

IEUROPE 2010 – TOWARDS BETTER GOVERNANCE IN AND FOR EUROPE?

by

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IEUROPE - A NEW “STRATEGY” FROM BRUSSELS [1] COMMUNICATION OF JUNE 2005 [1.1]

In a press notice of June 1, 2005,¹ the European Commission announced a new “five-year strategy to boost the digital economy”. The Communication² initiating „i2010 - A European Information Society for growth and employment“ will “foster growth and jobs in the information society and media industries. i2010 is a comprehensive strategy for modernising and deploying all EU policy instruments to encourage the development of the digital economy: regulatory instruments, research and partnerships with industry. The Commission will in particular promote high-speed and secure broadband networks offering rich and diverse content in Europe“.

Viviane Reding, the EU Commissioner responsible for Information Society and Media, said: “For many years, experts have been talking about digital convergence of communication networks, media content and devices. Today, we see digital convergence actually happening. Voice over IP, Web TV, on-line music, movies on mobile telephones – all this is now reality. To enhance investment in this promising sector of the economy, we must provide a coherent regulatory framework for Europe’s digital economy that is market-oriented, flexible and future-proof. And we must focus our research spending on key information and communication technologies, such as nanoelectronics“.

¹ IP/05/643, of June 1, 2005.

² COM(2005) 229 final, of June 1, 2005.

In its i2010 initiative, the Commission outlined three policy priorities:

1. To create an open and competitive single market for information society and media services within the EU. To support technological convergence with “policy convergence”, the Commission will propose: an efficient spectrum management policy in Europe (2005); a modernisation of the rules on audiovisual media services (end 2005); an updating of the regulatory framework for electronic communications (2006); a strategy for a secure information society (2006); and a comprehensive approach for effective and interoperable digital rights management (2006/2007).
2. To increase EU investment in research on information and communication technologies (ICT) by 80%. Europe lags behind in ICT research, investing only €80 per head as compared to €350 in Japan and €400 in the US. i2010 identifies steps to put more into ICT research and get more out of it, e.g. by trans-European demonstrator projects to test out promising research results and by integrating small and medium sized enterprises better in EU research projects. The 7th Research Framework Programme (2007 to 2013) provides for more than € 9 bn of funding destined at collaborative research on ICT.³
3. To promote an inclusive European information society. To close the gap between the information society “haves and have nots”, the Commission would propose: an Action Plan on e-Government for citizen-centred services (2006); three “quality of life” ICT flagship initiatives (technologies for an ageing society, intelligent vehicles that are smarter, safer and cleaner, and digital libraries making multimedia and multilingual European culture available to all (2007); and actions to overcome the geographic and social “digital divide”, culminating in a European Initiative on e-Inclusion (2008).

i2010 was the first Commission initiative to be adopted under the EU’s renewed Lisbon strategy.⁴ It focuses on the most promising sector of the EU economy: ICT account for 40% of Europe’s productivity growth and for 25% of EU GDP growth. Member States were asked to define National Information Society Priorities in their National Reform Programmes in mid-October 2005 to contribute to the objectives of i2010.

The three priorities are visualized in the sign below

³ See COM(2005) 119 final, of April 6, 2005, for the text of the Commission proposal. For more details cf. <http://www.forschungsrahmenprogramm.de/inhalte/rp7>. Retrieved December 20, 2006.

⁴ For a survey cf. http://www.europarl.europa.eu/facts/4_0_0_de.htm. Retrieved December 20, 2006. For more details see COM(2005) 24 final, of February 2, 2005.



LEGAL RELEVANCE OF THE COMMUNICATION [1.2]

The Communication of June 2005⁵ is directed at other main as well as auxiliary bodies of the European Community.⁶ But in its final chapter – titled „conclusion“ – it is addressing the EC member States, too. Through their National Reform Programmes to be adopted by mid-October 2005 they “should define Information Society priorities in line with the Integrated Guidelines for growth and jobs,⁷ which stress the importance of ICT uptake, ICT infrastructure and ICT for jobs and education. These programmes could help (them) to: ensure rapid and thorough transposition of the new regulatory frameworks affecting digital convergence with an emphasis on open and competitive markets, increase ICT research in national spending, develop modern and interoperable ICT-enabled public services, use their considerable purchasing power as a force for innovation in ICT, (and) adopt ambitious targets for developments of the information society at national level”.

