception until end 2006 – aimed to assess its speed, effectiveness and flexibility. The only negative point made by the Court of Auditors is the lack of speed in aid payment (generally a little over a year between the disaster and the fund's intervention). The European Commission's response is that the fund was not set up to provide a rapid response. It is meant to refinance the emergency spending already incurred by the member states.

The Court of Auditors goes on to note that the costs of managing the fund are

low and that the fund is working efficiently. The requirements imposed on beneficiaries are less complex than for other EU funds and applications are not put through superfluous administrative

*The only negative point made by the Court of Auditors is the lack of speed in aid payment*

phases. Nor does the Court of Auditors find fault with the flexibility the fund must show in processing applications.

So all is well, particularly because all the applicants surveyed for the audit expressed satisfaction with the Solidarity Fund.

In spite of this praise, the Commission calls for a revision of the fund's working, as it has done since 2005.


Indeed, the Court of Auditors identifies a few cases of lack of clarity in the expla-

nations given for rejection of applications concerning regional disasters.

The Commission is seizing this opportunity to point out that its proposed revision of the Solidarity Fund regulation – held up in Council for the last three years – introduces simpler and clearer criteria for granting aid.

It agrees that the concept of regional disaster is defined rather vaguely in the regulation and that the conditions for acceptance of an application are difficult to meet.

The member states and the Commission invest "considerable time and energy" in drawing up and assessing applications related to less extensive regional disasters, which are then often rejected. The Commission concludes that this situation justifies the proposed reform. ■

 (1) Special Report 3/2008, 'The European Union Solidarity Fund: how rapid, efficient and flexible is it?', is available at [www.europolitics.info](http://www.europolitics.info) > Search > 223702

**EMU AT 10****Eurozone's economic governance advances after all**By **Christophe Garach**

It has been observed on more than one occasion that the coordination of economic policies in the eurozone remains the key weakness of the Economic and Monetary Union (EMU). But when it comes time to take stock, it becomes clear that substantial progress has been made over the last decade. Jean-Claude Juncker, the guest of honour at a forum celebrating the 10th anniversary of the Economic and Monetary Union<sup>1</sup>, went to great lengths to demonstrate that in spite of the ambient scepticism over the euro and the member states' recognised lack of will, the overall picture is "satisfactory," even though he personally seemed a bit disappointed.

**"GREATER VERBAL DISCIPLINE"**

Analysed and criticised, the coordination of economic policies is based on the treaty and the revised Stability Pact, but also has its origins in a European Council resolution of 13 December 1997, noted Juncker (see box). That reference document shaped governance in the eurozone which, since it was not binding, was translated into 'flexible governance' guided by peer pressure. While this governance is anything but a 'diktat', "no country can simply do whatever it likes," said Juncker. And it is precisely within the Eurogroup that this spirit of common responsibility was born, even if it has often been flouted by the member states on different occasions (particularly on exchange policy or budget orientation). Juncker nonetheless noted that the Eurogroup has managed to "impose greater verbal discipline through the establishment of common reference terms" following a period of extreme cacophony. This wording is not new: in Manchester in 2006, the Eurogroup ministers agreed not to take measures (especially tax measures) to cushion the spectacular increase in oil prices. More recently, the eurozone also adopted a joint resolution on measures to be taken to cope with price hikes (to avoid boomerang effects, cautious management of taxation and administered prices, etc). More generally, specific recommendations are now

made for the eurozone under the revised Lisbon strategy as regards implementation of the reforms that still need to be undertaken.

**FAILURE**

But respect for such declarations often hangs on a thread. The Berlin Agreement of April 2007 (in which the Eurogroup countries agreed to achieve balanced budgets no

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*The coordination of economic policies is not a 'diktat'*

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later than 2010) has already fallen apart since France and Italy will not be able to meet their commitments before 2012 at best. Yet, Jean-Claude Juncker is sticking to his guns. The organisation of an ex ante budget orientation debate, put in place for the first time in 2007 in the Eurogroup, represents a first step. Of course, Juncker admitted his "failure": the harmonisation of budget calendars he defends has been postponed indefinitely for lack of consensus but the debate is continuing, as seen in Brdo, Slovenia (see *Europolitics* 3205). The objective is to allow greater economic convergence and to "keep some from getting rich at the expense of their neighbours".


Another subject of satisfaction for Juncker is the improved and ever greater visibility of the eurozone in the international financial institutions. The latest example came at the recent G7 meeting in Washington (3510). The ministers modified their joint declaration, "under European influence," to express more concern over the excessive volatility of exchange rates.

**"LAUGHING STOCK OF THE WORLD"**

The minister from Luxembourg nevertheless recognises that the next challenge to be met will be to introduce single representation in the International Monetary Fund. "We are the laughing stock of the world," and the situation is "absolutely ridiculous," continued the Eurogroup president (depending on the subject being addressed and the posts held, several Europeans must take the floor

in turn at meetings of the international financial institutions).

Juncker was ironical towards the member states that do not want to play the game and was very forthcoming on possible improvements to governance of the eurozone. Today's scant results naturally have to be encouraged, but the Eurogroup president did not linger on the question, concentrating instead on the (rare) new tools the Lisbon Treaty will make available to the member states and the Commission: creation of a stable presidency of the Eurogroup (which will be able to take more autonomous decisions in relation to Ecofin – see special issue on the new Treaty of Lisbon) and the possibility for the Commission to put out public warnings to a member state (without endorsement from Ecofin) "whose budget policy is faulty". But there is still a big difference between a public warning and really taking measures against recalcitrant member states. ■

 *The 1997 resolution is available at [www.europolitics.info](http://www.europolitics.info) > Search > 223683 (1) On 15 April in Brussels, organised by the European Economic and Social Committee.*

**Guidelines set in 1997**

Adopted in 1997 by the European Council, the resolution creating a framework for the coordination of economic policies laid down 12 principles divided into two chapters (coordination and exchange rate policy). In the first case, the states agreed to "close monitoring of macroeconomic developments [...] to ensure sustained convergence" and "monitoring of structural policies [...] insofar as they affect the chances of achieving sustained non-inflationary growth". On exchange policy, the resolution states that "in exceptional circumstances, for example in the case of a clear misalignment," the Council may "formulate general orientations for exchange rate policy in relation to non-EC currencies in accordance with Article 109(2) of the Treaty". These general orientations should always respect the independence of the Central Bank.



