Explanations of vote

ANASTASSOPOULOS (PPE), rapporteur. — (GR) Madam President, so as not to underestimate my colleagues, I should like to give my opinion on each amendment separately and I have drawn up a list of my positions on these amendments. Allow me to make four or five observations referring to the amendments as a whole.

First of all, I should like to stress that the Committee on Legal Affairs and Citizens’ Rights very carefully examined the amendments tabled by the two committees giving an opinion, the Committee on Culture, Youth, Education and the Media and the Committee on Economic and Monetary Affairs and Industrial Policy. We incorporated some of these amendments into the amendments voted on by the Committee on Legal Affairs although we sometimes had to change them radically. In terms of substance, however, we agreed on many points. It therefore comes as a surprise to me that the amendments tabled by the Committee on Culture, Youth, Education and the Media, in particular, taken on board by the Committee on Legal Affairs, as they had originally been formulated, have nearly all been referred to the Plenary. We cannot see the sense of this. The same goes for certain amendments tabled by the Greens, some of which we also received in the Committee on Legal Affairs, but the Green Group wanted them to be referred with the same phrasing to the Plenary.

The second point refers to two amendments tabled by the Committee on Culture, Youth, Education and the Media and the Socialist Group, on the problem of film directors. Personally, I have a lot of sympathy for this matter because I happen to believe — and I think most members of the Committee on Legal Affairs agree with me — that film directors are intellectual creators. This is, in any case, part of the case-law in ten out of twelve Member States, only Ireland and the United Kingdom being the odd ones out.

I do have a problem though in accepting this amendment. This is a problem of legal import because the Berne Accord, which most Member States have signed, foresees that Member States’ case-law should decide who intellectual creators are. We therefore have, on one hand, this obligation, because of the Berne Accord, and, on the other, an amendment which I am very sympathetic to but which, for legal reasons, I have difficulty in accepting.

The third point refers to lending. Quite a lot of amendments were put before the Committee on Legal Affairs. We tried to keep to middle ground, accommodating libraries, but not annulling the directive on lending. I was surprised to see that colleagues who voted against these amendments in the Committee on Legal Affairs referred to the Plenary amendments with quite the opposite content. Colleagues are always free to change their minds, of course, if their conscience says they should. But I wonder what has happened in the last ten days for them to change their minds so easily and so totally.

The fourth point refers to the timetable. It was agreed in Committee by a close vote (12-11) that the directive should not be at all retrospective. I myself came down very firmly against total retroversiveness because not all laws can be retrospective and, in this case, because contracts are being signed, we need to find a gradual solution. This solution was rejected by the Committee on Legal Affairs by one vote. Please allow me to call on the Plenary to show more wisdom than the Committee did.

My final remark concerns the translation. It has been drawn to my attention that some points in the report and amendments drafted in Greek have been translated rather freely into other languages. I have examined these points and I think that, in two or three places, this is correct. I would like these points to be corrected to bring them in line with the original Greek. Perhaps we could now proceed to the vote.

SCHWARTZENBERG (S). — (FR) Madam President, ladies and gentlemen, to reply to Mr Anastassopoulos on the question of form first, the amendments tabled by the Committee on Culture, Youth, Education and the Media, and by the Greens, are compatible with the Rules, which provide that 23 signatures are sufficient.

On the question of content, one of the main issues raised by this directive is whether we can harmonize the moral right connected with copyright in the Europe of Twelve.

It is true that in two countries, the UK and Ireland, as in the United States, the producer of a film is regarded as the author, instead of the real creator, namely the person who directed the film, wrote the script or composed the music. This approach is formally inconsistent with European culture. Consequently, we seriously urge this House to recognize the value of European culture and to regard Sir Laurence Olivier, Sir Richard Attenborough, David Lean and David Lynch as the authors of their films, and not the production companies.

ANDRE (LDR), in writing. — (FR) I want to congratulate our rapporteur on the excellent work he has done in the Committee on Legal Affairs and Citizens’ Rights and express my satisfaction that the Commission has finally proposed a directive of this kind.