However, since a “communication” is neither a directive nor a decision in the meaning of art. 249 of the EC Treaty, this act would not be legally binding in a strict sense.⁸ Finally, “other stakeholders” should be engaged in open and constructive dialogue in support of an innovative knowledge society. “In particular, industrial partners should aim at raising investments in ICT research and technologies, while constructive efforts should be made in areas where there are critical bottlenecks to developments in the digital economy”.

SCOPE AND SUBJECT OF THIS PAPER [1.3]

iEurope 2010 started some eighteen months ago. So it seems appropriate to ask whether and how far the strategy has already been implemented. First, I will briefly sketch the origins and the development of the “integrated ap-

⁵ See above, footnote 2.

⁶ I.e. Council and European Parliament (art. 7 par. 1 EC Treaty) on the one hand, Economic and Social Committee as well as Committee of the Regions (art. 7 par. 2) on the other one (these bodies acting in an advisory capacity).

⁷ Integrated Guidelines For Growth and Jobs (2005 – 2008), COM(2005) 141 final, of April 12, 2005.

⁸ Vgl. Geiger, R. (2004). *EU-Vertrag / EG-Vertrag*. 4th ed. Munich: Beck, p. 839.

proach“, as well as its context (2.). Next, I will discuss whether iEurope 2010 is focussing upon the right topics and using the right tools asking if we may really expect to go on towards “better governance“⁹ in and for Europe (3.) and, finally, I will draw a short conclusion (4.).

**IEUROPE – ORIGINS, DEVELOPMENT,
CURRENT STATUS AND PROSPECTS [2]
FROM E-EUROPE TO I-EUROPE [2.1]
FIRST ACTION PLAN 2000 [2.1.1]**

The European Council held in Lisbon March 2000 set the ambitious objective for Europe to become the most competitive and dynamic economy of the world. To achieve this, the Heads of State and Government invited the Council and the Commission to draw up “a comprehensive eEurope Action Plan“ which was finally adopted by the Feira Council in June 2000.¹⁰

In its decision, actions to be taken were clustered around the main objectives:

- (1) a cheaper, faster, secure Internet comprising a) cheaper and faster Internet access, b) faster Internet for researchers and students, c) secure networks and smart cards,
- (2) investing in people and skills encompassing a) European youth into the digital age, b) working in the knowledge-based economy, c) participation for all in the knowledge-based economy, and
- (3) stimulate the use of the Internet consisting of a) accelerating e-commerce, b) Government online: electronic access to public services, c) Health online, d) European digital content for global networks, e) intelligent transport systems.

The Action Plan was pointing at solutions and focussing “on what should be done, by whom and when“. Three main methods were described by which the eEurope targets should and would be achieved: accelerating the setting up of an appropriate legal environment, supporting new infrastructure and services across Europe, and applying the open method of coordination and benchmarking.

⁹ Cf. Commission White Paper on „European Governance“, COM(2001) 428 final, of July 25, 2001.

¹⁰ Retrieved December 20, 2006, from http://europa.eu.int/information_society/eeuopre/2002/action_plan/pdf/actionplan_en.pdf; cf. also Commission Final Report, COM(2003) 66 final, of February 11, 2003.

THE SECOND PLAN: EEUROPE 2005 [2.1.2]

In the summer of 2002, the European Council at Sevilla adopted the second action plan, *eEurope 2005*.¹¹ This plan “is based on two groups of actions which reinforce each other. On the one hand, it aims to stimulate services, applications and content, covering both online public services and e-business; on the other hand it addresses the underlying broadband infrastructure and security matters”. The action plan comprises four separate but interlinked tools: policy measures to review and adapt at national and European level, facilitating the exchange of experience, of good practices and demonstration projects, but also of sharing the lessons from failures, benchmarking of the progress made in achieving the objectives and of the policies in support thereof, and finally overall co-ordination of existing policies by establishing a steering group.