## Audiovisual media

(continued from page 1)

moting the broadcasting of EU content by supporting radio and television networks. The Commission will continue to support the network of European radio stations EURANET, launched in December 2007 with the participation of 16 radio stations from 13 member states. Over five years, it will receive €5.8 million per year to produce and broadcast 4,221 hours of EU programmes annually, with total independence. The number of languages could be increased. The institution would like to do the same for television channels in 2009-2010 with an associated internet portal. The operation cost is estimated at €8 million for

the first year. The goal remains to increase the information on the EU for citizens and to make their broadcast free of charge. The points of view of other member states could be introduced, for example, in a national report on the Union. In the same thinking, the Commission will continue its aid to Euronews and ensure that the service in Arabic can begin in July 2008. The EU executive currently subsidises this channel, owned by a consortium of European and North African broadcasters, by €10.8 million per year. Arabic will become the eighth language, which should double Euronews' global audience to 400 million homes.

Finally, the Commission intends to improve its own audiovisual material. This will take place through greater

video production. A budget of €1.8 million has been reserved for this purpose and the audiovisual service will be reorganised with the goal of producing better quality video reports in all EU languages and in different formats. DG Communications, moreover, will put in place a strategy to maximise the tools offering video and sound on demand.

This communication falls under the white paper for the European communication policy and the Commission's Plan D (for 'Democracy, Dialogue, Debate'). A strategy for the internet was presented in December 2007. ■



The communication is available at  
[www.europolitics.info](http://www.europolitics.info) > Search > 223677

## EU BUDGET

### Annual surplus continues to fall

By Eric van Puyvelde

For six years, the EU's annual budget surplus has continued to fall, decreasing from a peak of €15.003 billion in 2001 to €1.529 billion in 2007.

Therefore, last year, member states' contributions almost exactly matched the agreed spending for the year, says the European Commission which adopted, on 15 April, its decision establishing this surplus.

This surplus fell by 90% from 2000 and by 17% from 2006.

The end-of-year surplus – ie the dif-

ference between all EU budget revenue and spending – amounted to only just over 1% (€1,529 million) of the total €113.846 billion agreed spending for 2007.

To explain this situation, EU Budget Commissioner Dalia Grybauskaitė notes that "effective forward planning, less red tape and good budgetary management made it easier to get new programmes rolling faster in 2007, helping member states direct EU cash to where agreed needs lie".

It is also the effect of the financial management reforms introduced over

the past years. Crucial to the level of the surplus is the implementation of voted budget payments as they make up most of the EU's spending.

Even though the year 2007 was the first year of a new financial framework, the implementation rate of payments still reached 99%, contributing, among other things, to a record low surplus.

The surplus is returned to member states, on the basis of gross national income (GNI).

These repayments span from €300 million for Germany to €2 million for Estonia. ■

## NGOs

### Havel's foundation gets Barroso's support

By Radek Honzak

Not many European NGOs can boast an open endorsement from European Commission President José Manuel Barroso – unless it is an organisation founded by Vaclav Havel. The former Czech president was in Brussels on 15 April to launch a new 'European Foundation for Democracy through Partnership' (EFDP). The NGO will, in Havel's words, "work to ensure that democracy assistance becomes a permanent part of the Union's foreign policy," and should complement existing EU programmes.

"Democracy is the EU's raison d'être, and

this foundation will bring together representatives from across Europe's political and civil society to increase our involvement in countries where democracy is absent or under threat," said Havel, who will chair the Council of Patrons of EFDP. "From China and Belarus to Burma and Zimbabwe, Europeans – at the national and EU level – have a duty to support those striving for human rights and civic freedoms," he added.

The Czech ex-president was joined at the launch by Barroso and former Mozambique President Joaquim Chissano. The NGO, however, has received high-level support from more luminaries. Other patrons of the

EFDP are former Commission President Jacques Delors and Vice-President Etienne Davignon, German ex-President Richard von Weizsäcker, as well as former Dutch and Danish Foreign Ministers Bernard Bot and Uffe Ellemann-Jensen.

The EFDP will include 15 European civil society organisations focusing on democracy assistance. It will be chaired by Simon Panek, director of the Czech People in Need Foundation, Roel von Meijenfeldt, executive director of the Netherlands Institute for Multiparty Democracy (NIMD) and Professor Joao Carlos Espada of the Portuguese Catholic University. ■

**EUROPEAN OMBUDSMAN****2007 complaints particularly concern transparency**

By Célia Sampol

The European Ombudsman, Nikiforos Diamandouros, received 3,211 new complaints from citizens in 2007 and a “record number” of investigations were brought to completion. This is what Diamandouros stressed, on 15 April in Brussels, during the presentation of his annual report.

The number of complaints received decreased in comparison to 2006 (3,830). Nonetheless, in relative terms, more “admissible” complaints were recorded, which meant that the ombudsman had to open a larger number of investigations (641 against 582 the previous year). Among them, 348 were closed, which constitutes an increase of 40% in comparison to 2006. Out of this total, 64% concerned the European Commission. Each year, this institution is top of the list because it takes the most decisions and has a direct impact for citizens. It is followed by the European Personnel Selection Office (this figure is normal given that 60,000 people per year

sit the competitive exams), the European Parliament, the European Anti-Fraud Office and the Council.

Another precision: 28% of investigations concerned the “lack of transparency,” then injustice and the abuse of power, unsatisfactory procedures, the avoidable delay in payment for EU projects and discrimination. Germany is the country which produces the most complaints, against Spain the previous year. Diamandouros is not surprised: his services have particularly focused their awareness policy on this country. Germany is, furthermore, the largest member state and has no national ombudsman. It is followed in 2007 by Spain, France and Poland.

Diamandouros, moreover, points out that 129 cases could have been resolved by the institutions. In cases where poor administration was serious but reversible, the ombudsman sent a draft recommendation to the institution. He wrote eight of these in 2007. The best-known case was a recommendation sent to the European

Parliament following a complaint from a Maltese journalist asking for access to information concerning the details of allowances paid to five MEPs. Finally, the EP responded that it would publish explanations and amounts for fixed allowances received by the members on its web site but that it was not useful to give details of how each MEP spent the money. Diamandouros is awaiting the complainant’s response to decide.