The lending of books, records or videos represents a vital part of our culture and it is undeniable that this opportunity of cultural development must be offered to all our people. Yet it is also clear that copyright represents a fundamental principle and must therefore be recognized and protected, as recommended by this directive which, furthermore, introduces an effective safeguard against abuses and provides for exemptions to take account of the cultural situations of the various Member States. What I cannot accept is that public lending institutions should run the risk of being
penalized for their activities. The Médiathèque of the French Community of Belgium fulfils its function perfectly and is therefore to be encouraged.

An amendment proposing an exemption for institutions that are recognized as of public utility and that disseminate works of culture by lending them has been rejected, which I regret, for this exemption from the exclusive lending right does not affect the legitimate and fair remuneration of the copyright holder. I therefore ask the Commission to consider a compromise solution, consisting of a preferential system. This would not impinge on the exclusive rights created by the directive but would enable institutions such as the Médiathèque of the French Community of Belgium to continue with its positive cultural activities.

BLAK, JENSEN and RØNN (S), in writing. — (DA) We will not be voting in the final vote on this proposal because we consider that the proposal deals with cultural policy. We thus believe that the Commission's initiative under Article 100a is wrong and that the matter should be dealt with under Article 235. This view unfortunately did not attract much sympathy in Parliament. Attempts during the committee work to get the entire section on lending removed from the directive also failed, although this section quite clearly deals with cultural policy.

With regard to the individual amendments, we have voted against Amendment No 16 from the Legal Affairs Committee and in favour of Amendment No 23 from the Socialist Group. This is because the Legal Affairs Committee proposes an entirely unreasonable restriction of national cultural policy by forcing Member States to give an author of a work the right to prohibit all loans from public libraries.

Of course we consider it reasonable that there should be compensation for lost copyright due to copying, but we are afraid that the innocent are being punished instead of the guilty here. Copying of library material only takes place to a very limited extent compared with other private copying — the entire video sector for example — and we draw attention to the possibility of charging a levy on unrecorded tapes which could be passed on to the artists. That would be a more coherent approach. We at least do not want to make it possible for the multinational record companies to operate a boycott against libraries. Their dominant position on the music market is already a cause for concern.

Instead of placing obstacles in the way of the library systems we have in the EC by imposing heavy burdens on their finances, the Community should help all the Member States to develop public libraries as good as those we have in Denmark. They are one of the cornerstones of our public information and cultural policy. We think it regrettable that the Commission did not even consult the European library sector on this proposal.

Finally we reject Amendment No 13 from the Legal Affairs Committee. It is unwise to establish the possibility for an author to cede his copyright to a company by way of a contract, because that will then become the rule. It may introduce American conditions to the EC countries, so that artists become virtual slaves to their companies, with no influence on the final product. We fear in particular for film production in minor languages. If the decision rests with the companies, concern for the profitability of projects will become the only criterion. And that is a bleak prospect for art and for the minor languages.

DURY (S), in writing. — (FR) I want to emphasize what I consider very important cultural policy issues, even if there are also some economic contingencies that must not be forgotten. It is of capital importance to protect the right to lend, for non-profit-making purposes, which enables public institutions today to disseminate cultural works and make known their creators, who might otherwise risk oblivion.

I want to emphasize that these activities by public institutions help awaken and maintain a cultural climate which also contributes to the commercial dissemination of these works. It is what I would call the knock-on effect. If I may draw a comparison that is imperfect perhaps but meaningful, I would say that it very often helps promote a work if it is disseminated through public institutions, in rather the same way as distributing samples to a wide public familiarizes people with products that might interest them. These are promotion and information activities that need to be maintained and developed.

I am convinced that in the long term the public lending institutions are working in the interest of the creators and the public. If you deprive them of resources you only give a say to those who have enough money to organize publicity stunts and who are only seeking financial profit. I am not unaware of the risks of pirating. They must be combated. Let us take severe measures against those who break the law, but let us preserve the margin for action of those who, for social and cultural reasons, help keep this aspect of culture alive.

Nor am I unaware that producers, authors and performers are entitled to a fair remuneration. In this respect, I am authorized to say, on behalf at least of the Médiathèque of the French Community of Belgium, that that organization does not question this fundamental right to fair pay. It is a question which would be better resolved in the framework of direct negotiations, held at national level between lending organizations and owners of rights or their representatives. In Belgium, incidentally, a law is being drafted to organize and define the terms of a dialogue of that kind.

(Parliament adopted the legislative resolution)