Risk of breaches of freedom of expression and information in the Union, particularly in Italy (art. 11,2 Charter of FR)

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The European Parliament adopted a highly controversial report on freedom of expression and information by 237 votes in favour to 24 against with 14 abstentions. Before the vote two political groups, EPP-ED and UEN, declared that they would not participate in protest against the voting procedure to be followed. Before this vote MEPs rejected a request to refer the report back to the committee by 214 to 259 against with 1 abstention. One of the controversial points of the own-initiative report by Johanna BOOGERD-QUAAK (ELDR, NL) was the reference made to named persons. President Pat COX ruled that references to named persons should be deleted from the report in accordance with standard parliamentary practice. In this report Parliament stressed that a free and pluralist media is essential to freedom of expression and information. It went on to consider that where Member States fail to take adequate measures the EU has a political, moral and legal obligation to ensure within its competence that media pluralism is respected. Parliament took the view that there are sufficient concerns to warrant a detailed examination of the situation by the Commission, which should be followed by appropriate legislative proposals. A preliminary study carried out by the European Institute for the Media (EIM) showed that in each of the eight countries examined (France, Germany, Ireland, Italy, Netherlands, Poland, Sweden and UK) there were issues which required further investigation. The complete study by the EIM is due in June and will contain final comparative conclusions based on the situation in all 25 Member States. As regards the situation in Member States Parliament noted inter alia that: - in France, there were several violations of press freedom (e.g. the destruction of the print-run of a new free daily by the Unions, and of journalists being under pressure from the police); - in Ireland, there was an absence of a level playing field due to the payment of VAT on Irish newspapers but no VAT on the UK newspapers, which have approximately 25 per cent of the Irish market; - in Germany, the Federal Constitutional Court found that surveillance of telecommunications (i.e. tracing of journalists' phone calls) did not constitute a breach of constitutional liberties as provided for in articles of the Basic Law, which guarantee confidentiality of information; - in Poland, there are currently no provisions (and no apparent plans to introduce provisions) in Polish media law regarding media concentration and the protection of pluralism; - in the Netherlands, there is a high level of concentration in both television and press sectors where the three main suppliers control at least 85 per cent of the market and that, although the Netherlands has the highest penetration of cable TV services in Europe, this market is also dominated by three major cable operators; - in Sweden, the media is characterised by a fairly high degree of cross-media ownership, interlocking ownership structures between major players in the audiovisual field and cooperating agreements between the press and broadcasting industry where companies in both sectors are controlled by the same group; - in the United Kingdom, there is intense debate following theHutton Report into the circumstances surrounding the death of David Kelly, the criticism by the public-service broadcaster of the reasons put forward by the government for the war in Iraq, the resignation of the Director-General and the Chairman of the Board of Governors and the potential ramifications for the practice of investigative journalism and, separately, there is much debate concerning the review of the BBC's Charter and Agreement, which is considered a model for other systems; - in Spain, government pressure on the public service broadcaster TVE meant that it ignored the facts regarding responsibility for the terrorist attacks of 11 March. As regards Italy, Parliament said "there could be a risk of breaches of the right to freedom of expression and information". Parliament noted that "the level of concentration of the television market is currently the highest within Europe...One of the sectors in which the conflict of interest is most obvious is advertising". It noted "therefore,that the Italian system presents an anomaly owing to a unique combination of economic, political and media power in the hands of one man - the current President of the Italian Council of Ministers". MEPs invited the Italian Parliament to "accelerate its work on the reform of the audiovisual sector in accordance with the

recommendations of the Italian constitutional court and the President of the Republic, taking account of the provisions in the Gasparri bill which are incompatible with Community law, as noted by those authorities". Parliament voiced concern that the situation in Italy could arise in other Member States if a media magnate chose to enter politics. The European Parliament made a number of recommendations. They called on the Commission to draw up a directive to safeguard media pluralism in Europe. MEPs believe protection of media diversity should become the priority of EU competition law and the dominant position of a media company should be considered as an obstacle to media pluralism in the EU. Legislation should be adopted at EU level to prohibit political figures from having major economic interests in the media. In addition, an annual report on pluralism should be drawn up. The EU Constitution should contain a provision on the need to ensure pluralism in the media. Member States should incorporate in their constitutions an active duty to promote respect for freedom and diversity of the media.