


# Uradni list

## Republike Slovenije



# Mednarodne pogodbe

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Leto IX

### 62. Zakon o ratifikaciji Evropske konvencije o čezmejni televiziji in Protokola, ki spreminja Evropsko konvencijo o čezmejni televiziji (MEKCT)

Na podlagi druge alinee prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

#### U K A Z

### O RAZGLASITVI ZAKONA O RATIFIKACIJI EVROPSKE KONVENCIJE O ČEZMEJNI TELEVIZIJI IN PROTOKOLA, KI SPREMINJA EVROPSKO KONVENCIJO O ČEZMEJNI TELEVIZIJI (MEKCT)

Razlašam Zakon o ratifikaciji Evropske konvencije o čezmejni televiziji in Protokola, ki spreminja Evropsko konvencijo o čezmejni televiziji (MEKCT), ki ga je sprejel Državni zbor Republike Slovenije na seji 15. junija 1999.

Št. 001-22-91/99

Ljubljana, dne 23. junija 1999

Predsenik  
Republike Slovenije  
**Milan Kučan** l. r.

#### Z A K O N

### O RATIFIKACIJI EVROPSKE KONVENCIJE O ČEZMEJNI TELEVIZIJI IN PROTOKOLA, KI SPREMINJA EVROPSKO KONVENCIJO O ČEZMEJNI TELEVIZIJI (MEKCT)

#### 1. člen

Ratificirata se Evropska konvencija o čezmejni televiziji, sestavljena v Strasbourgu 5. maja 1989, in Protokol, ki spreminja Evropsko konvencijo o čezmejni televiziji, sestavljen v Strasbourgu 9. septembra 1998.

#### 2. člen

Konvencija in protokol se v angleškem izvorniku in v slovenskem prevodu glasita:

#### EUROPEAN CONVENTION ON TRANSFRONTIER TELEVISION

##### Preamble

The member States of the Council of Europe and the other States party to the European Cultural Convention, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members, for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that the dignity and equal worth of every human being constitute fundamental elements of those principles;

Considering that the freedom of expression and information, as embodied in Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, constitutes one of the essential principles of a democratic society and one of the basic conditions for its progress and for the development of every human being;

#### EVROPSKA KONVENCIJA O ČEZMEJNI TELEVIZIJI

##### Uvod

Države članice Sveta Evrope in druge države pogodbenice Evropske kulturne konvencije, podpisnice te konvencije, so se

glede na to, da je cilj Sveta Evrope doseči čim večjo enotnost med njegovimi članicami za zaščito in uresničitev idealov in načel, ki so njihova skupna dediščina;

glede na to, da sta dostojanstvo in enakovrednost vsakega človeka temeljni prvini teh načel;

glede na to, da je svoboda izražanja in obveščanja, zapisana v 10. členu Konvencije o varstvu človekovih pravic in temeljnih svoboščin, eno bistvenih načel demokratične družbe in eden od osnovnih pogojev za njen napredek in za razvoj vsakega človeškega bitja;

Reaffirming their commitment to the principles of the free flow of information and ideas and the independence of broadcasters, which constitute an indispensable basis for their broadcasting policy;

Affirming the importance of broadcasting for the development of culture and the free formation of opinions in conditions safeguarding pluralism and equality of opportunity among all democratic groups and political parties;

Convinced that the continued development of information and communication technology should serve to further the right, regardless of frontiers, to express, to seek, to receive and to impart information and ideas whatever their source;

Being desirous to present an increasing range of choice of programme services for the public, thereby enhancing Europe's heritage and developing its audiovisual creation, and being determined to achieve this cultural objective through efforts to increase the production and circulation of high-quality programmes, thereby responding to the public's expectations in the political, educational and cultural fields;

Recognising the need to consolidate the common broad framework of regulation;

Bearing in mind Resolution No. 2 and the Declaration of the First European Ministerial Conference on Mass Media Policy;

Being desirous to develop the principles embodied in the existing Council of Europe recommendations on principles on television advertising, on equality between women and men in the media, on the use of satellite capacity for television and sound radio, and on the promotion of audiovisual production in Europe,

Have agreed as follows:

## Chapter I General provisions

### Article 1 Object and purpose

This Convention is concerned with programme services embodied in transmissions. The purpose is to facilitate, among the Parties, the transfrontier transmission and the retransmission of television programme services

### Article 2 Terms employed

For the purposes of this Convention:

**a "Transmission"** means the initial emission by terrestrial transmitter, by cable, or by satellite of whatever nature, in encoded or unencoded form, of television programme services for reception by the general public. It does not include communication services operating on individual demand;

**b "Retransmission"** signifies the fact of receiving and simultaneously transmitting, irrespective of the technical means employed, complete and unchanged television programme services, or important parts of such services, transmitted by broadcasters for reception by the general public;

**c "Broadcaster"** means the natural or legal person who composes television programme services for reception by the general public and transmits them or has them transmitted, complete and unchanged, by a third party;

**d "Programme service"** means all the items within a single service provided by a given broadcaster within the meaning of the preceding paragraph;

v ponovno potrditev svoje zavezanosti načelom svobodnega pretoka informacij in idej in neodvisnosti izdajateljev televizijskih programov, kar je nepogrešljiva podlaga za njihovo programsko politiko;

v potrditev pomena televizijskega oddajanja za razvoj kulture in svobodnega oblikovanja mnenj v razmerah zaščite pluralizma in enakih možnosti za vse demokratične skupine in politične stranke;

v prepričanju, da bi moral biti nenehni razvoj informacijske in komunikacijske tehnologije ne glede na meje namenjen pospeševanju pravice do izražanja, iskanja, sprejemanja in posredovanja informacij in idej iz kakršnega koli vira;

v želji, da bi predstavile vse večjo izbiro programov za javnost s poudarkom na evropski dediščini in razvoju njenih avdiovizualnih stvaritev, in odločene uresničiti ta kulturni cilj s prizadevanji za porast ustvarjanja in širjenja visokokakovostnih oddaj in se tako odzivati na pričakovanja javnosti v politiki, izobraževanju in kulturi;

ob spoznanju, da je treba utrditi splošni okvir skupne ureditve;

ob upoštevanju Resolucije št. 2 in Deklaracije 1. evropske ministrske konference o politiki množičnih medijev;

v želji, da bi razvijale načela, ki so zajeta v obstoječih priporočilih Sveta Evrope o načelih televizijskega oglaševanja, enakosti med ženskami in moškimi v medijih, uporabi satelitov za televizijo in radio in pospeševanju avdiovizualne produkcije v Evropi,

dogovorile:

## I. POGLAVJE SPLOŠNE DOLOČBE

### 1. člen Predmet in namen

Ta konvencija obravnava programe, ki se prenašajo. Njen namen je med pogodbenicami olajšati prenašanje in posredovanje televizijskih programov čez državno mejo.

### 2. člen Uporabljeni izrazi

Za namene te konvencije:

a) "prenos" (transmisija) pomeni začetno oddajanje kakršnih koli televizijskih programov po zemeljskem oddajniku, kablu ali satelitu v kodirani ali nekodirani obliki, namenjenih širši javnosti. Ne vključuje komunikacijskih storitev, opravljenih na zahtevo posameznikov;

b) "posredovanje" (retransmisija) označuje sprejemanje in hkratno prenašanje celotnih in nespremenjenih televizijskih programov ali pomembnih sestavin takšnih programov, ki jih ne glede na uporabljena tehnična sredstva prenašajo izdajatelji televizijskih programov in so namenjeni širši javnosti;

c) "izdajatelj televizijskega programa" pomeni fizično ali pravno osebo, ki sestavlja televizijske programe, namenjene širši javnosti, in jih prenaša ali pa jih v celoti in nespremenjene zanjo prenaša kdo drug;

d) "program" pomeni vse sestavine posamezne storitve, ki jo opravlja določen izdajatelj televizijskega programa v smislu prejšnjega odstavka;

e "European audiovisual works" means creative works, the production or co-production of which is controlled by European natural or legal persons;

f "Advertisement" means any public announcement intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea or to bring about some other effect desired by the advertiser, for which transmission time has been given to the advertiser for remuneration or similar consideration;

g "Sponsorship" means the participation of a natural or legal person, who is not engaged in broadcasting activities or in the production of audiovisual works, in the direct or indirect financing of a programme with a view to promoting the name, trademark or image of that person.

### Article 3

#### Field of application

This Convention shall apply to any programme service transmitted or retransmitted by entities or by technical means within the jurisdiction of a Party, whether by cable, terrestrial transmitter or satellite, and which can be received, directly or indirectly, in one or more other Parties.

### Article 4

#### Freedom of reception and retransmission

The Parties shall ensure freedom of expression and information in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms and they shall guarantee freedom of reception and shall not restrict the retransmission on their territories of programme services which comply with the terms of this Convention.

### Article 5

#### Duties of the transmitting Parties

1. Each transmitting Party shall ensure, by appropriate means and through its competent organs, that all programme services transmitted by entities or by technical means within its jurisdiction, within the meaning of Article 3, comply with the terms of this Convention.

2. For the purposes of this Convention, the transmitting Party shall be:

a in the case of terrestrial transmissions, the Party in which the initial emission is effected;

b in the case of satellite transmissions:

i the Party in which the satellite up-link is situated;

ii the Party which grants the use of the frequency or a satellite capacity when the up-link is situated in a State which is not a Party to this Convention;

iii the Party in which the broadcaster has its seat when responsibility under sub-paragraphs i and ii is not established.

3. When programme services transmitted from States which are not Parties to this Convention are retransmitted by entities or by technical means within the jurisdiction of a Party, within the meaning of Article 3, that Party, acting as transmitting Party, shall ensure, by appropriate means and through its competent organs, compliance with the terms of this Convention.

### Article 6

#### Provision of information

1. The responsibilities of the broadcaster shall be clearly and adequately specified in the authorisation issued by, or contract concluded with, the competent authority of each Party, or by any other legal measure.

e) "evropska avdiovizualna dela" pomenijo ustvarjalna dela, katerih produkcijo ali koprodukcijo nadzorujejo evropske fizične ali pravne osebe;

f) "oglas" pomeni kakršno koli javno objavo, namenjeno pospeševanju prodaje, nakupa ali izposoje izdelka ali storitve, podpiranju kake stvari ali ideje ali doseganju kakega drugega učinka, ki ga želi doseči oglaševalec, ki mu je bil za plačilo ali podobno nadomestilo dan na voljo določen čas oddajanja;

g) "sponzorstvo" pomeni udeležbo fizične ali pravne osebe, ki se ne ukvarja s televizijsko dejavnostjo ali s produkcijo avdiovizualnih del, pri neposrednem ali posrednem financiranju oddaj z namenom uveljavljanja njenega imena, blagovne znamke ali podobe.

### 3. člen

#### Področje uporabe

Ta konvencija se uporablja za kateri koli program, ki ga po kablu, zemeljskem oddajniku ali satelitu prenašajo ali posredujejo subjekti ali tehnična sredstva pod jurisdikcijo kake pogodbenice in ki ga lahko neposredno ali posredno sprejemajo v eni ali več drugih pogodbenicah.

### 4. člen

#### Svoboda sprejemanja in posredovanja

Pogodbenice zagotavljajo svobodo izražanja in obveščanja v skladu z 10. členom Konvencije o varstvu človekovih pravic in temeljnih svoboščin ter jamčijo svobodo sprejemanja in na svojih ozemljih ne smejo omejevati posredovanja programov, ki so skladni z določbami te konvencije.

### 5. člen

#### Dolžnosti pogodbenic, iz katerih se program prenaša

1. Vsaka pogodbenica, iz katere se program prenaša, s primernimi sredstvi in prek svojih pristojnih organov zagotavlja, da so vsi programi, ki jih prenašajo subjekti ali tehnična sredstva pod njeno jurisdikcijo v smislu 3. člena, skladni z določbami te konvencije.

2. Za namene te konvencije je pogodbenica, iz katere se program prenaša:

a) pri zemeljskem prenosu tista pogodbenica, v kateri se izvaja začetno oddajanje;

b) pri satelitskem prenosu pa:

i) pogodbenica, v kateri je nameščena satelitska zemeljska postaja;

ii) pogodbenica, ki dovoli uporabo frekvence ali satelitske zmogljivosti, če je satelitska zemeljska postaja nameščena v državi, ki ni pogodbenica te konvencije;

iii) pogodbenica, v kateri ima izdajatelj televizijskega programa svoj sedež, kadar ni ugotovljena odgovornost iz pododstavkov i) in ii).

3. Kadar programe, ki se prenašajo iz držav, ki niso pogodbenice te konvencije, posredujejo subjekti ali tehnična sredstva pod jurisdikcijo kake pogodbenice v smislu 3. člena, zagotovi ta pogodbenica, ki je zdaj v vlogi pogodbenice, iz katere se program prenaša, s primernimi sredstvi in prek svojih pristojnih organov skladnost z določbami te konvencije.

### 6. člen

#### Zagotavljanje podatkov

1. Odgovornosti izdajatelja televizijskega programa se jasno in ustrezno podrobno opredelijo v dovoljenju, ki ga izda, ali v pogodbi, ki jo podpiše pristojni organ vsake pogodbenice, ali s kakršnim koli drugim pravnim ukrepom.

2. Information about the broadcaster shall be made available, upon request, by the competent authority of the transmitting Party. Such information shall include, as a minimum, the name or denomination, seat and status of the broadcaster, the name of the legal representative, the composition of the capital, the nature, purpose and mode of financing of the programme service the broadcaster is providing or intends providing.

## Chapter II Programming matters

### Article 7

#### Responsibilities of the broadcaster

1. All items of programme services, as concerns their presentation and content, shall respect the dignity of the human being and the fundamental rights of others.

2. In particular, they shall not:

a) be indecent and in particular contain pornography;

b) give undue prominence to violence or be likely to incite to racial hatred.

3. All items of programme services which are likely to impair the physical, mental or moral development of children and adolescents shall not be scheduled when, because of the time of transmission and reception, they are likely to watch them.

4. The broadcaster shall ensure that news fairly present facts and events and encourage the free formation of opinions.

### Article 8

#### Right of reply

1. Each transmitting Party shall ensure that every natural or legal person, regardless of nationality or place of residence, shall have the opportunity to exercise a right of reply or to seek other comparable legal or administrative remedies relating to programmes transmitted or retransmitted by entities or by technical means within its jurisdiction, within the meaning of Article 3. In particular, it shall ensure that timing and other arrangements for the exercise of the right of reply are such that this right can be effectively exercised. The effective exercise of this right or other comparable legal or administrative remedies shall be ensured both as regards the timing and the modalities.

2. For this purpose, the name of the broadcaster responsible for the programme service shall be identified therein at regular intervals by appropriate means.