**REVISION OF STATUS**

The Parliament has just pushed back the vote on the report on the ombudsman’s status, particularly due to a controversial point on the ombudsman’s access to the institutions’ ‘sensitive’ documents. Questioned on this matter by *Europolitics*, Diamandouros responded that the report had obtained unanimity in the Constitutional Affairs Committee and that he hoped that this compromise was adopted soon because “I find it fair” (see *Europolitics* 3491). ■

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## EU/MONTENEGRO/WTO

**EU gives boost to Podgorica's WTO accession**

By Sébastien Falletti

The EU has given a strong boost to Montenegro's accession to the World Trade Organisation, as the European Commission became the first WTO member to give its go-ahead

to Podgorica's accession to the Geneva-based organisation on 15 April. David O'Sullivan, the director-general of the Commission's Directorate General for Trade and Montenegro Vice-Prime Minister Gordana Djurovic signed a bilateral agreement that completes

the process of bilateral negotiations launched in 2005. "Montenegro has made remarkable progress. Today's signature is an important milestone in Montenegro's WTO accession process," said EU Trade Commissioner Peter Mandelson. The sides have reached agreement on tariffs for trade in goods and on the reciprocal opening of their respective services markets. These commitments will be included in the future Protocol of Accession of Montenegro to the WTO. However, Podgorica still needs to conclude its negotiations with the remaining WTO members before its accession can be endorsed by a WTO multilateral working group in Geneva. ■

**Background**

Bilateral trade commitments between the EU and Montenegro are already embodied in the Stabilisation and Association Agreement (SAA), which was signed between the European Community and

its member states and Montenegro on 15 October 2007. Pending the completion of the ratification process by the member states, an interim agreement has been applicable since 1 January 2008 allowing for the early implementation of trade and trade-related provisions of the SAA.

## EU/SERBIA

**Signing of SAA could tip balance in favour of pro-EU forces**

By Joanna Sopinska

The signing of the Stabilisation and Association Agreement (SAA) would not only facilitate the electoral victory of pro-European forces in Serbia, but could also help the whole Western Balkan region, in particular Kosovo, to achieve stability and irreversibly turn towards the West, a Serbian high-level diplomat has told *Europolitics*. The victory of radicals in the forthcoming early elections, on 11 May, would reduce virtually to zero the chances that the four war criminals still at large, including Ratko Mladic, would be transferred to The Hague. Moreover, a defeat of the pro-EU forces would make any sort of cooperation between Serbia and the EULEX mission even more unlikely than now, the diplomat underlined.

Less than a month before one of the most important parliamentary elections in Serbia after the fall of Slobodan Milosevic in September 2000, Serbia's pro-European forces, led by President Boris Tadic, have launched an intensive diplomatic offensive in the EU and the US (see page 12) in order to receive tangible support. On 11 May, the main battle will be fought in Serbia between Tadic's pro-European Democratic Party (DS) and the Serbian Radical Party (SRS), which prefers closer ties with Russia to deeper relations with the EU. The opinion polls show that the vote will be very tight, with both blocks likely to win 36-37% of the votes. Outgoing Prime Minister Vojislav Kostunica's Demo-

cratic Party of Serbia (DSS), which opposes relations with the EU unless it withdraws its support for Kosovo's independence declared on 17 February, is expected to receive 12-13% of the votes. The post-Milosevic Socialist Party of Serbia (SPS) can count on 7% and the liberal G17-Plus is forecast to win 4% (the threshold is 5%). "The signing of the SAA could tip the balance in favour of the pro-European forces," the diplomat said. An opinion poll made on 7 April showed that 45% of Serbia's citizens are inclined to vote for those forces that can secure the signature of the SAA. Moreover, the SAA also matters for those 57% who described themselves as undecided.

During such tightly-contested elections, the EU's support is even more crucial than it was before the presidential elections held in Serbia in February this year, the diplomat underlined. The support for Kosovo's independence by the majority of the EU member states has significantly changed the situation, he said. The citizens of Serbia should now see it clearly that despite the recognition of Kosovo, the EU continues to support their country's membership bid. There is a growing feeling among the Serbs that the EU prefers closer ties with the Albanians to better relations with their country, he explained.

**THE KOSOVO FACTOR**

The pro-EU forces are firmly opposed to the recognition of Kosovo, but they are ready

to start a dialogue with Pristina – a move highly opposed by the radicals, the diplomat said. "We are also open to discuss with the EU a modus operandi for the EULEX mission to replace UNMIK forces in mid-June," when Kosovo's constitution is due to enter into force, he added, suggesting that the victory of pro-EU forces is the key to a new, more stable phase of relations between Serbia and Kosovo. A new government, led by Tadic's Democrats, would be in favour of opening a new round of direct talks with Kosovo on, inter alia, the status of north Kosovo, which is predominantly inhabited by Serbs. The radicals are in favour of the ethnic partition of Kosovo. It is one of the options, "but not the only one," the diplomat said.

**DUTCH PLAY INTO RADICALS' HANDS**

By blocking the signature of the SAA, the Dutch play into the radicals' hands, he said. The deputy leader of the SRS, Tomislav Nikolic, and his allies are openly opposed to the extradition of Mladic and three other indictees to the International Criminal Tribunal for the former Yugoslavia (ICTY). Only the signing of the SAA could guarantee that Serbia would continue its efforts to arrest Mladic, he explained. The defeat of the radicals would also increase the stability of the whole Western Balkan region. Nikolic can easily destabilise the neighbouring countries by inflaming tensions along ethnic lines, in particular in Bosnia and Herzegovina, he concluded. ■

**EU/SERBIA****Deputy Premier Djelic vows to sign stabilisation pact**

By Brian Beary in Washington

“The pen is in my bag,” Serbia’s Deputy Prime Minister Bozidar Djelic told *Europolitics* on 14 April when asked if he was ready to sign a Stabilisation and Association Agreement (SAA) with the EU. Djelic said the Serbian government had, on 9 December 2007, authorised him to sign it and that if the EU approved the SAA when foreign ministers discussed the issue on 28-29 April he would sign. However, he thought it unlikely the EU would give its blessing then as the Netherlands would block it on the grounds that Belgrade had not yet handed over Ratko Mladic, the indicted ex-Bosnian Serb military leader, to the International Criminal Tribunal for the former Yugoslavia in The Hague. “We will do everything we can but please do not block an entire country because we have not found him,” he urged.