The focus of *eEurope 2005* was to stimulate „services, applications and content that create new markets and reduce costs and eventually increase productivity throughout the economy” Since developing content, services and applications as well as rolling out the underlying infrastructure would be “predominantly up to the market”, the action plan would concentrate on those areas “where public policy can provide an added value and contribute to creating a positive environment for private investment”.

IEUROPE 2010 [2.1.3]

iEurope 2010 is thus a third – and hardly the last – step on the way to respond to the fundamental changes in technology and society as a whole by proactive policies. Consequently, the Information Society Benchmarking Report published in 2005 not only provided a first survey on the results of *iEurope 2010* but also the first analysis of the situation in the Member States that joined the EU in 2004.¹²

iEurope 2010 was based upon a lot of preparatory work: Added to the Communication of June 2005 was an “impact assessment”,¹³ and between

¹¹ Cf. COM(2002) 263 final, of May 28, 2002 („*eEurope 2005: An information society for all*”); for more details, cf. http://europa.eu.int/information_society/eeurope/2005/index_en.htm. Retrieved December 20, 2006.

¹² Retrieved December 20, 2006, from http://ec.europa.eu/information_society/eeurope/i2010/docs/benchmarking/051222%20Final%20Benchmarking%20Report.pdf.

¹³ Commission Staff Working Paper, SEC(2005) 717/2, of June 1, 2005.

November 2004 and January 2005, a public consultation was launched, the contributions were analysed and a “final report” was published at last, assessing the results of the inquiry.¹⁴

With the adoption of the Communication on i2010, the Commission set up a High Level Group of Member States representatives to advise it on the implementation and development of the i2010 Strategy.¹⁵ The main tasks of this “experts group” are to discuss strategic ICT policy issues in the context of i2010 and in the wider context of the Lisbon agenda. The Group will also review the effectiveness of i2010, and give advice on possible improvements and adjustments of i2010 actions, using benchmarking to monitor the i2010 implementation and policy evolution. Moreover, it offers a forum for exchanging experiences and views on the issues relevant to i2010 which are covered by the Lisbon National Reform Plans. This group is composed of one representative per Member State at Director General level. It is chaired by a Commission official, meets up to three times per year and is open to observers from candidate and EEA countries.

FIRST ANNUAL REPORT ON IEUROPE 2010 [2.2]

The Annual Report, adopted on 19 May 2006,¹⁶ takes stock of the achievements of the first year of implementation of the i2010 initiative and updates the i2010 actions for the period 2006 - 2007. It is based on an associated Commission staff working paper, which reviews the i2010 key actions against the background of ICT developments in the EU.

The report states that „Member States have committed themselves to implementing the i2010 initiative and to contributing to review policy strategies within the i2010 High Level Group“. This commitment does not lay down a strict legal obligation. National reform programs are mentioned in “integrated guidelines”¹⁷ only which are informal legal acts based upon arts. 99 and 128 of the EC Treaty. Moreover, ICT is merely one issue among many others dealt with in these guidelines.

¹⁴ Cf. http://europa.eu.int/information_society/eeurope/i2010/consultation/index_en.htm.
http://europa.eu.int/information_society/eeurope/i2010/docs/2010_challenges/050210_consultation_final_report.pdf. Retrieved December 20, 2006.

¹⁵ Commission decision of March 15, 2006 (2006/215/EC), OJ EU L 80, of March 17, 2006, p. 74.

¹⁶ COM(2006) 215 final, of May 19, 2006.

¹⁷ On its legal quality see Geiger (2004), pp. 480 and 534; cf. also above, footnote 7.

According to the Annual Report, all Member States have identified research and innovation policies as a key priority and refer to ICT in their reform programs, addressing mostly eGovernment, broadband and digital literacy. Half of the Member States also mention ICT uptake by firms and households, implementation of the electronic communications regulatory framework and network security. The national reform programs generally identify ICT issues as challenges thus supporting a wider adoption of ICT, although the proposed measures do not include elements like digital convergence or ICT research and innovation. Many programs also refer to the EU i2010 framework, therefore recognising common objectives.