### Article 9

#### Access of the public to major events

Each Party shall examine the legal measures to avoid the right of the public to information being undermined due to the exercise by a broadcaster of exclusive rights for the transmission or retransmission, within the meaning of Article 3, of an event of high public interest and which has the effect of depriving a large part of the public in one or more other Parties of the opportunity to follow that event on television.

### Article 10

#### Cultural objectives

1. Each transmitting Party shall ensure, where practicable and by appropriate means, that broadcasters reserve for European works a majority proportion of their transmission time, excluding the time appointed to news, sports

2. Podatki o izdajatelju televizijskega programa so na zahtevo na voljo pri pristojnem organu pogodbenice, iz katere se program prenaša. Ti podatki vsebujejo najmanj ime ali naziv, sedež in status izdajatelja televizijskega programa, ime uradnega predstavnika, sestavo kapitala, naravo, namen in način financiranja programov, ki jih izdajatelj televizijskega programa ponuja ali namerava ponujati.

## II. POGLAVJE PROGRAMSKE ZADEVE

### 7. člen

#### Odgovornosti izdajatelja televizijskega programa

1. Vse sestavine programov naj po načinu predstavitve in vsebini spoštujejo človekovo dostojanstvo in temeljne pravice drugih.

2. Še zlasti ne smejo:

a) biti nespodobne in zlasti ne vsebovati pornografije;

b) po nepotrebem poudarjati nasilja ali morebiti vzbujsati rasnega sovraštva.

3. Nobene sestavine programov, ki bi lahko škodljivo vplivale na telesni, duševni ali moralni razvoj otrok in mladostnikov, ne smejo biti uvrščene v program takrat, ko jih zaradi časa oddajanja ali sprejemanja verjetno lahko gledajo.

4. Izdajatelj televizijskega programa zagotavlja, da so v poročilih pošteno predstavljeni dejstva in dogodki, in spodbuja svobodno oblikovanje mnenj.

### 8. člen

#### Pravica do odgovora

1. Vsaka pogodbenica, iz katere se program prenaša, zagotovi, da ima vsaka fizična ali pravna oseba ne glede na državljanstvo ali prebivališče možnost uresničevati pravico do odgovora ali zahtevati druga primerljiva pravna ali upravna sredstva v zvezi z oddajami, ki jih prenašajo ali posredujejo subjekti ali tehnična sredstva pod njeno jurisdikcijo v smislu 3. člena. Predvsem zagotavlja, da so roki in drugi pogoji za uresničevanje pravice do odgovora takšni, da je to pravico mogoče učinkovito uresničevati. Zagotoviti je treba učinkovito uresničevanje te pravice ali drugih primerljivih pravnih ali upravnih sredstev tako glede časa kot drugih pogojev in načinov.

2. V ta namen se v programu s pomočjo ustreznih sredstev za identifikacijo v rednih presledkih pojavlja ime izdajatelja televizijskega programa, ki je odgovoren za program.

### 9. člen

#### Dostop javnosti do pomembnejših dogodkov

Vsaka pogodbenica prouči pravne ukrepe za preprečitev izpodkopavanja pravice javnosti do obveščenosti o dogodku, za katerega se javnost zelo zanima, zaradi uresničevanja izključnih pravic kakega izdajatelja televizijskega programa do prenašanja in posredovanja v smislu 3. člena, zaradi česar bi bil velik del javnosti ene ali več drugih pogodbenic prikrajšan za možnost spremljanja takšnega dogodka po televiziji.

### 10. člen

#### Kulturni cilji

1. Vsaka pogodbenica, iz katere se program prenaša, kjer je to le mogoče in na primeren način zagotovi, da izdajatelji televizijskih programov večinski del oddajnega časa namenijo evropskim delom, v kar pa se ne šteje čas,

events, games, advertising and teletext services. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria.

2. In case of disagreement between a receiving Party and a transmitting Party on the application of the preceding paragraph, recourse may be had, at the request of one of the Parties, to the Standing Committee with a view to its formulating an advisory opinion on the subject. Such a disagreement shall not be submitted to the arbitration procedure provided for in Article 26.

3. The Parties undertake to look together for the most appropriate instruments and procedures to support, without discrimination between broadcasters, the activity and development of European production, particularly in countries with a low audiovisual production capacity or restricted language area.

4. The Parties, in the spirit of co-operation and mutual assistance which underlies this Convention, shall endeavour to avoid that programme services transmitted or retransmitted by entities or by technical means within their jurisdiction, within the meaning of Article 3, endanger the pluralism of the press and the development of the cinema industries. No cinematographic work shall accordingly be transmitted in such services, unless otherwise agreed between its rights holders and the broadcaster, until two years have elapsed since the work was first shown in cinemas; in the case of cinematographic works co-produced by the broadcaster, this period shall be one year.

### Chapter III Advertising

#### Article 11 General standards

1. All advertisements shall be fair and honest.
2. Advertisements shall not be misleading and shall not prejudice the interests of consumers.
3. Advertisements addressed to or using children shall avoid anything likely to harm their interests and shall have regard to their special susceptibilities.
4. The advertiser shall not exercise any editorial influence over the content of programmes.

#### Article 12 Duration

1. The amount of advertising shall not exceed 15% of the daily transmission time. However, this percentage may be increased to 20% to include forms of advertisements such as direct offers to the public for the sale, purchase or rental of products or for the provision of services, provided the amount of spot advertising does not exceed 15%.
2. The amount of spot advertising within a given one-hour period shall not exceed 20%.
3. Forms of advertisements such as direct offers to the public for the sale, purchase or rental of products or for the provision of services shall not exceed one hour per day.

#### Article 13 Form and presentation

1. Advertisements shall be clearly distinguishable as such and recognisably separate from the other items of the programme service by optical or acoustic means. In principle, they shall be transmitted in blocks.

namenjen poročilom, športnim dogodkom, igram, oglaševanju in oddajanju teleteksta. To razmerje naj bi dosegle postopno na podlagi primernih meril in ob upoštevanju odgovornosti izdajatelja televizijskega programa do njegovih gledalcev pri obveščanju, izobraževanju, kulturi in zabavi.

2. Ob nesoglasju o uporabi prejšnjega odstavka med pogodbenico, ki program sprejema, in pogodbenico, iz katere se program prenaša, se lahko na zahtevo ene od pogodbenic poišče pomoč stalnega odbora z namenom, da ta oblikuje svetovalno mnenje o zadevi. Takšno nesoglasje se ne rešuje z arbitražnim postopkom, ki ga predvideva 26. člen.

3. Pogodbenice se brez razlikovanja med posameznimi izdajatelji televizijskih programov zavezujejo s skupnimi močmi najti najprimernejša sredstva in postopke v podporo delovanja in razvoja evropske produkcije, zlasti v deželah z majhno avdiovizualno produkcijo oziroma na omejenem jezikovnem območju.

4. Pogodbenice si v duhu sodelovanja in medsebojne pomoči, ki je podlaga te konvencije, prizadevajo, da programi, ki jih prenašajo ali posredujejo subjekti ali tehnična sredstva pod njihovo jurisdikcijo v smislu 3. člena, ne ogrožajo pluralizma tiska in razvoja filmske produkcije. V skladu s tem v okviru programov ne smejo prenašati nobenega kinematografskega dela, dokler ne mineta dve leti od prvega predvajanja dela v kinematografih, razen če se imetniki pravic in izdajatelj televizijskega programa ne dogovorijo drugače. Pri kinematografskih delih v koprodukciji z izdajateljem televizijskega programa je to obdobje eno leto.

### III. POGLAVJE OGLAŠEVANJE

#### 11. člen Splošna pravila

1. Vsi oglasi morajo biti primerni in pošteni.
2. Oglasi ne smejo zavajati in ne smejo škodovati interesom uporabnikov.
3. Oglasi, namenjeni otrokom, ali oglasi, v katerih nastopajo otroci, se morajo izogibati vsemu, kar bi lahko škodovalo njihovim interesom, in morajo upoštevati njihovo posebno dovzetnost.
4. Oglaševalci ne smejo imeti uredniškega vpliva na vsebino oddaj.

#### 12. člen Trajanje

1. Obseg oglaševanja ne sme presežati 15% dnevne oddajnega časa. Ta odstotek pa se lahko poveča na 20%, kadar vključuje take oblike oglaševanja, kot so neposredne ponudbe za prodajo, nakup ali najem izdelkov ali za opravljanje storitev, pod pogojem, da količina oglaševalnih vložkov ne presega 15%.
2. Obseg oglaševalnih vložkov v eni uri ne sme presežati 20%.
3. Oblike oglaševanja, kot so neposredne ponudbe za prodajo, nakup ali najem izdelkov ali opravljanje storitev, ne smejo trajati dlje kot eno uro dnevno.

#### 13. člen Oblika in predstavitev

1. Oglasi se morajo optično ali zvočno povsem jasno prepoznati in se posebej razlikovati od drugih sestavin programa. Načeloma naj se prenašajo v blokih.

2. Subliminal advertisements shall not be allowed.

3. Surreptitious advertisements shall not be allowed, in particular the presentation of products or services in programmes when it serves advertising purposes.

4. Advertisements shall not feature, visually or orally, persons regularly presenting news and current affairs programmes.

#### Article 14

##### Insertion of advertisements

1. Advertisements shall be inserted between programmes. Provided the conditions contained in paragraphs 2 to 5 of this article are fulfilled, advertisements may also be inserted during programmes in such a way that the integrity and value of the programme and the rights of the rights holders are not prejudiced.

2. In programmes consisting of autonomous parts, or in sports programmes and similarly structured events and performances comprising intervals, advertisements shall only be inserted between the parts or in the intervals.

3. The transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their duration is more than forty-five minutes, may be interrupted once for each complete period of forty-five minutes. A further interruption is allowed if their duration is at least twenty minutes longer than two or more complete periods of forty-five minutes.

4. Where programmes, other than those covered by paragraph 2, are interrupted by advertisements, a period of at least twenty minutes should elapse between each successive advertising break within the programme.

5. Advertisements shall not be inserted in any broadcast of a religious service. News and current affairs programmes, documentaries, religious programmes, and children's programmes, when they are less than thirty minutes of duration, shall not be interrupted by advertisements. If they last for thirty minutes or longer, the provisions of the previous paragraphs shall apply.

#### Article 15

##### Advertising of particular products

1. Advertisements for tobacco products shall not be allowed.

2. Advertisements for alcoholic beverages of all varieties shall comply with the following rules:

**a** they shall not be addressed particularly to minors and no one associated with the consumption of alcoholic beverages in advertisements should seem to be a minor;

**b** they shall not link the consumption of alcohol to physical performance or driving;

**c** they shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal problems;

**d** they shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;

**e** they shall not place undue emphasis on the alcoholic content of beverages.

3. Advertisements for medicines and medical treatment which are only available on medical prescription in the transmitting Party shall not be allowed.

4. Advertisements for all other medicines and medical treatment shall be clearly distinguishable as such, honest, truthful and subject to verification and shall comply with the requirement of protection of the individual from harm.

2. Oglasi, ki vplivajo na podzavest, niso dovoljeni.

3. Prikriti oglasi niso dovoljeni, zlasti pa ne predstavitev izdelkov ali storitev v oddajah, kadar je taka predstavitev namenjena oglaševanju.

4. V oglasih ne smejo vidno ali govorno nastopati osebe, ki redno berejo poročila ali nastopajo v aktualnoinformativnih oddajah.

#### 14. člen

##### Vstavljanje oglasov

1. Oglasi se vstavljajo med posamezne oddaje. Če so izpolnjeni pogoji, navedeni v odstavkih od dva do pet tega člena, so oglasi lahko vstavljeni tudi v oddaje, vendar tako, da to ne prizadene celovitosti in vrednosti programa ter pravic imetnikov pravic.

2. V oddaje, ki so sestavljene iz samostojnih delov, ali v športne oddaje in podobno sestavljene dogodke in predstave, ki imajo premore, se oglasi vstavljajo le med posamezne dele ali v premore.

3. Prenašanje avdiovizualnih del, kot so igrani filmi in televizijski filmi (razen serijskih filmov in nadaljevanj, lahkih zabavnih in dokumentarnih oddaj), ki so daljši od petinštirideset minut, se lahko prekine samo enkrat v vsakem obdobju petinštirideset minut. Nadaljnja prekinitve je dovoljena samo, če oddaja traja najmanj dvajset minut dlje od dveh ali več celotnih petinštiridesetminutnih obdobj.

4. Kadar se zaradi oglasov prekinjajo oddaje, ki niso vključene v drugem odstavku, mora med vsakim naslednjim premorom za oglase preteči najmanj dvajset minut oddaje.

5. Oglasi se ne smejo vstavljati v prenose verskih obredov. Poročila in aktualnoinformativne oddaje, dokumentarne, verske in otroške oddaje, ki so krajše od trideset minut, se ne smejo prekinjati z oglasom. Če trajajo trideset minut ali dlje, veljajo določbe prejšnjega odstavka.

#### 15. člen

##### Oglaševanje posebnih izdelkov

1. Oglasi za tobačne izdelke niso dovoljeni.

2. Oglasi za alkoholne pijače vseh vrst morajo biti skladni z naslednjimi pravili:

**a**) ne smejo biti namenjeni posebej mladoletnikom in nihče, ki je v oglasih povezan z uživanjem alkoholnih pijač, ne bi smel dajati videza mladoletnika;

**b**) ne smejo povezovati uživanja alkohola s telesno zmogljivostjo ali vožnjo;

**c**) ne smejo navajati, da ima alkohol zdravilne lastnosti ali da je poživilo, pomirjevalo ali sredstvo za premagovanje osebnih težav;

**d**) ne smejo spodbujati nezmerne uživanja alkohola ali v negativni luči predstavljati zdržnosti ali zmernega pitja;

**e**) ne smejo pretirano poudarjati alkoholne vsebine pijače.

3. Oglasi za zdravila in zdravljenje, ki se lahko v državi pogodbenici, iz katere se program prenaša, dobijo samo, če jih predpiše zdravnik, niso dovoljeni.

4. Oglasi za vsa druga zdravila in zdravljenje morajo biti jasno razpoznavni kot takšni, pošteni, resnični in preverjeni ter skladni z zahtevami za varstvo posameznika pred škodljivimi učinki.

**Article 16****Advertising directed specifically at a single Party**

1. In order to avoid distortions in competition and endangering the television system of a Party, advertisements which are specifically and with some frequency directed to audiences in a single Party other than the transmitting Party shall not circumvent the television advertising rules in that particular Party.