Djelic’s pledge, made at a talk at Johns Hopkins University in Washington, comes as Serbs prepare to vote in tightly-contested parliamentary and local elections on 11

May, which could determine whether the country assumes a pro-EU or Eurosceptic orientation. While the pro-EU Djelic claimed “there is no race to sign” the SAA, in reality most observers believe he wants to sign it just before the elections to woo voters away from his anti-EU political opponents. Serbia’s Prime Minister, Vojislav Kostunica, who is from a different party to Djelic, recently urged Serbia not to sign the SAA, claiming the accord gave international recognition to Kosovo’s secession from Serbia, which Belgrade opposes. But Djelic denied that signing the SAA would do this and stressed how an agreement would be good for the Serbian economy.

**SERBS UNIFIED ON KOSOVO**

Despite his pro-EU leanings, Djelic insisted “Serbia will never recognise the independence of Kosovo. You will not find any politician of stature who will accept that”. He slammed the US for espousing a “one-sided policy” by recognising Kosovo’s declaration of independence of

17 February and claimed that “European foreign ministers tell us ‘I did not want to [recognise Kosovo]. I had to’” because of Washington’s actions. Acknowledging that countries representing 60% of the world’s GDP now recognise Kosovo as a sovereign country, he stressed how only Senegal in Africa, Peru in Latin America and Afghanistan, Turkey, Malaysia and Japan in Asia have done so.

The SAA would be an important first step on the path to EU membership for Serbia. Djelic said he would also push for EU candidate status for Serbia, visa-free travel to the EU and greater EU funding. He noted how Belgrade’s neighbours Greece and Bulgaria – which are EU member states – currently received €5.6 billion and €1.6 billion a year, respectively, from the Union while Serbia only got €200 million. Djelic said 2012-2014 was his target date for EU accession and predicted “the true test of whether we join is whether we have organised crime and corruption under control,” adding “this is fair”. ■

**EU/US****Open Sky II: Ownership will be toughest nut to crack**

By Brian Beary in Washington

The EU is starting to push the US to allow foreign takeovers of US airlines in preparation for the launch of talks, on 15 May, for a second ‘Open Sky’ aviation agreement. “We are going to insist on this. It is in the interests of aviation as a whole,” Daniel Calleja Crespo, the European Commission’s director for air transport, told *Europolitics* on 14 April, while in Washington for meetings with top US lawmakers and regulators. Calleja Crespo met with the most powerful US opponent to ownership liberalisation, Congressman Jim Oberstar, chairman of the US Congress’ Transportation Committee, and invited him to attend the informal meeting of EU transport ministers in Brdo, Slovenia, on 5-6 May.

There are calls from some in the US airline industry to scrap the US law that bans foreign nationals acquiring more than 25% voting shares in a US carrier. “The restrictions make no sense in today’s world,” one airline representative said. “Air France-KLM

and Lufthansa-Swiss have now grown bigger than United and American because the EU has allowed mergers.” The representative suggested the best way to force US regulators to change their protectionist mindset would be to present them with a concrete proposal for a merger or takeover. Airline employees remain opposed to any change as they fear international mergers will reduce their bargaining powers and make it more likely, if a global carrier makes job cuts, that US-based employees will be laid off. One workers’ representative said they did not want to end up with the system of Europe, where low-budget carrier Ryanair has been accused of ‘forum shopping’ by basing itself in the country with the weakest worker protection regime.

Asked about US concerns of growing night-flight restrictions in Europe, the EU’s Calleja Crespo said “ultimately it is the responsibility of the member states and local authorities” to introduce such bans “after going through an internationally agreed procedure involving consultation and cost-benefit analysis”. He defended

EU plans to apply its Emission Trading Scheme for fighting global warming to all arriving and departing flights from 2012 – something Washington claims is illegal. “If there was a global system from ICAO [the International Civil Aviation Organisation], that would be best. But we have been waiting a long time and there has been no progress,” he said, adding the EU did not need the consent of other countries to move forward. He announced that the EU and the US planned to sign an agreement in June to introduce mutual recognition of each others’ airworthiness certificates, thereby saving airlines duplicative approval processes (see *Europolitics* 3328). Similar agreements with Canada and Brazil were in the pipeline, he said.

The Open Sky II talks will be launched in Ljubljana, Slovenia, with a deadline of November 2010 for reaching agreement. If they fail to conclude a deal, the EU or an EU member state can suspend the Open Sky I accord, which entered into force on 30 March 2008 (see *Europolitics* 3498). ■

## CLIMATE CHANGE/KYOTO PROTOCOL

**Clean Development Mechanism passes 1,000th project milestone**

By Anne Eckstein

Created in the framework of the Kyoto Protocol on the reduction of greenhouse gases, the Clean Development Mecha-

nism (CDM) has reached its 1,000th project milestone with an energy efficiency project in Andhra Pradesh (India), which is expected to reduce carbon dioxide emissions by more than 34,000 tonnes annually.

With one thousand projects in 49 countries in just two and half years, the CDM – through which, in exchange for investing in green technologies in developing countries, developed countries benefit from CO<sub>2</sub> credits – has moved from concept to reality. According to Rajesh Kumar Sethi, chair of the UN's CDM Executive Board, who presented the first report on the CDM in Bonn on 14 April, to date the mechanism has generated €135 million "certified emission reductions" (CERs – a unite of measure equivalent to one tonne of CO<sub>2</sub>) that the investors can use to solidify their obligations under this protocol. ■

**Background**

Directive 2004/101/EC (modification of Directive 2003/87/EC establishing an Emission Trading Scheme for greenhouse gases in the European Community) links the mechanisms of the Kyoto Protocol project – CDM and JI (Joint Implementa-

tion, identical to CDM but aimed at transitional economies) – and the European Emission Trading Scheme (ETS). It sets out the recognition by the ETS of credits generated through these mechanisms, broadens the range of options and reduces the cost of measures allowing EU member states to meet their obligations.

## WEAPONS OF MASS DESTRUCTION

**EU supports IAEA and WHO on nuclear and biological security**

The EU Council adopted, on 14 April, a joint action in support of the International Atomic Energy Agency (IAEA) in the areas of nuclear security and verification. It ensures continuity of cooperation between the EU and the IAEA and builds on the work achieved under previous joint actions.