IMPLEMENTATION IN GERMANY [2.3]

The reform program of the Federal government of December 2005¹⁸ seems rather vague. Its main goal is the “consolidation of the knowledge society” because this would be a main precondition for each modern society, for future development as well as for participation and social justice. ICT policies are dealt with more closely in a separate chapter. The program is also pointing at successful interdisciplinary approaches, e.g. the activities of Initiative D21.¹⁹ A third topic which is looked at more closely is the issue how to facilitate access for all to information society.

The government then adopted an action program called “Informationsgesellschaft Deutschland 2010” (or iD2010).²⁰ This program calls for new, integrated German innovation policy. Promoting ICT would be a main element of this policy. There will be three important objectives of the Federal government in respect of ICT:

- (1) Legislation: modification of the Telecommunications Act of 2004, enactment of a single “telemedia” law, adapting copyright laws to digitalisation,
- (2) Promoting technology by means of financial support and implementing

¹⁸ German National Reform Program of December 7, 2005, titled “Enhancing innovation – promoting safety in a changing environment – Fully implementing German unity” (“Innovation forcieren – Sicherheit im Wandel fördern – Deutsche Einheit vollenden”). Retrieved December 20, 2006, from http://www.bundesregierung.de/Content/DE/Artikel/2005/12/_Anlagen/nationales-reformprogramm-deutschland-pdf-datei-929900,property=publicationFile.pdf.

¹⁹ For more details cf. www.initiaved21.de.

²⁰ Information Society Germany 2010; for a German version see <http://www.bmwi.de/BMWi/Redaktion/PDF/1/iid2010-programm,property=pdf,bereich=bmwi,sprache=de,rwb=true.pdf>. Retrieved December 20, 2006.

a high-tech strategy,²¹

(3) Improving the use of ICT in all sectors of the economy and the society by, e.g., furthering broadband access,²² media digitalisation,²³ e-commerce networks,²⁴ but also by implementing a new eGovernment strategy for establishing electronic public services in the whole territory,²⁵ deepening communication between business and public administration, introducing electronic passports²⁶ and health cards,²⁷ and finally strengthening ICT security. iD 2010 is meant to be an important national contribution for the further implementation of i2010.

STATUS OF IMPLEMENTATION AT THE EUROPEAN LEVEL [2.4]

At the end of 2006, some progress towards iEurope 2010 has been made but there are lots of things to do in the next years.

EUROPEAN INFORMATION SPACE [2.4.1]

As to the task of creating a European information space, the Commission started its review of the 2002 regulatory framework for electronic communication networks and services in 2005 in order to establish a more competitive environment and thus to benefit consumers and users as well as to enhance investment and innovation. At the end of this review, the Commission published a Communication (June 2006) and some accompanying documents.²⁸ The Communication reports on the functioning of the five directives of 2002²⁹ and explains how this legal framework has delivered on its objectives, also identify-

²¹ Federal Ministry for Education and Research (2006). A High-Tech Strategy for Germany ("Die Hightech-Strategie für Deutschland"). http://www.bundesregierung.de/Content/DE/Artikel/2006/08/_Anlagen/2006-08-30-bmbf-langfassung,property=publicationFile.pdf. Retrieved December 20, 2006. For more details, cf. <http://www.hightech-strategie.de>.

²² For details, cf. <http://www.breitbandinitiative.de> and <http://www.zukunft-breitband.de/Breitband/Portal/Navigation/Politik/breitbandinitiative.html>. Retrieved December 20, 2006.

²³ For a survey, see <http://www.bmwi.de/BMWi/Navigation/Wirtschaft/Telekommunikation-und-Post/forum-digitale-medien.html>. Retrieved December 20, 2006.

²⁴ For more details: www.ec-net.de.