2. The provisions of the preceding paragraph shall not apply where:

**a** the rules concerned establish a discrimination between advertisements transmitted by entities or by technical means within the jurisdiction of that Party and advertisements transmitted by entities or by technical means within the jurisdiction of another Party; or

**b** the Parties concerned have concluded bilateral or multilateral agreements in this area.

**Chapter IV  
Sponsorship****Article 17****General standards**

1. When a programme or series of programmes is sponsored in whole or in part, it shall clearly be identified as such by appropriate credits at the beginning and/or end of the programme.

2. The content and scheduling of sponsored programmes may in no circumstances be influenced by the sponsor in such a way as to affect the responsibility and editorial independence of the broadcaster in respect of programmes.

3. Sponsored programmes shall not encourage the sale, purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services in such programmes.

**Article 18****Prohibited sponsorship**

1. Programmes may not be sponsored by natural or legal persons whose principal activity is the manufacture or sale of products, or the provision of services, the advertising of which is prohibited by virtue of Article 15.

2. Sponsorship of news and current affairs programmes shall not be allowed.

**Chapter V  
Mutual assistance****Article 19****Co-operation between the Parties**

1. The Parties undertake to render each other mutual assistance in order to implement this Convention.

2. For that purpose:

**a** each Contracting State shall designate one or more authorities, the name and address of each of which it shall communicate to the Secretary General of the Council of Europe at the time of deposit of its instrument of ratification, acceptance, approval or accession;

**b** each Contracting State which has designated more than one authority shall specify in its communication under sub-paragraph a the competence of each authority.

**16. člen****Oglaševanje, ki je posebej namenjeno eni sami pogodbenici**

1. Da bi se izognili izkrivljanju konkurence in ogrožanju televizijskega sistema pogodbenice, oglasi, ki so posebej in z določeno pogostostjo usmerjeni h gledalcem v eni sami pogodbenici, ki ni pogodbenica, iz katere se program prenaša, ne smejo zaobiti pravil televizijskega oglaševanja v tej pogodbenici.

2. Določbe prejšnjega odstavka se ne uporabljajo, kadar:

**a)** taka pravila pomenijo diskriminacijo med oglasi, ki jih prenašajo subjekti ali tehnična sredstva pod jurisdikcijo ene pogodbenice, ter oglasi, ki jih prenašajo subjekti ali tehnična sredstva pod jurisdikcijo druge pogodbenice, ali

**b)** sta prizadeti pogodbenici sklenili dvostranske ali mnogostranske sporazume na tem področju.

**IV. POGLAVJE  
SPONZORSTVO****17. člen****Splošna pravila**

1. Kadar je oddaja ali niz oddaj v celoti ali delno sponzoriran, se to na primeren način jasno navede na začetku in/ali na koncu oddaje.

2. Sponzor v nobenem primeru ne sme vplivati na vsebino in razvrščanje sponzoriranih oddaj na tak način, da bi s tem vplival na odgovornost in uredniško neodvisnost izdajatelja televizijskega programa v zvezi z oddajami.

3. Sponzorirane oddaje ne smejo spodbujati prodaje, nakupa ali najema izdelkov ali storitev sponzorja ali tretje stranke, še zlasti ne s posebnim opozarjanjem na določene izdelke ali storitve v takih oddajah.

**18. člen****Prepovedano sponzorstvo**

1. Fizične ali pravne osebe, katerih glavna dejavnost je proizvodnja ali prodaja izdelkov ali opravljanje storitev, katerih oglaševanje je prepovedano na podlagi 15. člena, ne smejo sponzorirati oddaj.

2. Sponzoriranje poročil in aktualnoinformativnih oddaj ni dovoljeno.

**V. POGLAVJE  
VZAJEMNA POMOČ****19. člen****Sodelovanje med pogodbenicami**

1. Pogodbenice se zavezujejo, da si bodo vzajemno pomagale za uresničevanje te konvencije.

2. V ta namen:

**a)** vsaka država pogodbenica imenuje enega ali več organov, njihov naziv in naslov pa sporoči generalnemu sekretarju Sveta Evrope ob deponiranju svoje listine o ratifikaciji, sprejetju, odobritvi ali pristopu;

**b)** vsaka država pogodbenica, ki je imenovala več kot en organ, v svojem sporočilu iz pododstavka a) določi pristojnost vsakega organa.

3. An authority designated by a Party shall:

**a** furnish the information foreseen under Article 6, paragraph 2, of this Convention;

**b** furnish information at the request of an authority designated by another Party on the domestic law and practices in the fields covered by this Convention;

**c** co-operate with the authorities designated by the other Parties whenever useful, and notably where this would enhance the effectiveness of measures taken in implementation of this Convention;

**d** consider any difficulty arising from the application of this Convention which is brought to its attention by an authority designated by another Party.

## **Chapter VI Standing Committee**

### **Article 20 Standing Committee**

1. For the purposes of this Convention, a Standing Committee shall be set up.

2. Each Party may be represented on the Standing Committee by one or more delegates. Each delegation shall have one vote. Within the areas of its competence, the European Economic Community shall exercise its right to vote with a number of votes equal to the number of its member States which are Parties to this Convention; the European Economic Community shall not exercise its right to vote in cases where the member States concerned exercise theirs, and conversely.

3. Any State referred to in Article 29, paragraph 1, which is not a Party to this Convention may be represented on the Standing Committee by an observer.

4. The Standing Committee may seek the advice of experts in order to discharge its functions. It may, on its own initiative or at the request of the body concerned, invite any international or national, governmental or non-governmental body technically qualified in the fields covered by this Convention to be represented by an observer at one or part of one of its meetings. The decision to invite such experts or bodies shall be taken by a majority of three-quarters of the members of the Standing Committee.

5. The Standing Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within six months of the date of entry into force of the Convention. It shall subsequently meet whenever one-third of the Parties or the Committee of Ministers of the Council of Europe so requests, or on the initiative of the Secretary General of the Council of Europe in accordance with the provisions of Article 23, paragraph 2, or at the request of one or more Parties in accordance with the provisions of Articles 21, sub-paragraph c, and 25, paragraph 2.

6. A majority of the Parties shall constitute a quorum for holding a meeting of the Standing Committee.

7. Subject to the provisions of paragraph 4 and Article 23, paragraph 3, the decisions of the Standing Committee shall be taken by a majority of three-quarters of the members present.

8. Subject to the provisions of this Convention, the Standing Committee shall draw up its own Rules of Procedure.

### **Article 21 Functions of the Standing Committee**

The Standing Committee shall be responsible for following the application of this Convention. It may:

3. Organ, ki ga je imenovala pogodbenica:

a) daje podatke, ki so predvideni po drugem odstavku 6. člena te konvencije;

b) na zahtevo organa, ki ga je imenovala druga pogodbenica, daje podatke o notranji zakonodaji in praksi na področjih, ki jih obravnava ta konvencija;

c) sodeluje z organi, ki so jih imenovalle druge pogodbenice, kadar koli je to koristno, in zlasti kadar bi to povečalo učinkovitost ukrepov, sprejetih pri izvajanju te konvencije;

d) prouči vsako težavo, ki se pojavi pri uporabi te konvencije, na katero ga opozori organ, ki ga je imenovala druga pogodbenica.

## **VI. POGLAVJE STALNI ODBOR**

### **20. člen Stalni odbor**

1. Za namene te konvencije se ustanovi stalni odbor.

2. Vsako pogodbenico lahko v stalnem odboru zastopa en ali več delegatov. Vsaka delegacija ima en glas. Evropska gospodarska skupnost ima na področjih svoje pristojnosti pravico glasovati s številom glasov, enakim številu njenih držav članic, pogodbenic te konvencije; Evropska gospodarska skupnost svoje pravice do glasovanja ne sme uresničevati, kadar jo posamezne države članice uresničujejo same, in obratno.

3. Vsako državo, omenjeno v prvem odstavku 29. člena, ki ni pogodbenica te konvencije, lahko v stalnem odboru zastopa opazovalec.

4. Stalni odbor lahko za opravljanje svojih nalog zaprosi za nasvet strokovnjake. Na lastno pobudo ali na zahtevo določenega organa lahko povabi kateri koli mednarodni ali državni, vladni ali nevladni organ, ki je strokovno usposobljen na področjih, ki jih obravnava ta konvencija, da ga na posameznem sestanku ali delu posameznega sestanka zastopa kot opazovalec. Sklep o povabilu takšnih strokovnjakov ali organov se sprejme s tričetrtinsko večino članov stalnega odbora.

5. Stalni odbor skliče generalni sekretar Sveta Evrope. Njegov prvi sestanek mora biti najkasneje v šestih mesecih po začetku veljavnosti te konvencije. Nato se sestaja, kadar koli to zahteva ena tretjina pogodbenic ali Odbor ministrov Sveta Evrope ali na pobudo generalnega sekretarja Sveta Evrope v skladu z določbami drugega odstavka 23. člena ali na zahtevo ene ali več pogodbenic v skladu z določbami pododstavka c) 21. člena in drugega odstavka 25. člena.

6. Sestanek stalnega odbora je sklepčen, če je navzoča večina pogodbenic.

7. S pridržkom določb četrtega odstavka tega člena in tretjega odstavka 23. člena se sklepi stalnega odbora sprejemajo s tričetrtinsko večino navzočih članov.

8. Na podlagi določb te konvencije stalni odbor sestavi svoj poslovnik.

### **21. člen Naloge stalnega odbora**

Stalni odbor je odgovoren za spremljanje uporabe te konvencije. Stalni odbor lahko:



**a** make recommendations to the Parties concerning the application of the Convention;

**b** suggest any necessary modifications of the Convention and examine those proposed in accordance with the provisions of Article 23;

**c** examine, at the request of one or more Parties, questions concerning the interpretation of the Convention;

**d** use its best endeavours to secure a friendly settlement of any difficulty referred to it in accordance with the provisions of Article 25;

**e** make recommendations to the Committee of Ministers concerning States other than those referred to in Article 29, paragraph 1, to be invited to accede to this Convention.

## Article 22

### Reports of the Standing Committee

After each meeting, the Standing Committee shall forward to the Parties and the Committee of Ministers of the Council of Europe a report on its discussions and any decisions taken.

## Chapter VII Amendments

### Article 23 Amendments

1. Any Party may propose amendments to this Convention.

2. Any proposal for amendment shall be notified to the Secretary General of the Council of Europe who shall communicate it to the member States of the Council of Europe, to the other States party to the European Cultural Convention, to the European Economic Community and to any non-member State which has acceded to, or has been invited to accede to this Convention in accordance with the provisions of Article 30. The Secretary General of the Council of Europe shall convene a meeting of the Standing Committee at the earliest two months following the communication of the proposal.

3. The Standing Committee shall examine any amendment proposed and shall submit the text adopted by a majority of three-quarters of the members of the Standing Committee to the Committee of Ministers for approval. After its approval, the text shall be forwarded to the Parties for acceptance.

4. Any amendment shall enter into force on the thirtieth day after all the Parties have informed the Secretary General of their acceptance thereof.

## Chapter VIII Alleged violations of this Convention

### Article 24 Alleged violations of this Convention

1. When a Party finds a violation of this Convention, it shall communicate to the transmitting Party the alleged violation and the two Parties shall endeavour to overcome the difficulty on the basis of the provisions of Articles 19, 25 and 26.

2. If the alleged violation is of a manifest, serious and grave nature which raises important public issues and concerns Articles 7, paragraphs 1 or 2, 12, 13, paragraph 1, first sentence, or 15, paragraphs 1 or 3, and if it persists within two weeks following the communication, the receiv-

a) daje pogodbenicam priporočila v zvezi z uporabo te konvencije;

b) predlaga kakršne koli potrebne spremembe konvencije in prouči tiste, ki so predlagane v skladu z določbami 23. člena;

c) na zahtevo ene ali več pogodbenic prouči vprašanja v zvezi z razlago konvencije;

d) po svojih najboljših močeh zagotavlja mirno reševanje kakršnih koli težav, ki so mu predložene v skladu z določbami 25. člena;

e) daje priporočila Odboru ministrov, da povabi države, ki niso omenjene v prvem odstavku 29. člena, da pristopijo k tej konvenciji.

## 22. člen

### Poročila stalnega odbora

Po vsakem sestanku stalni odbor pošlje pogodbenicam in Odboru ministrov Sveta Evrope poročilo o svojih razpravah in vseh sprejetih sklepih.

## VII. POGLAVJE SPREMEMBE

### 23. člen Spremembe

1. Vsaka pogodbenica lahko predlaga spremembe te konvencije.

2. Vsak predlog za spremembo se sporoči generalnemu sekretarju Sveta Evrope, ki ga pošlje državam članicam Sveta Evrope, drugim državam pogodbenicam Evropske kulturne konvencije, Evropski gospodarski skupnosti in vsaki državi nečlanici, ki je h konvenciji pristopila ali je bila povabljena, da k njej pristopi v skladu z določbami 30. člena. Generalni sekretar Sveta Evrope skliče sestanek stalnega odbora, vendar ne prej kot dva meseca po tem, ko je poslal predlog.

3. Stalni odbor prouči vsako predlagano spremembo in predloži besedilo, ki ga je sprejela tričetrtinska večina članov stalnega odbora, v odobritev Odboru ministrov. Po odobritvi se besedilo pošlje pogodbenicam v sprejetje.

4. Vsaka sprememba začne veljati trideseti dan po datumu, ko so vse pogodbenice obvestile generalnega sekretarja, da so jo sprejele.

## VIII. POGLAVJE DOMNEVNE KRŠITVE KONVENCije

### 24. člen Domnevne kršitve konvencije

1. Kadar kaka pogodbenica ugotovi kršitev te konvencije, domnevno kršitev sporoči pogodbenici, iz katere se program prenaša, nato pa si pogodbenici prizadevata rešiti težavo na podlagi določb 19., 25. in 26. člena.

2. Če je domnevna kršitev očitna, resna in tako huda, da sproži pomembna javna vprašanja, ter zadeva prvi ali drugi odstavek 7. člena, 12. člen, 1. stavek prvega odstavka 13. člena, 14. člen ali prvi ali tretji odstavek 15. člena in če traja več kot dva tedna po sporočilu, lahko pogodbenica,

ing Party may suspend provisionally the retransmission of the incriminated programme service.

3. In all other cases of alleged violation, with the exception of those provided for in paragraph the receiving Party may suspend provisionally the retransmission of the incriminated programme service eight months following the communication, if the alleged violation persists.

4. The provisional suspension of retransmission shall not be allowed in the case of alleged violations of Articles 7, paragraph 3, 8, 9 or 10.

## Chapter IX Settlement of disputes

### Article 25 Conciliation

1. In case of difficulty arising from the application of this Convention, the Parties concerned shall endeavour to achieve a friendly settlement.