The EU will support the IAEA's activities through projects aimed at: strengthening national legislative and regulatory infrastructures for the implementation of international instruments in the areas of nuclear security and verification; assisting third countries in strengthening the

security and control of radioactive materials; and strengthening third countries' capabilities for detection and response to illicit trafficking in radioactive materials. The EU will contribute €7.7 million to the implementation of these projects.

The Council also adopted a joint action in support of the World Health Organisation in the area of laboratory biosafety and biosecurity.

Under this joint action, the EU will contribute to the implementation of the Biological and Toxin Weapons Convention through activities related to the safety and security of biological agents and toxins,

with a view to preventing unauthorised access to and use of such agents and toxins for malicious purposes. The projects will address the following areas of concern for the accidental and deliberate spread of diseases: the risk of terrorists having access to dangerous biological pathogens/toxins; the respect of biosafety and biosecurity standards in laboratories; and the prevention of laboratory incidents and accidental releases of dangerous biomaterials due to inadequate practices in laboratories and other facilities.

The EU will contribute €2.1 million to the implementation of these projects. ■

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# In Brief

## Sugar talks authorised

The EU Council, on 14 April, authorised the European Commission to open negotiations with the ACP (African, Caribbean and Pacific) producer states and with India on guaranteed prices applicable to cane sugar from these countries in the delivery periods from 1 July 2008 to 30 June 2009 and from 1 July 2009 to 30 September 2009. Under the sugar protocol to the ACP-EC partnership agreement and the EEC-India cane sugar agreement, the EU undertakes to purchase and import quantities of sugar at guaranteed prices, which are negotiated annually.

## Switzerland in the SIS

The EU Council adopted, on 14 April, two decisions on Switzerland's participation in the Schengen Information System (SIS). Firstly, a decision amending a decision from 2000 on the establishment of a financial regulation governing the budgetary aspects of the management of contracts relating to the system (SISNET) and, secondly, a decision amending the financial regulation on covering the installation and maintenance costs.

## Frattini to join Berlusconi's cabinet

The Italian right, led by Silvio Berlusconi, was victorious in the general elections on 13 and 14 April. The 71-year-old leader announced that he would present his government later this week, with EU Justice Commissioner Franco Frattini as his foreign affairs minister. Frattini had taken leave from 14 March to 15 April to dedicate himself to the election campaign. Questioned on this matter on 15 April in Brussels, a European Commission spokesperson said that this would not disrupt the institution's work. If this appointment were confirmed, it would be necessary to follow the procedure set out in the treaties for when a commissioner is to be replaced mid-term: a new candidate should be proposed by the member state concerned, the agreement of the president

of the Commission and a Council decision should be secured, with optional agreement from the European Parliament after a hearing of the candidate before the competent committee. This procedure has just been followed in the case of the new Health Commissioner, Androula Vassiliou. Her predecessor, Markos Kyprianou, was appointed Cypriot minister for foreign affairs. (CSA)

## Customs Union turns 40

The European Customs Union will mark its 40th anniversary on 1 July 2008. To celebrate this event, the European Commission has launched a web site dedicated to this topic. The launch of the site marks the beginning of a communication campaign to highlight the important but often invisible role of the Customs Union in protecting citizens and facilitating trade. The site is currently available in English. French, German, Italian, Spanish, Polish and Hungarian versions will also be available soon. See [ec.europa.eu/taxation\\_customs/40customs/index\\_en.htm](http://ec.europa.eu/taxation_customs/40customs/index_en.htm)

## Major economies to meet on energy and climate

The third meeting of the world's major economies to discuss energy and climate change, based on the model of the G8, is being held in Paris from 16 to 18 April. The United States decided, in May 2007, to organise a series of meetings bringing together the countries that are the biggest emitters of greenhouse gases (GHG), with a view to encouraging agreement on a post-2012 scheme that could include a long-term goal. The scheme could also include medium-term targets defined at national level and sector-specific approaches to reducing GHG emissions. Washington wishes to reach agreement by the end of 2008. Environment Commissioner Stavros Dimas is taking part in the discussions, on 17 and 18 April, and will chair the working session, on 17 April, on sectoral approaches. The conference will be attended by South

Africa, Germany, Australia, Brazil, Canada, China, the European Commission, South Korea, the United States, France, India, Indonesia, Italy, Japan, Mexico, the United Nations, the United Kingdom, Russia and the European Union. (AEC)

## Merkel discusses treaty in Dublin

On 14 April, the German chancellor visited Ireland to argue in favour of the Lisbon Treaty. On a whistle-stop trip to Dublin, accompanied by ten top leaders of the European People's Party (EPP), Merkel demonstrated the need to ratify the new treaty and the benefits to be gained from it by Europeans. Vis-à-vis the current economic climate, the EPP leaders took the opportunity to urge the EU to go forward in order to take on the challenges of globalisation. On the fiscal level, EPP Vice-President Enda Kenny welcomed the recent adoption of an EPP report reaffirming its support for straightforward tax competition in the Union. This document had provoked embarrassment within the EPP group at the European Parliament, since the document made no reference to the Common Consolidated Corporate Tax Base (see *Europolitics* 3447 and 3457). (CGA)

## Classical swine fever in Slovakia

The European Commission adopted, on 14 April, urgent protection measures to prevent the further spread of classical swine fever (CSF) after the detection of an outbreak in a pig farm in the Slovakian district of Levice over the weekend. No pigs or pig products can be transported from and to pig farms in Slovakia, nor can they be transported to other member states or third countries. However, derogations on the ban on movement are possible for pigs intended for direct slaughter within Slovakia.

## OPEN FORUM

**The fate of Yahoo! also concerns Europeans**

By Spyros Pappas, lawyer  
with the Athens and Brussels bars\*

The public offer made by Microsoft three months ago to buy Yahoo! arouses numerous concerns from different points of view which cannot leave Europeans indifferent.

The usual approach of closed-door negotiations which surround a company merger took on an unexpected dimension with Google's surprise announcement that it was looking to form an alliance with Yahoo!. Google is the first search engine in the world and the first beneficiary of revenue from online advertising. Yahoo! is the sector's number two. It is to be expected that internet stakeholders are seeking to reposition themselves given the growing importance of online advertising<sup>1</sup>. The economic model for the web 2.0 – which designates all the initiatives to allow internet users to interact with each other – is based on this source of income which increases 30% per year.

