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PRESS RELEASE

Media freedom threatened by lack of legal certainty and multiple libel actions across Europe

Media organizations welcome Zwiefka's report although a balanced solution still needs to be found for the benefit of both plaintiffs and media organizations.

Brussels 23 June 2010- Today a number of European organizations representing the media* - journalists, newspapers, magazine and book publishers, and public and private broadcasters - welcomed Mr Tadeusz Zwiefka's (EPP, PL) draft report on Brussels I, an EU regulation dealing with cases of violations of privacy or rights related to the personality, including defamation, in the context of international private law**.

According to the media, the draft report makes proposals which head in the right direction and aim at increasing legal certainty in cases of alleged defamation or violation of personality rights. All organizations appreciated the clear statement against "forum shopping" by claimants - i.e. to choose a court in a country which has particularly strict libel or privacy laws - which creates serious problems for the media, in particular with regard to their transfrontier distribution.

The media welcomed Zwiefka's statement in favour of the adoption of a legal mechanism of safeguard against the enforcement of judgments by foreign courts which do not respect freedom of expression and freedom of the media. There is indeed a substantial risk that courts do not sufficiently take into account freedom of expression when dealing with alleged violations of personality rights.

However, the draft report does not solve the fundamental problem the media has with the Brussels Regulation, as article 5.3 of Brussels I still allows plaintiffs the choice of forum and exposes the media to foreign jurisdictions in an uncontrollable and often unpredictable way.

Therefore it is imperative that Members of the European Parliament give due consideration to the combined effects of both Brussels I and Rome II on the media with regard to the freedom of expression. The current combination of forum shopping and applicable law provides an unbalanced advantage to the plaintiff and therefore directly prejudices editorial independence and press freedom in the different Member States.

Media organizations appreciate that the issue will be considered specifically in a legislative initiative on the Rome II Regulation, since only a combined approach with regards to both Brussels I and Rome II can provide an adequate solution.

Note to editors:

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****Both Brussels I and Rome II are EU regulations dealing with international private law. They set rules to determine which Court should hear a case (Brussels I), and in which country's law should be applied (Rome II) when there is a cross-border conflict.**

The international elements in matters of private law include - in the case of Brussels I - cases brought against the media for defamation and violations of privacy; whereas at present, Rome II does not apply to the media.

However, because in all cross-border cases of defamation and privacy violations, the jurisdiction under Brussels I is the first matter to be settled, the absence of a rule to determine thereafter which country's law should apply is an issue for media companies and journalists when defending cases of defamation and violations of privacy in countries outside the place of editorial control because under Brussels I, media companies find themselves defending cases according to foreign laws, often in multiple jurisdictions.

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