2. Unless one of the Parties concerned objects, the Standing Committee may examine the question, by placing itself at the disposal of the Parties concerned in order to reach a satisfactory solution as rapidly as possible and, where appropriate, to formulate an advisory opinion on the subject.

3. Each Party concerned undertakes to accord the Standing Committee, without delay, all information and facilities necessary for the discharge of its functions under the preceding paragraph.

### Article 26 Arbitration

1. If the Parties concerned cannot settle the dispute in accordance with the provisions of Article 5, they may, by common agreement, submit it to arbitration, the procedure of which is provided for in the appendix to this Convention. In the absence of such an agreement within six months following the first request to open the procedure of conciliation, the dispute may be submitted to arbitration at the request of one of the Parties.

2. Any Party may, at any time, declare that it recognises as compulsory *ipso facto* and without special agreement in respect of any other Party accepting the same obligation the application of the arbitration procedure provided for in the appendix to this Convention.

## Chapter X Other international agreements and the internal law of the parties

### Article 27

#### Other international agreements or arrangements

1. In their mutual relations, Parties which are members of the European Economic Community shall apply Community rules and shall not therefore apply the rules arising from this Convention except insofar as there is no Community rule governing the particular subject concerned.

2. Nothing in this Convention shall prevent the Parties from concluding international agreements completing or developing its provisions or extending their field of application.

3. In the case of bilateral agreements, this Convention shall not alter the rights and obligations of Parties which arise from such agreements and which do not affect the enjoyment of other Parties of their rights or the performance of their obligations under this Convention.

ki program sprejema, začasno ustavi posredovanje takega spornega programa.

3. V vseh drugih primerih domnevne kršitve, z izjemo tistih, ki so določeni v četrtem odstavku, lahko pogodbenica, ki program sprejema, začasno ustavi posredovanje spornega programa osem mesecev po sporočilu, če se domnevna kršitev še kar naprej ponavlja.

4. Začasna ustavitev posredovanja programa ni dovoljena v primeru domnevnih kršitev iz tretjega odstavka 7. člena in 8., 9. ali 10. člena.

## IX. POGLAVJE REŠEVANJE SPOROV

### 25. člen Sprava

1. Če se pri uporabi te konvencije pojavijo težave, si prizadete pogodbenice prizadevajo doseči mirno rešitev.

2. Če nobena od prizadetih pogodbenic temu ne ugovarja, lahko stalni odbor prouči vprašanje in je na voljo prizadetim pogodbenicam, da čim hitreje dosežejo zadovoljivo rešitev, in če je to primerno, oblikuje svoje svetovalno mnenje o zadevi.

3. Vsaka prizadeta pogodbenica se obvezuje, da stalnemu odboru nemudoma zagotovi vse informacije in potrebno pomoč za izpolnjevanje njegovih nalog iz prejšnjega odstavka.

### 26. člen Arbitraža

1. Če prizadete pogodbenice ne morejo rešiti spora v skladu z določbami 25. člena, ga lahko po skupnem dogovoru predložijo v arbitražo, katere postopek je predviden v dodatku k tej konvenciji. Če tak dogovor ni dosežen v šestih mesecih od prve zahteve za začetek spornega postopka, se spor na zahtevo ene od pogodbenic predloži v arbitražo.

2. Vsaka pogodbenica lahko kadar koli izjavi, da priznava kot ipso facto obvezno in brez sklenitve posebnega sporazuma uporabo arbitražnega postopka, predvidenega v dodatku k tej konvenciji, za spor s katero koli drugo pogodbenico, ki je prevzela enako obveznost.

## X. POGLAVJE DRUGI MEDNARODNI SPORAZUMI IN NOTRANJE PRAVO POGODBENIC

### 27. člen

#### Drugi mednarodni sporazumi ali dogovori

1. V medsebojnih odnosih pogodbenice, ki so članice Evropske gospodarske skupnosti, uporabljajo pravila Skupnosti in zato ne uporabljajo pravil, ki izhajajo iz te konvencije, razen če ni pravil Skupnosti, ki bi urejala določen predmet.

2. Nič v tej konvenciji ne preprečuje pogodbenicam, da ne bi sklepale mednarodnih sporazumov, ki dopolnjujejo ali razvijajo njene določbe ali širijo področje njihove uporabe.

3. Pri dvostranskih sporazumih ta konvencija ne spreminja pravic in obveznosti pogodbenic, ki izhajajo iz takšnih sporazumov in ki ne vplivajo na uživanje pravic drugih pogodbenic ali izvajanje njihovih obveznosti po tej konvenciji.

**Article 28****Relations between the Convention and the internal law of the Parties**

Nothing in this Convention shall prevent the Parties from applying stricter or more detailed rules than those provided for in this Convention to programme services transmitted by entities or by technical means within their jurisdiction, within the meaning of Article 3.

**Chapter XI  
Final provisions****Article 29****Signature and entry into force**

1. This Convention shall be open for signature by the member States of the Council of Europe and the other States party to the European Cultural Convention, and by the European Economic Community. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which seven States, of which at least five member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

3. A State may, at the time of signature or at any later date prior to the entry into force of this Convention in respect of that State, declare that it shall apply the Convention provisionally.

4. In respect of any State referred to in paragraph 1, or the European Economic Community, which subsequently express their consent to be bound by it, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification, acceptance or approval.

**Article 30****Accession by non-member States**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Contracting States may invite any other State to accede to this Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.

2. In respect of any acceding State, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

**Article 31****Territorial application**

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any State may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory, the

**28. člen****Odnos med konvencijo in notranjim pravom pogodbenic**

Nič v tej konvenciji ne preprečuje pogodbenicam, da za programe, ki jih prenašajo subjekti ali tehnična sredstva pod njihovo jurisdikcijo v smislu 3. člena, ne bi uporabljale strožjih ali podrobnejših pravil, kot so predvidena v tej konvenciji.

**XI. POGLAVJE  
KONČNE DOLOČBE****29. člen****Podpis in začetek veljavnosti**

1. Ta konvencija je na voljo za podpis državam članicam Sveta Evrope in drugim državam pogodbenicam Evropske kulturne konvencije in Evropski gospodarski skupnosti. Konvencijo je treba ratificirati, sprejeti ali odobriti. Listine o ratifikaciji, sprejetju ali odobritvi se hranijo pri generalnem sekretarju Sveta Evrope.

2. Ta konvencija začne veljati prvi dan meseca, ki sledi izteku trimesečnega obdobja po dnevu, ko je sedem držav, med njimi najmanj pet držav članic Sveta Evrope privolilo, da jih konvencija zavezuje v skladu z določbami prejšnjega odstavka.

3. Država lahko ob podpisu ali kadar koli pozneje pred začetkom veljavnosti te konvencije zanjo izjavi, da bo to konvencijo uporabljala začasno.

4. Za katero koli državo, ki je navedena v prvem odstavku, ali za Evropsko gospodarsko skupnost, ki naknadno privoli, da jo konvencija zavezuje, začne konvencija veljati prvi dan meseca, ki sledi izteku trimesečnega obdobja po dnevu deponiranja listine o ratifikaciji, sprejetju ali odobritvi.

**30. člen****Pristop držav nečlanic**

1. Po začetku veljavnosti te konvencije lahko Odbor ministrov Sveta Evrope po posvetovanju s pogodbenicami povabi katero koli drugo državo, da pristopi k tej konvenciji, na podlagi sklepa, ki ga sprejme večina, določena v odstavku d) 20. člena Statuta Sveta Evrope, in soglasnega sklepa predstavnikov držav pogodbenic, ki imajo pravico biti zastopane v odboru.

2. Za vsako državo, ki pristopi h konvenciji, začne ta veljati prvi dan meseca, ki sledi izteku trimesečnega obdobja po deponiranju listine o pristopu pri generalnem sekretarju Sveta Evrope.

**31. člen****Ozemlja uporabe**

1. Vsaka država lahko ob podpisu ali ob deponiranju svoje listine o ratifikaciji, sprejetju, odobritvi ali pristopu določi ozemlje ali ozemlja, za katera se bo ta konvencija uporabljala.

2. Vsaka država lahko kadar koli kasneje z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, razširi uporabo te konvencije na katero koli drugo ozemlje, navedeno v izjavi. Za takšno ozemlje začne konvencija veljati prvi

Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

### Article 32 Reservations

1. At the time of signature or when depositing its instrument of ratification, acceptance, approval or accession:

**a** any State may declare that it reserves the right to restrict the retransmission of its territory, solely to the extent that it does not comply with its domestic legislation, of programme services containing advertisements for alcoholic beverages according to the rules provided for in Article 15, paragraph 2, of this Convention;

**b** the United Kingdom may declare that it reserves the right not to fulfil the obligation, set out in Article 15, paragraph 1, to prohibit advertisements for tobacco products, in respect of advertisements for cigars and pipe tobacco broadcast by the Independent Broadcasting Authority by terrestrial means on its territory.

No other reservation may be made.

2. A reservation made in accordance with the preceding paragraph may not be the subject of an objection.

3. Any Contracting State which has made a reservation under paragraph 1 may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

4. A Party which has made a reservation in respect of a provision of this Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

### Article 33 Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

### Article 34 Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council, the other States party to the European Cultural Convention, the European Economic Community and any State which has acceded to, or has been invited to accede to this Convention of:

**a** any signature;

**b** the deposit of any instrument of ratification, acceptance, approval or accession;

**c** any date of entry into force of this Convention in accordance with the provisions of Articles 29, 30 and 31;

**d** any report established in accordance with the provisions of Article 22;

**e** any other act, declaration, notification or communication relating to this Convention.

dan meseca po izteku trimesečnega obdobja po dnevu, ko je generalni sekretar prejel tako izjavo.

3. Z uradnim obvestilom, naslovljenim na generalnega sekretarja, je mogoče preklicati katero koli izjavo, dano po prejšnjih dveh odstavkih za vsako ozemlje, navedeno v taki izjavi. Preklic začne veljati prvi dan meseca, ki sledi izteku šestmesečnega obdobja po dnevu, ko je generalni sekretar prejel tako uradno obvestilo.

### 32. člen Pridrži

1. Ob podpisu ali ob deponiranju svoje listine o ratifikaciji, sprejetju, odobritvi ali pristopu lahko:

**a)** vsaka država izjavi, da si v skladu s pravili, predvidenimi v drugem odstavku 15. člena te konvencije, pridržuje pravico na svojem ozemlju omejiti posredovanje programov, ki vsebujejo oglase za alkoholne pijače, vendar samo, kolikor to ni skladno z njeno notranjo zakonodajo;

**b)** Združeno kraljestvo izjavi, da si pridržuje pravico, da ne bo izpolnjevalo obveznosti, navedene v prvem odstavku 15. člena, da prepove oglase za tobačne izdelke, in sicer oglase za cigare in tobak za pipo, ki jih na njegovem ozemlju po zemeljskih oddajnikih oddaja Neodvisna televizijska služba (Independent Broadcasting Authority).

Drugi pridržki niso dopustni.

2. Zoper pridržek, dan v skladu s prejšnjim odstavkom, ugovor ni mogoč.

3. Katera koli država pogodbenica, ki je dala pridržek po prvem odstavku, ga lahko popolnoma ali delno umakne z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope. Umik začne veljati z dnem, ko je generalni sekretar prejel tako uradno obvestilo.

4. Pogodbenica, ki je dala pridržek glede kake določbe te konvencije, ne sme zahtevati, da kaka druga pogodbenica to določbo uporablja; če pa je njen pridržek delen ali pogojen, lahko zahteva uporabo take določbe do tiste mere, kot ga je sama sprejela.

### 33. člen Odpoved

1. Vsaka pogodbenica lahko kadar koli odpove to konvencijo z uradnim obvestilom, naslovljenim na generalnega sekretarja Sveta Evrope.

2. Taka odpoved začne veljati prvi dan meseca, ki sledi izteku šestmesečnega obdobja po dnevu, ko je generalni sekretar prejel uradno obvestilo.

### 34. člen Uradna obvestila

Generalni sekretar Sveta Evrope uradno obvesti države članice Sveta, druge države pogodbenice Evropske kulturne konvencije, Evropsko gospodarsko skupnost in vsako državo, ki je h konvenciji pristopila ali je povabljen, da k njej pristopi, o:

**a)** vsakem podpisu;

**b)** deponiranju vsake listine o ratifikaciji, sprejetju, odobritvi ali pristopu;

**c)** vsakem datumu začetka veljavnosti te konvencije v skladu z določbami 29., 30. in 31. člena;

**d)** vsakem poročilu, pripravljenem v skladu z določbami 22. člena;

**e)** vsakem drugem dejanju, izjavi, uradnem obvestilu ali sporočilu v zvezi s to konvencijo.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, the 5th May 1989, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the other States Party to the European Cultural Convention, to the European Economic Community and to any State invited to accede to this Convention.

## APPENDIX

### Arbitration

1. A request for arbitration shall be notified to the Secretary General of the Council of Europe. It shall include the name of the other party to the dispute and the subject matter of the dispute. The Secretary General shall communicate the information so received to all the Parties to this Convention.

2. In the event of a dispute between two Parties one of which is a member State of the European Economic Community, the latter itself being a Party, the request for arbitration shall be addressed both to the member State and to the Community, which jointly shall notify the Secretary General, within one month of receipt of the request, whether the member State or the Community, or the member State and the Community jointly, shall be party to the dispute. In the absence of such notification within the said time-limit, the member State and the Community shall be considered as being one and the same party to the dispute for the purposes of the application of the provisions governing the constitution and procedure of the arbitration tribunal. The same shall apply when the member State and the Community jointly present themselves as party to the dispute. In cases envisaged by this paragraph, the time-limit of one month foreseen in the first sentence of paragraph 4 hereafter shall be extended to two months.

3. The arbitration tribunal shall consist of three members: each of the parties to the dispute shall appoint one arbitrator; the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of either of the parties to the dispute, nor have his usual place of residence in the territory of either of those parties, nor be employed by either of them, nor have dealt with the case in another capacity.

4. If one of the parties has not appointed an arbitrator within one month following the communication of the request by the Secretary General of the Council of Europe, he shall be appointed at the request of the other party by the President of the European Court of Human Rights within a further one-month period. If the President of the Court is unable to act or is a national of one of the parties to the dispute, the appointment shall be made by the Vice-President of the Court or by the most senior judge to the Court who is available and is not a national of one of the parties to the dispute. The same procedure shall be observed if, within a period of one month following the appointment of the second arbitrator, the Chairman of the arbitration tribunal is not designated.

5. The provisions of paragraphs 3 and 4 shall apply, as the case may be, in order to fill any vacancy.

6. Two or more parties which determine by agreement that they are in the same interest shall appoint an arbitrator jointly.

V dokaz tega so podpisani, ki so bili za to pravilno pooblašteni, podpisali to konvencijo.