The war between these colossuses can therefore remodel the web. In the interest of European consumers, these developments must be followed closely as regards EU law. Here, I give clear and concise answers to some fundamental questions.

#### How will the EU competition authorities see these possible connections?

In terms of online advertising, Google is the dominant player. Allowing it to reinforce that dominance through an agreement with its competitor Yahoo! would eliminate choice in this market, and choice is fundamental to ensuring consumer welfare, innovation and growth. Indeed, industry and legal experts agree, on principle, that such an agreement would be illegal: . This would be a perfect example of the type of agreement which anti-trust laws, both EU

and American, seek to ban. On the other hand, the combined share of Yahoo! and Microsoft is only 25% in this market. A Microsoft-Yahoo! merger would serve to combine internet traffic and create a viable competitor to Google in online advertising, whether it is linked to internet users' searches or not. Microsoft and Yahoo! are small in this market (with combined advertising revenues of 25% in the USA, and 5% in Europe). As a result, the two companies would then provide effective competition against Google, to the profit of advertisers, creators of online content, and consumers.

#### Isn't it natural that such giants want to exploit online advertising which has become the internet's stimulant?

All the more reason not to dismiss the case at hand. Google is already the dominant search engine. In the monetisation of searches (sponsored links), Google's global market share is 75%, and constantly growing. According to public sources, Google attracts more than 65% of searches made by internet users in the USA, and more than 80% in Europe. Together, Google and Yahoo! carry out about 90% of web searches. Anti-trust laws are there to prevent such an accumulation of market power. We need more competition, not the contrary.

#### Which provisions in these anti-trust laws would apply here?

A Google-Yahoo! merger would very likely violate Section 7 of the Clayton Act. Likewise, any outsourcing agreement would involve Sections 1 and 2 of the Sherman Act, as well as corresponding provisions in EU law – Articles 81 and 82 of the EC Treaty.

#### Why would outsourcing be banned?

• Google should not be allowed to carry out indirectly what it is banned from doing directly. An outsourcing agreement, orchestrated by Google and Yahoo!, would consist, for example, in paying Yahoo! off so it gives up its advertising business to the profit of its dominant rival. It is what anti-trust laws call a 'bare' agreement not to compete. Nevertheless, it would be a cooperation agreement which would most likely lead to coordinated competitive behaviour between the parties. Considering Google's position in

the market, such an agreement, irrespective of the chosen form, would firstly raise a presumption of illegality and would very probably lead to the conclusion that the resulting behaviour is abusive and therefore illegal. In any case, it is essential, as US Senator Herb Kohl said, that this arrangement is meticulously prepared before its implementation, so that there is no irreparable damage to competition.

• Labelling the deal an 'outsourcing agreement', rather than what it is, ie an 'acquisition' or an 'agreement not to compete' would be pointless, for regulators would examine the substance, rather than the form, of the deal. An outsourcing agreement would sideline Yahoo! as a competitor and allocate approximately 90% of searches to Google, thus ending any effective competition prospects. In this respect, it is also worth mentioning that implementation in phases through the introduction of a 'pilot programme'<sup>2</sup> does not make an otherwise illegal agreement legal.

• Google cannot orchestrate a merger with Yahoo! through a third party which would have the same effect as a merger or an outsourcing agreement. As anti-trust Professor Barak Y Orback reportedly stated: "Even passive investments would give Google direct interests in Yahoo! and raise competition concerns".

• Even more significantly, from the perspective of anti-trust regulators, any decision to absorb Yahoo!'s search query share into Google's advertising platform would ensure that no other company could reach the scale necessary to mount a credible competitive alternative to Google. ■

(\*) [www.pappaslaw.eu](http://www.pappaslaw.eu)

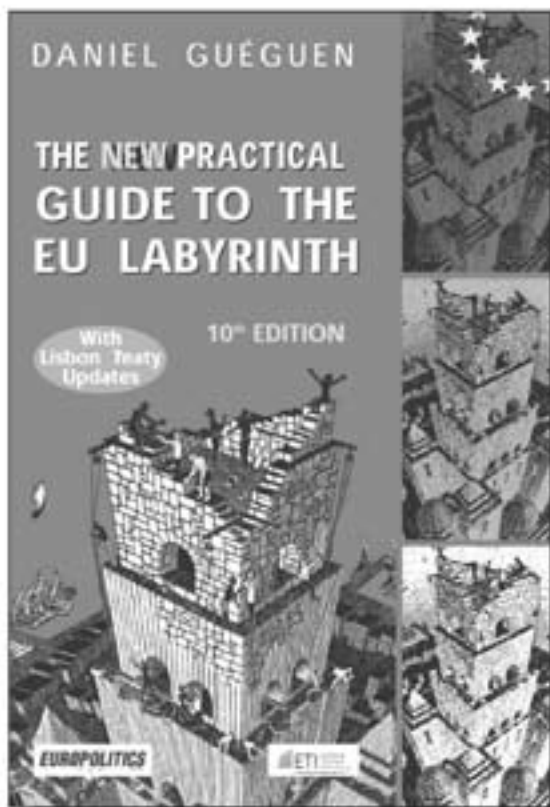
(1) Online advertising today represents €25 to €30 billion per year and should double by 2010.

(2) Yahoo! has announced its intention to test an alliance with Google by integrating advertisements placed by Google into pages of its search engine on its US site. In this agreement, Yahoo! would keep the majority of Google's takings and Google would receive the minority as commission.

This 'Open forum' welcomes contributions from all EU professionals who would like to express their opinion on an EU affairs topic.