Sestavljeno v Strasbourgu 5. maja 1989 v angleščini in francoščini, pri čemer sta obe besedili enako verodostojni, v enem samem izvodu, ki se hrani v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjene kopije vsaki državi članici Sveta Evrope, drugim državam pogodbenicam Evropske kulturne konvencije, Evropski gospodarski skupnosti in vsaki državi, ki je bila povabljen, da pristopi k tej konvenciji.

## DODATEK

### Arbitraža

1. O zahtevi za arbitražo je treba obvestiti generalnega sekretarja Sveta Evrope. Zahteva vsebuje ime druge stranke v sporu in predmet spora. Generalni sekretar sporoči tako prejeto informacijo vsem pogodbenicam te konvencije.

2. Če gre za spor med dvema pogodbenicama, od katerih je ena država članica Evropske gospodarske skupnosti in je ta tudi pogodbenica konvencije, se zahteva za arbitražo naslovi tako na državo pogodbenico kot tudi na Skupnost, ki nato skupaj v enem mesecu po prejemu zahtev obvestita generalnega sekretarja o tem, ali je stranka v sporu država članica ali Skupnost ali pa država članica in Skupnost skupaj. Če takšnega obvestila v navedenem roku ni, se za uporabo določb, ki urejajo ustanovitev razsodišča in postopek arbitraže, šteje, da sta država članica in Skupnost ena in ista stranka v sporu. Isto velja, kadar država članica in Skupnost nastopata skupaj kot stranka v sporu. V primerih, ki jih predvideva ta odstavek, se predvideni enomesečni rok iz 1. stavka četrtega odstavka podaljša na dva meseca.

3. Razsodišče sestavljajo trije člani: vsaka stranka v sporu imenuje enega razsodnika; tako imenovana razsodnika v skupnem dogovoru imenujeta tretjega razsodnika, ki predseduje razsodišču. Slednji ne sme biti državlján nobene stranke v sporu, ne sme imeti svojega običajnega bivališča na ozemlju ene ali druge stranke v sporu, ne sme biti uslužbenec nobene od njiju in se s primerom ni ukvarjal v nobeni drugi vlogi.

4. Če ena od strank ni imenovala razsodnika v enem mesecu, potem ko jo je generalni sekretar Sveta Evrope obvestil o tej zadevi, razsodnika na zahtevo druge stranke imenuje predsednik Evropskega sodišča za človekove pravice v nadaljnjem roku enega meseca. Če predsednik sodišča tega ne more storiti ali če je državlján ene od strank v sporu, ga imenuje podpredsednik sodišča ali sodnik z najdaljšim stažem, ki je na voljo in ni državlján nobene od strank v sporu. Enak postopek se uporabi, če v enem mesecu po imenovanju drugega razsodnika ni imenovan predsednik razsodišča.

5. Določbe tretjega oziroma četrtega odstavka se uporabljajo za zapolnitev katerega koli prostega mesta.

6. Dve ali več strank, ki sporazumno ugotovijo, da imajo skupni interes, skupno imenujejo razsodnika.

7. The parties to the dispute and the Standing Committee shall provide the arbitration tribunal with all facilities necessary for the effective conduct of the proceedings.

8. The arbitration tribunal shall draw up its own Rules of Procedure. Its decisions shall be taken by majority vote of its members. Its award shall be final and binding.

9. The award of the arbitration tribunal shall be notified to the Secretary General of the Council of Europe who shall communicate it to all the Parties to this Convention.

10. Each party to the dispute shall bear the expenses of the arbitrator appointed by it; these parties shall share equally the expenses of the other arbitrator, as well as other costs entailed by the arbitration.

### PROTOCOL AMENDING THE EUROPEAN CONVENTION ON TRANSFRONTIER TELEVISION

The member States of the Council of Europe and the other Parties to the European Convention on Transfrontier Television, opened for signature in Strasbourg on 5 May 1989 (hereinafter referred to as "the Convention"),

Welcoming the fact that the enlargement of the membership of the Council of Europe since 1989 has led to the development and implementation at the pan-European level of the legal framework provided for under the Convention;

Considering the major technological and economic developments in the field of television broadcasting as well as the appearance of new communications services in Europe since the adoption of the Convention in 1989;

Noting that these developments call for a revision of the provisions of the Convention;

Bearing in mind, in this regard, the adoption by the European Community of Directive 97/36/EC of the European Parliament and of the Council of 19 June 1997 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in member states concerning the pursuit of television broadcasting activities;

Considering the urgent need to amend certain provisions of the Convention in order to develop a coherent approach to transfrontier television between this instrument and the directive, as underlined in the Declaration on Media in a Democratic Society adopted by the ministers of the States participating in the 4<sup>th</sup> European Ministerial Conference on Mass Media Policy (Prague, 7-8 December 1994) and in the political Declaration of the 5<sup>th</sup> European Ministerial Conference (Thessaloniki, 11-12 December 1997);

Wishing to further develop the principles embodied in the Council of Europe recommendations on the drawing up of strategies to combat smoking, alcohol and drug dependence in co-operation with opinion-makers and the media, on the right to short reporting on major events where exclusive rights for their television broadcast have been acquired in a transfrontier context and on the portrayal of violence in the electronic media, which have been adopted within the framework of the Council of Europe since the Convention was adopted,

Have agreed as follows:

7. Stranke v sporu in stalni odbor zagotovijo razsodišču vse potrebno za učinkovito vodenje postopka.

8. Rzsodišče sestavi svoj poslovnik. Njegove odločitve se sprejemajo z večino glasov njegovih članov. Njegova rzsodba je dokončna in zavezujoča.

9. O rzsodbi rzsodišča je treba obvestiti generalnega sekretarja Sveta Evrope, ki jo sporoči vsem pogodbenicam te konvencije.

10. Vsaka stranka v sporu krije stroške rzsodnika, ki ga je imenovala; stranki v sporu si v enakih delih rzdzelita stroške tretjega rzsodnika kakor tudi druge z arbitražo povezane stroške.

SVET EVROPE  
Evropske pogodbe  
ETS št. 171

### PROTOKOL, KI SPREMINJA EVROPSKO KONVENCIJO O ČEZMEJNI TELEVIZIJI Strasbourg, 1. X. 1998

Države članice Sveta Evrope in druge pogodbenice Evropske konvencije o čezmejni televiziji, ki je bila dana na voljo za podpis v Strasbourgu 5. maja 1989 (v nadaljnjem besedilu konvencija), so se,

pozdravljajoč dejstvo, da je širitev članstva Sveta Evrope od leta 1989 privedla do tega, da se je na vseevropski ravni razvil in se izvaja pravni okvir, predviden s to konvencijo;

ob upoštevanju pomembnega tehnološkega in gospodarskega razvoja na področju televizijskega oddajanja ter nastanka novih komunikacijskih storitev v Evropi od sprejetja konvencije leta 1989;

ob ugotovitvi, da ta razvoj zahteva revizijo določb konvencije;

ob upoštevanju, da je v zvezi s tem Evropska skupnost sprejela Direktivo 97/36/ES Evropskega parlamenta in Sveta z dne 19. junija 1997, ki spreminja Direktivo Sveta 89/552/EGS o uskladitvi nekaterih določb, ki so v državah članicah predpisane z zakonom, predpisom ali upravnim ukrepom in zadevajo opravljanje televizijske dejavnosti;

glede na nujnost spremembe nekaterih določb konvencije, da bi razvili skladen pristop v zvezi s čezmejno televizijo med tem instrumentom in direktivo, kot je poudarjeno v Deklaraciji o medijih v demokratični družbi, ki so jo sprejeli ministri držav, ki so sodelovale na 4. evropski ministerski konferenci o politiki množičnih medijev (Praga, 7. – 8. december 1994), in politični deklaraciji 5. evropske ministrske konference (Solun, 11. – 12. december 1997);

v želji, da bi še naprej razvijale načela iz priporočil Sveta Evrope o pripravi strategije za boj proti kajenju, odvisnosti od alkohola in mamil v sodelovanju s tistimi, ki oblikujejo javno mnenje, in z mediji, o pravici do kratkega poročanja o pomembnih dogodkih, če so bile pridobljene izključne pravice za njihov čezmejni televizijski prenos, ter o prikazovanju nasilja na elektronskih medijih, ki jih je Svet Evrope sprejel po sprejemu konvencije,

dogovorile:

**Article 1**

The word "jurisdiction" in Article 8, paragraph 1, and in Article 16, paragraph 2a, in the French text, shall be replaced by the word "compétence".

**Article 2**

The word "advertisements" in Article 15, paragraphs 3 and 4, in the English text, shall be replaced by the word "advertising".

**Article 3**

The definition of "Broadcaster" in Article 2, paragraph c, shall be worded as follows:

"c "Broadcaster" means the natural or legal person who has editorial responsibility for the composition of television programme services for reception by the general public and transmits them or has them transmitted, complete and unchanged, by a third party;"

**Article 4**

The definition of "Advertisement" in Article 2, paragraph f, shall be worded as follows:

"f "Advertising" means any public announcement in return for payment or similar consideration or for self-promotional purposes, which is intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea, or to bring about some other effect desired by the advertiser or the broadcaster itself;"

**Article 5**

A new paragraph g reading as follows shall be inserted in Article 2:

"g "Tele-shopping" means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations in return for payment;"

**Article 6**

Article 2, paragraph g, shall be renumbered to Article 2, paragraph h.

**Article 7**

The following text shall replace Article 5:

**"Article 5: Duties of the transmitting Parties**

1 Each transmitting Party shall ensure that all programme services transmitted by a broadcaster within its jurisdiction comply with the terms of this Convention.

2 For the purposes of this Convention, a broadcaster within the jurisdiction of a Party is:

– a broadcaster who is deemed to be established in that Party according to paragraph 3;

– a broadcaster to whom paragraph 4 applies.

3 For the purposes of this Convention, a broadcaster shall be deemed to be established in a Party, hereinafter referred to as the "transmitting Party", in the following cases:

a the broadcaster has its head office in that Party and the decisions on programme schedules are taken in that Party;

b if a broadcaster has its head office in one Party but decisions on programme schedules are taken in another

**1. člen**

Izraz "jurisdiction" v prvem odstavku 8. člena in v odstavku 2 a) 16. člena v francoskem besedilu se nadomesti z izrazom "compétence".

**2. člen**

Izraz "advertisements" v tretjem in četrtem odstavku 15. člena v angleškem besedilu se nadomesti z izrazom "advertising".

**3. člen**

Opredelitev izraza "izdajatelj televizijskega programa" v odstavku c) 2. člena se glasi:

"c) "izdajatelj televizijskega programa" pomeni fizično ali pravno osebo, ki je uredniško odgovorna za sestavljanje televizijskih programov, namenjenih širši javnosti, in jih prenaša ali pa jih v celoti in nespremenjene zanjo prenaša kdo drug;"

**4. člen**

Opredelitev izraza "oglas" v odstavku f) 2. člena se glasi:

"f) "oglaševanje" pomeni kakršno koli javno objavo za plačilo ali podobno nadomestilo ali za samoreklamo, namenjeno pospeševanju prodaje, nakupa ali izposoje izdelka ali storitve, podpiranju kake stvari ali ideje ali doseganju kakega drugega učinka, ki ga želi doseči oglaševalec ali izdajatelj televizijskega programa sam;"

**5. člen**

V 2. člen se vstavi nov odstavek g), ki se glasi:

"g) "TV-prodaja" pomeni predvajanje neposrednih ponudb javnosti z namenom dobavljanja blaga ali storitev, vključno z nepremičninami, pravicami in obveznostmi, v zameno za plačilo;"

**6. člen**

Odstavek g) 2. člena se spremeni v odstavek h) 2. člena.

**7. člen**

5. člen se nadomesti z naslednjim besedilom:

**"5. člen: Dolžnosti pogodbenic, iz katerih se program prenaša**

1. Vsaka pogodbenica, iz katere se program prenaša, zagotavlja, da so vsi programi, ki jih prenaša izdajatelj televizijskega programa pod njeno jurisdikcijo, skladni z določbami te konvencije.

2. Za namene te konvencije je izdajatelj televizijskega programa pod jurisdikcijo pogodbenice:

– izdajatelj televizijskega programa, za katerega se šteje, da je ustanovljen v tej pogodbenici v skladu s tretjim odstavkom;

– izdajatelj televizijskega programa, za katerega se uporablja četrti odstavek.

3. Za namene te konvencije se šteje, da je izdajatelj televizijskega programa ustanovljen v pogodbenici, v nadaljnjem besedilu "pogodbenica, iz katere se program prenaša", v naslednjih primerih:

a) izdajatelj televizijskega programa ima svoj sedež v tej pogodbenici in se odločitve o programskih shemah sprejemajo v tej pogodbenici;

b) če ima izdajatelj televizijskega programa svoj sedež v eni pogodbenici, odločitve o programskih shemah pa se

Party, it shall be deemed to be established in the Party where a significant part of the workforce involved in the pursuit of the television broadcasting activity operates; if a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in each of those Parties, the broadcaster shall be deemed to be established in the Party where it has its head office; if a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in neither of those Parties, the broadcaster shall be deemed to be established in the Party where it first began broadcasting in accordance with the system of law of that Party, provided that it maintain a stable and effective link with the economy of that Party;

c if a broadcaster has its head office in a Party but decisions on programme schedules are taken in a State which is not Party to this Convention, or vice-versa, it shall be deemed to be established in the Party concerned, provided that a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in that Party;

d if, when applying the criteria of paragraph 3 of Article 2 of Directive 97/36/EC of the European Parliament and of the Council of 19 June 1997 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in member States concerning the pursuit of television broadcasting activities, a broadcaster is deemed to be established in a member State of the European Community, that broadcaster shall also be deemed to be established in that State for the purposes of this Convention.

4 A broadcaster to whom the provisions of paragraph 3 is not applicable is deemed to be within the jurisdiction of a Party, so-called transmitting Party, in the following cases:

a it uses a frequency granted by that Party;

b although it does not use a frequency granted by a Party it does use a satellite capacity appertaining to that Party;

c although it uses neither a frequency granted by a Party nor a satellite capacity appertaining to a Party it does use a satellite up-link situated in that Party.

5 If the transmitting Party cannot be determined according to paragraph 4, the Standing Committee shall consider this issue according to Article 21, paragraph 1, indent a, of this Convention, in order to determine this Party.

6 This Convention shall not apply to television broadcasts intended exclusively for reception in States which are not Party to this Convention, and which are not received directly or indirectly by the public in one or more Parties."