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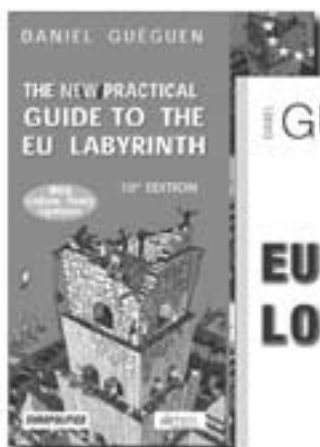


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# EU Agenda

## Wednesday 16 April

### EUROPEAN PARLIAMENT

#### THE PRESIDENT'S DIARY

9:15-10:00 *Brussels*

■ 9:15 - Meeting with the Prime Minister of Iraq followed by a press point

#### PARLIAMENTARY COMMITTEES COMMITTEE ON FOREIGN AFFAIRS

10:00-11:30 *Brussels, PHS 4B001*

■ Extraordinary joint meeting with the 'Permanent ad hoc Delegation for relations with Iraq'

■ Discussion with Nouri Al-Maliki, Prime Minister of the Republic of Iraq

### COUNCIL OF MINISTERS

#### COREPER I

*Brussels*

#### COREPER II

*Brussels*

#### CONCERT BY THE CAMERATA SLOVENICA ENSEMBLE

*Abbaye Neumünster Cultural Centre,  
Luxembourg*

Slovenian music creativity will be presented by the Camerata Slovenica ensemble which brings together the most important Slovenian music interpreters in different compositions, always tailored to the concert programme. On this occasion, the concert will feature a string sextet (violinists Primož Novšak and Maja Savnik, viola players Mile Kosi and Mateja Ratajc, cellists Ciril and Igor Škerjanec). In addition to compositions by Richard Strauss and Tchaikovsky, they will perform a string sextet by Uroš Krek, one of the most important Slovenian composers of the 20th century.

### EUROPEAN COMMISSION

#### WEEKLY MEETING

*Brussels, 9:00*

■ On the agenda:

- Directive on advertising and translation requirements for certain types of companies  
- Directive on certain disclosure requirements for medium-sized companies and the requirement to establish consolidated accounts

#### TRAVEL AND VISITS

■ 12:00 Mr José Manuel Durão Barroso receives Prime Minister of Iraq Mr Nouri Al Maliki + 12:40 VIP corner

■ 16:00 Mr José Manuel Durão Barroso at the Conference Humanistas (Borschette Centre)

■ 17:30 Mr José Manuel Durão Barroso at the Conference 'a social Europe fit for globalisation' (Charlemagne)

■ 19:00 Mr José Manuel Durão Barroso receives Mr Yves Leterme, Prime Minister of Kingdom of Belgium

■ 16:00 Mrs Viviane Reding receives Dr. Elfriede Sole, Hofrätin of the Rundfunk und Telekom Regulierungs GmbH Austria

■ 17:00 Mr Stavros Dimas receives Mr Reinhard Loske, Minister for Environment of the Free Hanseatic City of Bremen

■ 15:00 Ms Danuta Hübner receives Mr George Soros

■ 14:00 Speech by Mrs Androulla Vassiliou at the Alcohol Forum (Borschette Centre)

■ 12:30 Mr Louis Michel participates in the breakfast debate organised in the framework of the ALDEPAC (Asian Liberal and democrats) seminar with the 'Council of Asian Liberals and Democrats' (Hôtel SAS)

■ 15:00 Mr Louis Michel participates in the conference (debate) 'Europe Direct', 'The EU, an international peace-keeping force in the world' (Braine-le-Comte)

■ 15:00 Mr Vladimír Špidla at the signature of a Memorandum of Understanding on Co-operation in social fields with Minister Patrus Ananias, Brazilian Minister of Social Development - Photo opportunity

■ 16:00 Mr Vladimír Špidla speaks at a roundtable on Globalisation and Social Progress at the SIMGLOBE Conference (Charlemagne)

■ 16:30 Mr Peter Mandelson meets with Mr Kursad Tuzmen, Turkish Trade Minister

■ 8:00 Mr Andris Piebalgs meets with Mr Hussain Ibrahim Saleh Al-Shahristani, Iraqi Minister of Oil

### COURT OF JUSTICE

#### FIRST CHAMBER

9:30

■ **Hearing C-252/07 Intel Corporation**  
*Approximation of laws*

Interpretation of Articles 4(4)(a) and 5(2) of Directive 89/104/EEC: First Council Directive of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1) - Earlier mark having a reputation - Criteria to be taken into account in order to establish the existence of a connection within the meaning of Case C-408/01 Adidas-Salomon AG and Adidas-Benelux BV

#### THIRD CHAMBER

9:30

■ **Hearing C-219/07 Nationale Raad van Dierenkwekers en Liefhebbers and Andibel**  
*Environment and consumers*

Reference for a preliminary ruling  
- Raad van State van België (Belgium)  
- Interpretation of Article 30 EC and of Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ 1996 L 61, p. 1) - National legislation providing a

list of species which may be held in the Member State concerned, whose effect is to rule out the holding of the species referred to in Annexes B, C or D to the regulation - Holding authorised in other member states whose legislation is in conformity with the regulation

#### FOURTH CHAMBER

9:30

##### ■ Hearing C-310/07 Holmqvist

##### *Social policy*

Reference for a preliminary ruling - Lunds Tingsrätt - Interpretation of Article 8a of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the member states relating to the protection of employees in the event of the insolvency of their employer (OJ 1980 L 283, p. 23), as amended by Directive 2002/74/EC of the European Parliament and of the Council (OJ 2002 L 270, p. 10) - Wage guarantee for a worker employed in a road haulage undertaking having its head office and only establishment in a member state and which carries out deliveries of goods between the member state of origin and other member states

## COURT OF FIRST INSTANCE

#### FIRST CHAMBER

9:15

##### ■ Judgement T-181/05 Citigroup and Citibank v OHMI - Citi (CITI)

##### *Intellectual property*

Community trade mark - Action brought by the proprietors of the national and international word and figurative marks containing the term 'CITI' in respect of services in Class 36 against Decision R 173/2004-1 of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 1 March 2005 annulling in part the decision of the Opposition Division refusing to register the word and figurative mark 'CITI' in respect of services in Class 36 in the context of the opposition filed by the applicants

##### ■ Judgement T-486/04 Michail v

##### *Commission*

Staff Regulations of Officials - *Staff cases*

9:30

##### ■ Hearing Joined Cases T-292/02, T-297/02, T-300/02, T-301/02, T-309/02, T-189/03, T-222/04 Confservizi v

##### *Commission*

##### *State aid*

Annulment of Article 2 of the Commission's decision (C-27/99 (ex NN 69/99)) of 5 June 2002 declaring incompatible with the common market the aid scheme provided for by Italian legislation in the form of tax exemptions and loans on preferential terms granted to public service undertakings the majority shareholdings in which are publicly-owned and, alternatively, annulment of Article 3 of that decision, ordering the Italian authorities to recover the aids granted