#### Article 8

Article 8 shall have the following wording:

##### "Article 8: Right of reply

1 Each transmitting Party shall ensure that every natural or legal person, regardless of nationality or place of residence, shall have the opportunity to exercise a right of reply or to seek other comparable legal or administrative remedies relating to programmes transmitted by a broadcaster within its jurisdiction, within the meaning of Article 5. In particular, it shall ensure that timing and other arrangements for the exercise of the right of reply are such that this right can be effectively exercised. The effective exercise of this right or other comparable legal or administrative remedies shall be ensured both as regards the timing and the modalities.

sprejemajo v drugi pogodbenici, se šteje, da je ustanovljen v pogodbenici, kjer dela znaten del zaposlenih, ki so vključeni v opravljanje televizijske dejavnosti; če znaten del zaposlenih, ki so vključeni v opravljanje televizijske dejavnosti, dela v vsaki od pogodbenic, se šteje, da je izdajatelj televizijskega programa ustanovljen v pogodbenici, kjer ima svoj sedež; če znaten del zaposlenih, ki so vključeni v opravljanje televizijske dejavnosti, ne dela v nobeni od pogodbenic, se šteje, da je izdajatelj televizijskega programa ustanovljen v pogodbenici, v kateri je prvič začel oddajati v skladu s pravnim sistemom te pogodbenice, pod pogojem, da vzdržuje stalno in učinkovito povezavo z gospodarstvom te pogodbenice;

c) če ima izdajatelj televizijskega programa svoj sedež v pogodbenici, odločitve o programskih shemah pa se sprejemajo v državi, ki ni pogodbenica te konvencije, ali obratno, se šteje, da je ustanovljen v pogodbenici pod pogojem, da znaten del zaposlenih, ki so vključeni v opravljanje televizijske dejavnosti, dela v tej pogodbenici;

d) če se ob uporabi meril iz tretjega odstavka 2. člena Direktive 97/36/ES Evropskega parlamenta in Sveta z dne 19. junija 1997, ki spreminja Direktivo Sveta 89/552/EGS o uskladitvi nekaterih določb, ki so v državah članicah predpisane z zakonom, predpisom ali upravnim ukrepom in zadevajo opravljanje televizijske dejavnosti, šteje, da je izdajatelj televizijskega programa ustanovljen v državi članici Evropske skupnosti, se tudi za namene te konvencije šteje, da je ustanovljen v tej državi.

4. Za izdajatelja televizijskega programa, za katerega se ne uporabljajo določbe tretjega odstavka, se šteje, da je pod jurisdikcijo pogodbenice, tako imenovane pogodbenice, iz katere se program prenaša, v naslednjih primerih:

a) če uporablja frekvenco, ki jo je podelila ta pogodbenica;

b) če ne uporablja frekvence, ki jo je podelila pogodbenica, uporablja pa satelitske zmogljivosti, ki pripadajo tej pogodbenici;

c) če ne uporablja niti frekvence, ki jo je podelila pogodbenica, niti satelitskih zmogljivosti pogodbenice, uporablja pa satelitsko zemeljsko postajo, ki je nameščena v tej pogodbenici.

5. Če po četrtem odstavku ni mogoče ugotoviti, iz katere pogodbenice se televizijski program prenaša, stalni odbor prouči zadevo v skladu z alineo a) prvega odstavka 21. člena te konvencije, da ugotovi, katera je ta pogodbenica.

6. Ta konvencija se ne uporablja za televizijske programe, namenjene izključno sprejemanju v državah, ki niso pogodbenice te konvencije, in jih javnost v eni ali več pogodbenicah neposredno ali posredno ne sprejema."

#### 8. člen

8. člen se glasi:

##### "8. člen: Pravica do odgovora

1. Vsaka pogodbenica, iz katere se program prenaša, zagotovi, da ima vsaka fizična ali pravna oseba ne glede na državljanstvo ali prebivališče možnost uresničevati pravico do odgovora ali zahtevati druga primerljiva pravna ali upravna sredstva v zvezi z oddajami, ki jih prenaša izdajatelj televizijskega programa pod njeno jurisdikcijo v smislu 5. člena. Predvsem zagotavlja, da so roki in drugi pogoji za uresničevanje pravice do odgovora takšni, da je to pravico mogoče učinkovito uresničevati. Zagotoviti je treba učinkovito uresničevanje te pravice ali drugih primerljivih pravnih ali upravnih sredstev tako glede časa kot drugih pogojev in načinov.



2 For this purpose, the name of the programme service or of the broadcaster responsible for this programme service shall be identified in the programme service itself, at regular intervals by appropriate means.“

#### Article 9

The following text shall replace Article 9:

##### “Article 9: Access of the public to information

Each Party shall examine and, where necessary, take legal measures such as introducing the right to short reporting on events of high interest for the public to avoid the right of the public to information being undermined due to the exercise by a broadcaster within its jurisdiction of exclusive rights for the transmission or retransmission, within the meaning of Article 3, of such an event.“

#### Article 10

A new Article 9*bis*, worded as follows, shall be inserted:

##### “Article 9*bis*: Access of the public to events of major importance

1 Each Party retains the right to take measures to ensure that a broadcaster within its jurisdiction does not broadcast on an exclusive basis events which are regarded by that Party as being of major importance for society in such a way as to deprive a substantial proportion of the public in that Party of the possibility of following such events by live coverage or deferred coverage on free television. If it does so, the Party concerned may have recourse to the drafting of a list of designated events which it considers to be of major importance for society.

2 Parties shall ensure by appropriate means, respecting the legal guarantees granted by the Convention for the Protection of Human Rights and Fundamental Freedoms as well as, where appropriate, the national constitution, that a broadcaster within their jurisdiction does not exercise the exclusive rights purchased by that broadcaster following the date of entry into force of the Protocol amending the European Convention on Transfrontier Television in such a way that a substantial proportion of the public in another Party is deprived of the possibility of following events which are designated by that other Party, via whole or partial live coverage, or where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage on free television as determined by that other Party under paragraph 1, respecting the following requirements:

**a** the Party implementing the measures referred to in paragraph 1 shall draw up a list of national or non-national events which are considered by that Party as being of major importance for society;

**b** the Party shall do so in a clear and transparent manner in due and effective time;

**c** the Party shall determine whether these events shall be available via whole or partial live coverage, or where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage;

**d** the measures taken by the Party drawing up the list shall be proportionate and as detailed as necessary to enable other Parties to take measures referred to in this paragraph;

**e** the Party drawing up the list shall notify the list and the corresponding measures to the Standing Committee, the time limit for which shall be fixed by the Standing Committee;

**f** the measures taken by the Party drawing up the list shall be within the limitations of the guidelines of the Stand-

2. V ta namen se v programu s pomočjo ustreznih sredstev za identifikacijo v rednih presledkih pojavlja ime programa ali izdajatelja televizijskega programa, ki je odgovoren za program.“

#### 9. člen

9. člen se nadomesti z naslednjim besedilom:

##### “9. člen: Dostop javnosti do informacij

Vsaka pogodbenica prouči in po potrebi sprejme pravne ukrepe, kot je uvedba pravice do kratkega poročanja o dogodkih, za katere se javnost zelo zanima, da prepreči izpodkopavanje pravice javnosti do obveščenosti o takem dogodku zaradi uresničevanja izključnih pravic kakega izdajatelja televizijskega programa pod njeno jurisdikcijo do prenašanja ali posredovanja v smislu 3. člena.“

#### 10. člen

Vstavi se nov 9. *bis* člen, ki se glasi:

##### “9. *bis* člen: Dostop javnosti do pomembnejših dogodkov

1. Vsaka pogodbenica si pridruže pravico, da sprejme ukrepe, s katerimi zagotovi, da izdajatelj televizijskega programa pod njeno jurisdikcijo ne prenaša dogodkov, za katere meni, da so za družbo zelo pomembni, na podlagi izključne pravice tako, da s tem znaten del javnosti v tej pogodbenici prikrajša za možnost, da spremlja take dogodke s prenosi v živo ali v kasnejšem prenosu na brezplačni televiziji. Če to stori, si lahko ta pogodbenica pomaga tako, da sestavi seznam določenih dogodkov, za katere meni, da so za družbo pomembnejši.

2. Pogodbenice ob upoštevanju pravnih jamstev, ki jih daje Konvencija za varstvo človekovih pravic in temeljnih svoboščin oziroma državna ustava, z ustreznimi sredstvi zagotovijo, da izdajatelj televizijskega programa pod njihovo jurisdikcijo ne uresničuje izključnih pravic, ki jih je kupil po dnevu začetka veljavnosti Protokola, ki spreminja Evropsko konvencijo o čezmejni televiziji, na tak način, da je znaten del javnosti v kaki drugi pogodbenici prikrajšan za možnost spremljanja dogodkov, ki jih določi ta druga pogodbenica, v celoti ali delno v živo, ali če je to potrebno ali ustrezno iz objektivnih razlogov v interesu javnosti, v celoti ali delno v kasnejšem prenosu na brezplačni televiziji, kot določi ta druga pogodbenica po prvem odstavku ob upoštevanju naslednjih zahtev:

**a** pogodbenica, ki izvaja ukrepe iz prvega odstavka, sestavi seznam dogodkov v državi ali zunaj nje, za katere meni, da so za družbo pomembnejši;

**b** pogodbenica to stori na jasen in pregleden način v ustreznem in čim krajšem času;

**c** pogodbenica določi, ali se ti dogodki lahko v celoti ali delno spremljajo v živo, ali če je to potrebno ali ustrezno iz objektivnih razlogov v javnem interesu, v celoti ali delno v kasnejšem prenosu;

**d** ukrepi, ki jih je sprejela pogodbenica, ki sestavi seznam, so sorazmerni in tako podrobni, da drugim pogodbenicam omogočijo, da sprejmejo ukrepe, omenjene v tem odstavku;

**e** pogodbenica, ki sestavi seznam, ga pošlje stalnemu odboru in ga obvesti o ustreznih ukrepih v roku, ki ga določi stalni odbor;

**f** ukrepi, ki jih je sprejela pogodbenica, ki sestavi seznam, so omejeni na smernice stalnega odbora, omenjene v

ing Committee referred to in paragraph 3 and the Standing Committee must have given a positive opinion on the measures.

Measures based on this paragraph shall apply only to those events published by the Standing Committee in the annual list referred to in paragraph 3 and to those exclusive rights purchased after the entry into force of this amending Protocol.

3 Once a year the Standing Committee shall:

**a** publish a consolidated list of the enlisted events and corresponding measures notified by Parties in accordance with paragraph 2e;

**b** draw up guidelines to be adopted by a majority of three quarters of the members in addition to the requirements listed up in paragraph 2 a to e in order to avoid differences between the implementation of this Article and that of corresponding European Community provisions."

#### **Article 11**

Paragraph 1 of Article 10 shall have the following wording:

"1 Each transmitting Party shall ensure, where practicable and by appropriate means, that a broadcaster within its jurisdiction reserves for European works a majority proportion of its transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and tele-shopping. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria."

#### **Article 12**

Paragraph 4 of Article 10 shall have the following wording:

"4 The Parties shall ensure that a broadcaster within their jurisdiction does not broadcast cinematographic works outside periods agreed with the rights holders."

#### **Article 13**

A new Article 10*bis* reading as follows shall be inserted:

##### **"Article 10*bis*: Media pluralism**

The Parties, in the spirit of co-operation and mutual assistance which underlies this Convention, shall endeavour to avoid that programme services transmitted or retransmitted by a broadcaster or any other legal or natural persons within their jurisdiction, within the meaning of Article 3, endanger media pluralism."

#### **Article 14**

The heading of Chapter III shall read as follows:

##### **"Advertising and tele-shopping"**

#### **Article 15**

Article 11 shall have the following wording:

"1 Advertising and tele-shopping shall be fair and honest.

2 Advertising and tele-shopping shall not be misleading and shall not prejudice the interests of consumers.

3 Advertising and tele-shopping addressed to or using children shall avoid anything likely to harm their interests and shall have regard to their special susceptibilities.

tretjem odstavku, in stalni odbor mora o njih dati pozitivno mnenje.

Ukrepi iz tega odstavka se nanašajo le na dogodke, ki jih stalni odbor objavi v letnem seznamu, omenjenem v tretjem odstavku, in na izključne pravice, kupljene po začetku veljavnosti tega protokola, ki spreminja konvencijo.

3. Stalni odbor enkrat letno:

a) objavi zbirni seznam dogodkov in ustreznih ukrepov, o katerih so ga obvestile pogodbenice v skladu z odstavkom 2 e);

b) sestavi smernice, ki jih morajo poleg zahtev, naštetih v odstavku 2 a) do e), sprejeti člani s tričetrtinsko večino, da se izogne razlikam med izvajanjem tega člena in členov iz ustreznih določb Evropske skupnosti."

#### **11. člen**

Besedilo prvega odstavka 10. člena se glasi:

"1. Vsaka pogodbenica, iz katere se program prenaša, kjer je to le mogoče in na primeren način zagotovi, da izdajatelj televizijskega programa pod njeno jurisdikcijo večinski del oddajnega časa nameni evropskim delom, v kar pa se ne šteje čas, namenjen poročilom, športnim dogodkom, igram, oglaševanju, oddajanju teleteksta in TV-prodaji. To razmerje naj bi dosegle postopno na podlagi primernih meril in ob upoštevanju odgovornosti izdajatelja televizijskega programa do njegovih gledalcev pri obveščanju, izobraževanju, kulturi in zabavi."

#### **12. člen**

Besedilo četrtega odstavka 10. člena se glasi:

"4. Pogodbenice zagotavljajo, da izdajatelj televizijskega programa pod njihovo jurisdikcijo prenaša kinematografska dela le v obdobjih, dogovorjenih z imetniki pravic."

#### **13. člen**

Vstavi se nov 10. *bis* člen, ki se glasi:

##### **"10. *bis* člen: Pluralizem medijev**

Pogodbenice si v duhu sodelovanja in vzajemne pomoči, ki je podlaga te konvencije, prizadevajo, da programi, ki jih prenašajo ali posredujejo izdajatelj televizijskega programa ali katere koli pravne ali fizične osebe pod njihovo jurisdikcijo v smislu 3. člena, ne ogrožajo pluralizma medijev."

#### **14. člen**

Naslov III. poglavja se glasi:

##### **"OGLAŠEVANJE IN TV-PRODAJA"**

#### **15. člen**

Besedilo 11. člena se glasi:

"1. Oglaševanje in TV-prodaja morata biti primerna in poštena.

2. Oglaševanje in TV-prodaja ne smeta zavajati in ne smeta škodovati interesom uporabnikov.

3. Oglaševanje in TV-prodaja, ki sta namenjena otrokom ali v katerih nastopajo otroci, se morata izogibati vsemu, kar bi lahko škodovalo njihovim interesom, in morata upoštevati njihovo posebno dovzetnost.

4 Tele-shopping shall not exhort minors to contract for the sale or rental of goods and services.

5 The advertiser shall not exercise any editorial influence over the content of programmes."

#### Article 16

Article 12 shall have the following wording:

##### "Article 12: Duration

1 The proportion of tele-shopping spots, advertising spots and other forms of advertising, with the exception of tele-shopping windows within the meaning of paragraph 3, shall not exceed 20% of the daily transmission time. The transmission time for advertising spots shall not exceed 15% of the daily transmission time.

2 The proportion of advertising spots and tele-shopping spots within a given clock hour shall not exceed 20%.

3 Windows devoted to tele-shopping programmes broadcast within programme services which are not exclusively devoted to tele-shopping shall be of a minimum uninterrupted duration of 15 minutes. The maximum number of windows per day shall be eight. Their overall duration shall not exceed three hours per day. They must be clearly identified by optical and acoustic means.

4 For the purposes of this article, advertising shall not include:

- announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes;

- announcements in the public interest and charity appeals broadcast free of charge."

#### Article 17

Article 13 shall have the following wording:

##### "Article 13: Form and presentation

1 Advertising and tele-shopping shall be clearly distinguishable as such and recognisably separate from the other items of the programme service by optical and/or acoustic means. In principle, advertising and tele-shopping spots shall be transmitted in blocks.

2 Advertising and tele-shopping shall not use subliminal techniques.

3 Surreptitious advertising and tele-shopping shall not be allowed, in particular the presentation of products or services in programmes when it serves advertising purposes.

4 Advertising and tele-shopping shall not feature, visually or orally, persons regularly presenting news and current affairs programmes."

#### Article 18

The following text shall replace Article 14:

##### "Article 14: Insertion of advertising and tele-shopping

1 Advertising and tele-shopping shall be inserted between programmes. Provided the conditions contained in paragraphs 2 to 5 of this article are fulfilled, advertising and tele-shopping spots may also be inserted during programmes in such a way that the integrity and value of the programme and the rights of the rights holders are not prejudiced.

2 In programmes consisting of autonomous parts, or in sports programmes and similarly structured events and performances containing intervals, advertising and tele-shopping spots shall only be inserted between the parts or in the intervals.

4. TV-prodaja ne sme navajati mladoletnikov k nakupu ali najemu blaga in storitev.

5. Oglasovalci ne smejo imeti uredniškega vpliva na vsebino oddaj."

#### 16. člen

Besedilo 12. člena se glasi:

##### "12. člen: Trajanje

1. Delež vložkov TV-prodaje, oglaševalnih vložkov in drugih oblik oglaševanja, razen oken za TV-prodajo v smislu tretjega odstavka, ne sme presegati 20% dnevnega oddajnega časa. Oddajni čas za oglaševalne vložke ne sme presegati 15% dnevnega oddajnega časa.

2. Delež oglaševalnih vložkov in vložkov TV-prodaje v eni uri ne sme presegati 20%.

3. Okna, namenjena prenašanju oddaj TV-prodaj v programih, ki niso izključno namenjeni TV-prodaji, neprekinjeno trajajo vsaj 15 minut. Takih oken je lahko največ osem dnevno. Njihovo skupno trajanje ne sme presegati treh ur dnevno. Optično ali zvočno se morajo povsem jasno prepoznati.

4. Za namene tega člena oglaševanje ne vključuje:

- objav izdajatelja televizijskega programa v zvezi z njegovimi lastnimi oddajami in spremljajočih izdelkov, ki neposredno izhajajo iz teh oddaj;

- objav v javnem interesu in dobroteljskih pozivov, ki se oddajajo brezplačno."

#### 17. člen

Besedilo 13. člena se glasi:

##### "13. člen: Oblika in predstavitev

1. Oglaševanje in TV-prodaja se morata optično in/ali zvočno povsem jasno prepoznati in se posebej razlikovati od drugih sestavin programa. Načeloma se oglaševalni vložki in vložki TV-prodaje prenašajo v blokih.

2. Pri oglaševanju in TV-prodaji se ne smejo uporabljati tehnike, ki vplivajo na podzavest.

3. Prikrito oglaševanje in TV-prodaja nista dovoljena, zlasti pa ne predstavitev izdelkov ali storitev v oddajah, kadar je taka predstavitev namenjena oglaševanju.

4. V oglaševanju in TV-prodaji ne smejo vidno ali govorno nastopati osebe, ki redno berejo poročila in nastopajo v aktualnoinformativnih oddajah."

#### 18. člen

14. člen se nadomesti z naslednjim besedilom:

##### "14. člen: Vstavljanje oglaševanja in TV-prodaje

1. Oglaševanje in TV-prodaja se vstavljata med posamezne oddaje. Če so izpolnjeni pogoji iz odstavkov dva do pet tega člena, se oglaševalni vložki in vložki TV-prodaje lahko vstavljajo tudi v oddaje, vendar tako, da to ne prizadeje celovitosti in vrednosti oddaje ter pravic imetnikov pravic.

2. V oddajah, ki so sestavljene iz samostojnih delov, ali v športnih oddajah in podobno sestavljenih dogodkih in predstavah, ki imajo premore, so oglaševalni vložki in vložki TV-prodaje vstavljeni le med posamezne dele ali v premore.

3 The transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their scheduled duration is more than forty-five minutes, may be interrupted once for each complete period of forty-five minutes. A further interruption is allowed if their scheduled duration is at least twenty minutes longer than two or more complete periods of forty-five minutes.

4 Where programmes, other than those covered by paragraph 2, are interrupted by advertising or tele-shopping spots, a period of at least twenty minutes should elapse between each successive advertising or tele-shopping break within the programme.

5 Advertising and tele-shopping shall not be inserted in any broadcast of a religious service. News and current affairs programmes, documentaries, religious programmes, and children's programmes, when their scheduled duration is less than thirty minutes, shall not be interrupted by advertising or tele-shopping. If their scheduled duration is thirty minutes or longer, the provisions of the previous paragraphs shall apply."

#### Article 19

The heading of Article 15 and paragraphs 1 to 2a, of this article shall have the following wording:

##### "Article 15: Advertising and tele-shopping of particular products

1 Advertising and tele-shopping for tobacco products shall not be allowed.

2 Advertising and tele-shopping for alcoholic beverages of all varieties shall comply with the following rules:

a they shall not be addressed particularly to minors and no one associated with the consumption of alcoholic beverages in advertising or tele-shopping should seem to be a minor;"

#### Article 20

In the French text, Article 15, paragraph 2, subparagraphs b to e, shall be worded as follows:

"b ils ne doivent pas associer la consommation de l'alcool à des performances physiques ou à la conduite automobile;

c ils ne doivent pas suggérer que les boissons alcoolisées sont dotées de propriétés thérapeutiques ou qu'elles ont un effet stimulant, sédatif, ou qu'elles peuvent résoudre des problèmes personnels;

d ils ne doivent pas encourager la consommation immodérée de boissons alcoolisées ou donner une image négative de l'abstinence ou de la sobriété;

e ils ne doivent pas souligner indûment la teneur en alcool des boissons."

#### Article 21

A new paragraph 5 reading as follows shall be inserted in Article 15:

"5 Tele-shopping for medicines and medical treatment shall not be allowed."

#### Article 22

Article 16 will have the following wording:

##### "Article 16: Advertising and tele-shopping directed specifically at a single Party

1 In order to avoid distortions in competition and endangering the television system of a Party, advertising and

3. Prenašanje avdiovizualnih del, kot so igrani filmi in televizijski filmi (razen serijskih filmov, nadaljevank, lahkih zabavnih in dokumentarnih oddaj), ki so brez prekinitve daljši od petinštirideset minut, se lahko prekine samo enkrat v vsakem obdobju petinštirideset minut. Nadaljnja prekinitve je dovoljena samo, če oddaja brez prekinitve traja najmanj dvajset minut dlje od dveh ali več celotnih petinštiridesetminutnih obdobj.

4. Kadar se zaradi oglaševalnih vložkov ali vložkov TV-prodaje prekinjajo oddaje, ki niso vključene v drugem odstavku, mora med vsakim naslednjim premorom za oglaševanje ali TV-prodajo preteči najmanj dvajset minut oddaje.

5. Oglaševanje in TV-prodaja se ne smeta vstavljati v prenose verskih obredov. Poročila in aktualnoinformativne oddaje, dokumentarne, verske in otroške oddaje, ki so brez prekinitve krajše od trideset minut, se ne smejo prekinjati z oglaševanjem ali TV-prodajo. Če trajajo brez prekinitve trideset minut ali dlje, veljajo določbe prejšnjega odstavka."

#### 19. člen

Naslov 15. člena in besedilo odstavkov 1 do 2 a) tega člena se glasita:

##### "15. člen: Oglaševanje in TV-prodaja posebnih izdelkov

1. Oglaševanje in TV-prodaja tobačnih izdelkov nista dovoljena.

2. Oglaševanje in TV-prodaja alkoholnih pijač vseh vrst morata biti skladna z naslednjimi pravili:

a) ne smeta biti namenjena posebej mladoletnikom in nihče, ki je pri oglaševanju ali TV-prodaji povezan z uživanjem alkoholnim pijač, ne bi smel dati videza mladoletnika;"

#### 20. člen

V francoskem besedilu se pododstavki b) do e) drugega odstavka 15. člena glasijo:

"b) ils ne doivent pas associer la consommation de l'alcool à des performances physiques ou à la conduite automobile;

c) ils ne doivent pas suggérer que les boissons alcoolisées sont dotées de propriétés thérapeutiques ou qu'elles ont un effet stimulant, sédatif, ou qu'elles peuvent résoudre des problèmes personnels;

d) ils ne doivent pas encourager la consommation immodérée de boissons alcoolisées ou donner une image négative de l'abstinence ou de la sobriété;

e) ils ne doivent pas souligner indûment la teneur en alcool des boissons."

#### 21. člen

V 15. člen se vstavi nov peti odstavek, ki se glasi:

"5. TV-prodaja zdravil in zdravljenja ni dovoljena."

#### 22. člen

Besedilo 16. člena se glasi:

##### "16. člen: Oglaševanje in TV-prodaja, ki sta posebej namenjena eni sami pogodbenici

1. Da bi se izognili izkrivljanju konkurence in ogrožanju televizijskega sistema pogodbenice, oglaševanje in TV-pro-

tele-shopping which are specifically and with some frequency directed to audiences in a single Party other than the transmitting Party shall not circumvent the television advertising and tele-shopping rules in that particular Party.

2 The provisions of the preceding paragraph shall not apply where:

a the rules concerned establish a discrimination between advertising and tele-shopping transmitted by a broadcaster within the jurisdiction of that Party and advertising and tele-shopping transmitted by a broadcaster or any other legal or natural person within the jurisdiction of another Party; or

b the Parties concerned have concluded bilateral or multilateral agreements in this area."

### Article 23

Paragraph 1 of Article 18 shall read as follows:

"1 Programmes may not be sponsored by natural or legal persons whose principal activity is the manufacture or sale of products, or the provision of services, the advertising and tele-shopping of which are prohibited by virtue of Article 15."

### Article 24

A new paragraph 2 reading as follows shall be inserted in Article 18:

"2 Companies whose activity includes, *inter alia*, the manufacture or sale of medicines and medical treatments may sponsor programmes by promoting the name, trademark, image or activities of the company, to the exclusion of any reference to medicines or specific medical treatment available only on medical prescription in the transmitting Party."

### Article 25

Paragraph 2 of Article 18 shall be renumbered to paragraph 3.

### Article 26

A new Chapter IV*bis* reading as follows shall be inserted:

#### "Chapter IV*bis*

#### Programme services devoted exclusively to self-promotion or tele-shopping

##### Article 18*bis*: Programme services devoted exclusively to self-promotion

1 The provisions of this Convention shall apply *mutatis mutandis* to programme services devoted exclusively to self-promotion.

2 Other forms of advertising shall be allowed on such services within the limits established by Article 12, paragraphs 1 and 2.

##### Article 18*ter*: Programme services devoted exclusively to tele-shopping

1 The provisions of this Convention shall apply *mutatis mutandis* to programme services devoted exclusively to tele-shopping.

2 Advertising shall be allowed on such services within the limits established in Article 12, paragraph., Article 12, paragraph 2, shall not apply."

daja, ki sta posebej in z določeno pogostostjo usmerjena h gledalcem v eni sami pogodbenici, ki ni pogodbenica, iz katere se program prenaša, ne smeta zaobiti pravil oglaševanja in TV-prodaje v tej pogodbenici.

2. Določbe prejšnjega odstavka se ne uporabljajo, kadar:

a) taka pravila pomenijo diskriminacijo med oglaševanjem in TV-prodajo, ki ju prenaša izdajatelj televizijskega programa pod jurisdikcijo ene pogodbenice, ter oglaševanjem in TV-prodajo, ki ju prenaša izdajatelj televizijskega programa ali katera koli druga pravna ali fizična oseba pod jurisdikcijo druge pogodbenice, ali

b) sta prizadeti pogodbenici sklenili dvostranske ali mnogostranske sporazume na tem področju."

### 23. člen

Prvi odstavek 18. člena se glasi:

"1. Fizične ali pravne osebe, katerih glavna dejavnost je proizvodnja ali prodaja izdelkov ali opravljanje storitev, katerih oglaševanje in TV-prodaja sta prepovedana na podlagi 15. člena, ne smejo sponzorirati oddaj."

### 24. člen

V 18. člen se vstavi nov drugi odstavek, ki se glasi:

"2. Družbe, katerih dejavnost med drugim vključuje proizvodnjo ali prodajo zdravil in zdravljenja, lahko sponzorirajo oddaje z uveljavljanjem imena, blagovne znamke, podobe ali dejavnosti družbe z izjemo kakršnega koli sklicevanja na zdravila ali posebno zdravljenje, ki so v pogodbenici, iz katere se oddaja prenaša, na voljo le na zdravniški recept."

### 25. člen

Drugi odstavek 18. člena postane tretji odstavek.

### 26. člen

Vstavi se novo IV. *bis* poglavje, ki se glasi:

#### "IV. *bis* POGlavJE

#### PROGRAMI, NAMENJENI IZKLJUČNO SAMOREKLAMI ALI TV-PRODAJI

##### 18. *bis* člen: Programi, namenjeni izključno samoreklami

1. Določbe te konvencije se smiselno uporabljajo za programe, namenjene izključno samoreklami.

2. Druge oblike oglaševanja so na takih programih dovoljene v mejah, določenih v prvem in drugem odstavku 12. člena.

##### 18. *ter* člen: Programi, namenjeni izključno TV-prodaji

1. Določbe te konvencije se smiselno uporabljajo za programe, namenjene izključno TV-prodaji.

2. Oglaševanje je na takih programih dovoljeno v mejah, določenih v prvem odstavku 12. člena, drugi odstavek 12. člena pa se ne uporablja."