## ECONOMIC AND SOCIAL COMMITTEE

16-18 April, Lima, Peru

■ Fifth meeting of the organised civil society of the EU, Latin America and the Caribbean, as a contribution to the next EU-LAC Head of State Summit

16 April, Vienna, Austria

■ 3rd meeting of the EU-Croatia Joint Consultative Committee (JCC)

## COMMITTEE OF THE REGIONS

■ **The Role of the Family in the Regions: The results of the 'Family Network' of the Autonomous Province of Trento**

**Room JDE 70 15:00-17:00**

Organiser: Eurorégion Trentino – Tyrol du Sud - Tyrol

To register, contact: M. Rodaro Vittorino

E-mail: v.rodaro@alpeuregio.eu

Tel: +32 743 27 00

Fax: +32 742 09 80

## CONFERENCES AND SEMINARS

16 April, Brussels

##### ■ Housing solutions for an ageing population

Subject: The aim the conference is to have a state of the art on the ageing and housing needs through European expertise and presentation of innovative practices in the field of housing and ageing.

Organisers: CECODHAS and Urban Housing Intergroup of European Parliament

Contact: CECODHAS secretariat +32.2.541.05.67

observatory.assistant1@cecodhas.org

Venue: A5G2, Altiero Spinelli, European Parliament, Brussels

16 April, Brussels, 17:30-19:00

##### ■ Energy at Stake!

**Third Liberalisation Package: Scenarios for the Next Decade**

Subject: This is the second of three debates organised by the European Movement International in association with ENEL. These debates aim to promote dialogue between stakeholders of the world of politics, academia, industry and civil society concerning the future of the European energy market.

Organisers: European Movement International

Contact: Chiara Popplewell communication@europeanmovement.eu

Venue: Stanhope Hotel, Rue du

Commerce 9, 1000 Brussels

[www.europeanmovement.org](http://www.europeanmovement.org)

To announce your events on these pages, contact: [pdc@europolitics.info](mailto:pdc@europolitics.info)



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- Have a practical knowledge and experience in dealing with energy topics,
- Be perfectly fluent in English and French, other languages are evidently a plus,
- Have a strong enthusiasm to work independently and to coordinate the work of trainees and junior consultants in teamwork. He/she should also have the capacity to develop business and develop new client relations.

Please send your CV and cover letter to  
**Yves de Lespinay**, CLAN Public Affairs  
ydl@clanpa.eu before 7 May 2008.

Selected candidates will be invited for an interview.

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[www.clanpa.eu](http://www.clanpa.eu)

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**INTERVIEW WITH MEP TOINE MANDERS****Running out of time on energy market package**

By Dafydd ab Iago

Former lawyer Toine Manders (ALDE, Netherlands) is not the only MEP to say time is running out for this Parliament to conclude the European Commission's internal energy market package before election fever sets in. Nonetheless, Manders, a strong voice for ownership unbundling in the Internal Market Committee (IMCO), still hopes for a vote in May in the lead Energy Committee (ITRE) and in the plenary in June.

**What is your feeling as to the timetable for the internal energy market package?**

My feeling is that we may not get a vote or a clear vote by June. It is a very complex issue, there are over 1,000 amendments. I have not even seen a Dutch translation. So most likely this package of reports will have to be dealt with under the French Presidency. Looking at the timetable, this would bring us up to six months before the next European Parliament elections. To be honest, politicians will be thinking about their constituencies.

**How do the divisions run when discussing the energy market?**

This is clearly a fight on national lines. For instance, you see a lot of German and French MEPs against unbundling. But the balance of forces is changing. Those opposing ownership unbundling in the Council no longer have a blocking minority. And even within Germany, energy giant E.ON has proposed to sell off its grid. This undercuts the German government's position and Chancellor Angela Merkel was very annoyed about that.

**How significant is the IMCO vote, of 9 April, to introduce a further alternative to ownership unbundling for the electricity market?**

To be honest, the IMCO opinion is not that important<sup>1</sup>. But it does give an indication what may happen in the

plenary. In IMCO, we voted for full unbundling in the gas market. For electricity, we mentioned an alternative whereby full ownership unbundling would be obligatory if no functioning



Manders: "This is clearly a fight on national lines"

market comes six years after the implementation of this directive. Secondly, we ask the Commission to come forward with the Charter for Consumer Rights. It was announced last year by Commissioners Meglena Kuneva and Andris Piebalgs, but the work on it seems to have stopped. As for the recitals, we voted for a collective redress mechanism for consumers, but this is something that should be addressed in a separate legislative proposal.

**Some say unbundling will not lead to better prices for consumers. How do you respond to that?**

Unbundling is not a goal in itself. I want us to achieve a well functioning internal market for energy. We also need a guarantee for supply. Other important points include transparent price setting. We need to know exactly what we are paying for. We politicians should not give dominant energy companies yet another five or ten years to make changes. Energy giants in Germany, for instance, say they have "effective" unbundling. But when a third party wants to use their network,

then these dominant companies claim they do not have spare capacity. This is just to keep newcomers out. Frankly, I feel that Germany and France want, once again, to reward those companies that have misbehaved by giving them six or more years to adapt.

*The rapporteur on the electricity market, Eluned Morgan (PES, UK), wants the regulatory authorities to have the power to limit 'dominant' companies to 20% of the 'relevant' market share via medium-term plans. Do you agree with that?*

I don't think Mrs Morgan's solution is the panacea to address the problem of dominant market players. We have an excellent commissioner dealing with competition. If there is abuse of a dominant position, it is up to Neelie Kroes and her team to deal with it. The definition of a dominant position depends on the market share and has nothing to do with the number of consumers. Therefore it should be assessed country by country.

**Do you see the need for a 'cannibal clause' to prevent companies from non-unbundled markets, such as France and Germany, competing in unbundled markets like the UK and the Netherlands?**

I am not particularly in favour of such a cannibal clause but it may become a political reality if France and Germany keep pushing for their alternative. Those remaining seven countries opposing the idea of unbundling face 20 who support it. We cannot let certain politicians continue to give dominant market positions to major energy companies. The Dutch economy, for instance, pays millions extra as it is not possible to buy energy from other suppliers as well as due to the lack of competition and interconnection. ■

(1) The lead committee for the internal energy market package is the Energy Committee (ITRE).