**Article 27**

The last sentence of paragraph 4 of Article 20 shall be deleted and paragraph 7 of Article 20 shall have the following wording:

“7 Subject to the provisions of Article 9*bis*, paragraph 3b, and Article 23, paragraph 3, the decisions of the Standing Committee shall be taken by a majority of three-quarters of the members present.”

**Article 28**

Article 21 shall be supplemented as follows:

“f give opinions on abuse of rights under Article 24*bis*, paragraph 2c.

2 In addition, the Standing Committee shall:

a draw up the guidelines referred to in Article 9*bis*, paragraph 3b, in order to avoid differences between the implementation of the provisions of this Convention concerning access of the public to events of major importance for society and that of corresponding European Community provisions;

b give an opinion on the measures taken by Parties which have drawn up a list of national or non-national events which are considered by those Parties as being of major importance for society in accordance with Article 9*bis*, paragraph 2;

c publish once a year a consolidated list of the enlisted events and corresponding measures notified by Parties in accordance with Article 9*bis*, paragraph 2e.”

**Article 29**

Two new paragraphs 5 and 6, reading as follows, shall be inserted in Article 23:

“5 However, the Committee of Ministers may, after consulting the Standing Committee, decide that a particular amendment shall enter into force following the expiry of a period of two years after the date on which it has been opened to acceptance, unless a Party has notified the Secretary General of the Council of Europe of an objection to its entry into force. Should such an objection be notified, the amendment shall enter into force on the first day of the month following the date on which the Party to the Convention which has notified the objection has deposited its instrument of acceptance with the Secretary General of the Council of Europe.

6 If an amendment has been approved by the Committee of Ministers, but has not yet entered into force in accordance with paragraphs 4 or 5, a State or the European Community may not express their consent to be bound by the Convention without accepting at the same time the amendment.”

**Article 30**

A new Article 24*bis*, reading as follows, shall be inserted:

**“Article 24*bis*: Alleged abuses of rights conferred by this Convention**

1 When the programme service of a broadcaster is wholly or principally directed at the territory of a Party other than that which has jurisdiction over the broadcaster (the “receiving Party”), and the broadcaster has established itself with a view to evading the laws in the areas covered by the Convention which would have applied to it had it fallen within the jurisdiction of that other Party, this shall constitute an abuse of rights.

2 Where such an abuse is alleged by a Party, the following procedure shall apply:

**27. člen**

Zadnji stavek četrtega odstavka 20. člena se črta, besedilo sedmega odstavka 20. člena pa se glasi:

“7. S pridržkom določb odstavka 3 b) 9. *bis* člena in tretjega odstavka 23. člena se sklepi stalnega odbora sprejemajo s tričetrtinsko večino navzočih članov.”

**28. člen**

21. člen se dopolni, kot sledi:

“f) daje mnenja o zlorabi pravic po odstavku 2 c) 24. *bis* člena.

2. Poleg tega stalni odbor:

a) sestavlja smernice, omenjene v odstavku 3 b) 9. *bis* člena, da bi se izognili razlikam med izvajanjem določb te konvencije glede dostopa javnosti do dogodkov, ki so za družbo pomembnejši, in izvajanjem ustreznih določb Evropske skupnosti;

b) daje mnenja o ukrepih, ki jih sprejmejo pogodbenice, ki so v skladu z drugim odstavkom 9. *bis* člena sestavile seznam dogodkov v državi ali zunaj nje, za katere te pogodbenice menijo, da so za družbo pomembnejši;

c) enkrat letno objavi zbirni seznam dogodkov in ustreznih ukrepov, ki jih sporočijo pogodbenice v skladu z odstavkom 2 e) 9. *bis* člena.”

**29. člen**

V 23. člen se vstavi nova peti in šesti odstavek, ki se glasita:

“5. Vendar pa lahko Odbor ministrov po posvetovanju s stalnim odborom odloči, da začne posamezna sprememba veljati po izteku dveletnega obdobja od dneva, ko je bila dana na voljo za sprejetje, razen če pogodbenica ni uradno obvestila generalnega sekretarja Sveta Evrope, da ugovarja njenemu začetku veljavnosti. Če je bil tak ugovor uradno sporočen, začne sprememba veljati prvega dne v mesecu, ki sledi datumu, ko je pogodbenica konvencije, ki je uradno sporočila ugovor, pri generalnem sekretarju Sveta Evrope deponirala svojo listino o sprejetju.

6. Če je spremembo odobril Odbor ministrov, vendar pa še ni začela veljati v skladu s četrtem ali petim odstavkom, država ali Evropska skupnost ne sme izraziti svojega soglasja, da jo konvencija zavezuje, ne da bi hkrati sprejela spremembo.”

**30. člen**

Vstavi se nov 24. *bis* člen, ki se glasi:

**“24. *bis* člen: Domnevne zlorabe pravic, podeljenih s to konvencijo**

1. Če je program izdajatelja televizijskega programa v celoti ali načelno usmerjen na ozemlje pogodbenice, ki ni pogodbenica, pod katere jurisdikcijo je izdajatelj televizijskega programa (“pogodbenica sprejemnica”), in se je izdajatelj televizijskega programa ustanovil z namenom, da bi se izognil zakonom na področjih, ki jih ureja ta konvencija, in ki bi se zanj uporabljali, če bi bil pod jurisdikcijo druge pogodbenice, to pomeni zlorabo pravic.

2. Kadar pogodbenica domneva, da je prišlo do take zlorabe, se uporablja naslednji postopek:

a the Parties concerned shall endeavour to achieve a friendly settlement;

b if they fail to do so within three months, the receiving Party shall refer the matter to the Standing Committee;

c having heard the views of the Parties concerned, the Standing Committee shall, within six months of the date on which the matter was referred to it, give an opinion on whether an abuse of rights has been committed and shall inform the Parties concerned accordingly.

3 If the Standing Committee has concluded that an abuse of rights has occurred, the Party whose jurisdiction the broadcaster is deemed to be within shall take appropriate measures to remedy the abuse of rights and shall inform the Standing Committee of those measures.

4 If the Party whose jurisdiction the broadcaster is deemed to be within has failed to take the measures specified in paragraph 3 within six months, the arbitration procedure set out in Article 26, paragraph 2, and the appendix of the Convention shall be pursued by the Parties concerned.

5 A receiving Party shall not take any measures against the programme service concerned until the arbitration procedure has been completed.

6 Any measures proposed or taken under this article shall comply with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms."

### Article 31

Article 28 shall have the following wording:

#### "Article 28: Relations between the Convention and the internal law of the Parties

Nothing in this Convention shall prevent the Parties from applying stricter or more detailed rules than those provided for in this Convention to programme services transmitted by a broadcaster deemed to be within their jurisdiction, within the meaning of Article 5."

### Article 32

Paragraph 1 of Article 32 shall have the following wording:

"1 At the time of signature or when depositing its instrument of ratification, acceptance, approval or accession any State may declare that it reserves the right to restrict the retransmission on its territory, solely to the extent that it does not comply with its domestic legislation, of programme services containing advertising for alcoholic beverages according to the rules provided for in Article 15, paragraph 2, of this Convention.

No other reservation may be made."

### Article 33

In Article 20, paragraph 2, Article 23, paragraph 2, Article 27, paragraph 1, Article 29, paragraphs 1 and 4, Article 34 and in the closing formula, the words "European Economic Community" are replaced by "European Community".

### Article 34

This Protocol shall be open for acceptance by the Parties to the Convention. No reservation may be made.

### Article 35

1 This Protocol shall enter into force on the first day of the month following the date on which the last of the Parties to the Convention has deposited its instrument of acceptance with the Secretary General of the Council of Europe.

2 However, this Protocol shall enter into force following the expiry of a period of two years after the date on which it has been opened to acceptance, unless a Party to the Convention has notified the Secretary General of the Council of Europe of

a) pogodbenici, ki ju to zadeva, si prizadevata za mirno rešitev;

b) če tega ne storita v treh mesecih, pogodbenica sprejemnica zadevo predloži stalnemu odboru;

c) potem ko je stalni odbor slišal stališča prizadetih pogodbenic, v šestih mesecih od dneva, ko mu je bila zadeva predložena, da mnenje, ali so bile pravice zlorabljene, in o tem obvesti prizadeti pogodbenici.

3. Če je stalni odbor ugotovil, da je prišlo do zlorabe pravic, pogodbenica, za katero se šteje, da je izdajatelj televizijskega programa pod njeno jurisdikcijo, sprejme ustrezne ukrepe, da odpravi zlorabo pravic, in o teh ukrepih obvesti stalni odbor.

4. Če pogodbenica, za katero se šteje, da je izdajatelj televizijskega programa pod njeno jurisdikcijo, v šestih mesecih ne sprejme ukrepov, določenih v tretjem odstavku, prizadeti pogodbenici začeta arbitražni postopek, določen v drugem odstavku 26. člena in dodatku h konvenciji.

5. Pogodbenica sprejemnica ne sprejme nobenih ukrepov proti takemu programu, dokler arbitražni postopek ni končan.

6. Vsi po tem členu predlagani ali sprejeti ukrepi morajo biti v skladu z 10. členom Konvencije za varstvo človekovih pravic in temeljnih svoboščin."

### 31. člen

Besedilo 28. člena se glasi:

#### "28. člen: Odnos med konvencijo in notranjim pravom pogodbenic

Nič v tej konvenciji ne preprečuje pogodbenicam, da za programe, ki jih prenaša izdajatelj televizijskega programa, za katerega se šteje, da je pod njihovo jurisdikcijo v smislu 5. člena, ne bi uporabljale strožjih ali podrobnejših pravil, kot so predvidena v tej konvenciji."

### 32. člen

Besedilo prvega odstavka 32. člena se glasi:

"1. Ob podpisu ali deponiranju listine o ratifikaciji, sprejetju, odobritvi ali pristopu lahko vsaka država izjavi, da si v skladu s pravili, predvidenimi v drugem odstavku 15. člena te konvencije, pridržuje pravico na svojem ozemlju omejiti posredovanje programov, ki vsebujejo oglase za alkoholne pijače, vendar samo, kolikor to ni skladno z njeno notranjo zakonodajo.

Drugi pridržki niso dopustni."

### 33. člen

V drugem odstavku 20. člena, v drugem odstavku 23. člena, v prvem odstavku 27. člena, v prvem in četrtem odstavku 29. člena, v 34. členu in v zaključni klavzuli se besede "Evropska gospodarska skupnost" nadomestijo z "Evropska skupnost".

### 34. člen

Ta protokol je pogodbenicam konvencije na voljo za sprejetje. Pridržki niso dopustni.

### 35. člen

1. Ta protokol začne veljati prvi dan meseca, ki sledi dnevu, ko je zadnja od pogodbenic konvencije pri generalnem sekretarju Sveta Evrope deponirala svojo listino o sprejetju.

2. Vendar pa ta protokol začne veljati po izteku dveh letnega obdobja od dneva, ko je bil dan na voljo za sprejetje, razen če pogodbenica konvencije ni uradno obvestila generalnega sekretarja Sveta Evrope, da ugovarja njegovemu

an objection to its entry into force. The right to make an objection shall be reserved to those States or the European Community which expressed their consent to be bound by the Convention prior to the expiry of a period of three months after the opening for acceptance of this Protocol.

3 Should such an objection be notified, the Protocol shall enter into force on the first day of the month following the date on which the Party to the Convention which has notified the objection has deposited its instrument of acceptance with the Secretary General of the Council of Europe.

4 A Party to the Convention may, at any time, declare that it will apply the Protocol on a provisional basis.

### Article 36

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the other Parties to the Convention and the European Community of:

- a the deposit of any instrument of acceptance;
- b any declaration of provisional application of this Protocol in accordance with Article 35, paragraph 4;
- c any date of entry into force of this Protocol in accordance with Article 35, paragraphs 1 to 3;
- d any other act, notification or communication relating to this Protocol.

Done at Strasbourg, the 9th day of September 1998, in English and French, and opened for acceptance the 1st day of October 1998. Both texts are equally authentic and shall be deposited in a single copy in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the other Parties to the Convention and to the European Community.

### 3. člen

Ob deponiranju listine o ratifikaciji konvencije in protokola, ki jo spreminja, Republika Slovenija na podlagi prvega odstavka 32. člena konvencije izjavi, da si v skladu z drugim odstavkom 15. člena konvencije pridržuje pravico, da na svojem ozemlju omeji posredovanje programov, ki vsebujejo oglase za alkoholne pijače.

### 4. člen

Za izvajanje konvencije skrbi organ, pristojen za področje medijev.

### 5. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 010-07/98-1/1

Ljubljana, dne 15. junija 1999

Predsednik  
Državnega zbora  
Republike Slovenije  
**Janez Podobnik, dr. med. l. r.**

začetku veljavnosti. Pravica do ugovora je omejena na države ali Evropsko skupnost, ki so pred iztekom trimesečnega obdobja po tem, ko je bil protokol na voljo za sprejetje, izrazile svoje soglasje, da jih konvencija zavezuje.

3. Če je tak ugovor uradno sporočen, začne protokol veljati prvi dan meseca, ki sledi dnevni, ko je pogodbenica konvencije, ki je uradno sporočila ugovor, pri generalnem sekretarju Sveta Evrope deponirala svojo listino o sprejetju.

4. Pogodbenica konvencije lahko kadar koli izjavi, da bo protokol uporabljala začasno.

### 36. člen

Generalni sekretar Sveta Evrope uradno obvesti države članice Sveta Evrope, druge pogodbenice konvencije in Evropsko skupnost o:

- a) deponiranju vsake listine o sprejetju;
- b) vsaki izjavi o začasni uporabi protokola v skladu s četrtim odstavkom 35. člena;
- c) vsakem datumu začetka veljavnosti tega protokola v skladu s prvim do tretjim odstavkom 35. člena;
- d) vsakem drugem dejanju, uradnem obvestilu ali sporočilu v zvezi s tem protokolom.

Sestavljeno v Strasbourgu 9. septembra 1998 v angleščini in francoščini in na voljo za sprejetje 1. oktobra 1998. Besedili sta enako verodostojni in sta shranjeni v enem samem izvodu v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjene kopije vsaki državi članici Sveta Evrope, drugim pogodbenicam konvencije in Evropski skupnosti.

## VSEBINA

62. Zakon o ratifikaciji Evropske konvencije o čezmejni televiziji in Protokola, ki spreminja Evropsko konvencijo o čezmejni televiziji (MEKCT)

821

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Izdajatelj Služba Vlade RS za zakonodajo – Direktor Tone Dolčič –  
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