²⁵ Federal Ministry of the Interior (2006). E-Government 2.0. The Program of the Federal Republic ("Das Programm des Bundes"). Retrieved December 20, 2006, from http://www.kbst.bund.de/cln_011/nn_836326/Content/Egov/Initiativen/EGov2/EGov2.html_nnn=true.

²⁶ For more details: <http://www.epass.de/>.

²⁷ For a survey, see http://www.die-gesundheitskarte.de/grundinformationen/rechtliche_grundlagen/index.html.

²⁸ COM(2006) 334 final, June 29, 2006; cf. also Staff Working Documents of June 28, 2006, SEC(2006) 816 ("Proposed Changes") and SEC(2006) 817 ("Impact Assessment");

ing areas for change. Moreover, the Communication launched a public consultation on the future of the regulatory framework requesting comments till 27 Oct. 2006.³⁰ Another staff working document³¹ is considering modifications of the Recommendation of 2003 in relevant product and service markets.³² A few weeks later, the plan for a new regulation was proposed on roaming on public mobile networks within the EC to provide the necessary basis for effective and timely action to bring about substantial reductions in the level of mobile roaming charges.³³

The Communication of June 2006 also recognizes that maximising the social and economic potential of radio spectrum usage is essential to achieving the objectives of the i2010 policy. So it sketches an improved approach to managing spectrum for electronic communications.³⁴ At the end of 2005, the Commission put forward a draft directive (of the European Parliament and of the Council) for amending the earlier Council directive 89/552/EC on the coordination of certain provisions concerning the pursuit of television broadcasting activities.³⁵ The objective of this proposal is to ensure that on-demand audiovisual media services providers within Member States can fully benefit from the internal market through the principle of regulation by the country of origin. This would enhance legal certainty overall for all audiovisual media service providers within the EU. Modern rules in the audiovisual policy field should not discriminate between and within different platforms delivering similar content and should create a level playing field for fair and enhanced competition between different operators, while enabling new services to flourish. At the same time, in the light of developments in technology, the market and users' behaviour (their increased choice and responsibility) and in order to remain proportionate with the goals of general interest, a greater degree of flexibility is needed in respect of the rules for linear audiovisual media services, in particular as regards

²⁹ Directives of the European Parliament and the Council 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC of March 7, 2002, OJ EC L 108 of April 24, 2002, pp. 7 et seq., 21 et seq., 33 et seq., 51 et seq., and directive 2002/58/EC of July 12, 2002, OJ EC L 201 of July 31, 2002, pp. 37 et seq.

³⁰ Cf. http://europa.eu.int/information_society/policy/ecommm/tomorrow/roadmap/index_en.htm#communication1. Retrieved December 20, 2006.

³¹ SEC(2006) 837, of June 28, 2006.

³² 2003/311/EC of February 11, 2003, OJ EC L 114 of May 8, 2003, pp. 45 et seq.

³³ COM(2006) 382 final, of July 12, 2006.

³⁴ COM(2006) 334 final, pp. 8 et seq.

³⁵ COM(2005) 646 final, of December 14, 2005.

advertising. In sum, the objective of the Commission's proposal is intended to modernise and simplify the regulatory framework for broadcasting or linear services and introduce minimum rules for non-linear audiovisual media services.

A "strategy for a secure information society" was announced by another Commission Communication (of May 2006)³⁶ based on dialogue, partnership and empowerment and reinforcing a multi-stakeholder approach. So in November 2006 the Commission issued a Communication addressing the evolution of spam and threats like spyware and other forms of malware,³⁷ Another specific Communication on cybercrime will be making proposals for improving cooperation between law enforcement authorities and analyzing new forms of criminal activity that exploit the Internet and undermine the operation of criminal infrastructures.³⁸

A European Charter for the Development and the Take-up of Film Online was initiated by Commissioner V. Reding and agreed by business leaders on 23 May 2006 at the Europe Day of the 59th Cannes Film Festival.³⁹ A public consultation on "Content Online in the Single Market" ended Oct. 13, 2006, and there was also a public hearing on this topic.⁴⁰ The Commission intends to encourage the development of innovative business models and to promote the cross-border delivery of diverse online content services. Input to the consultation should help shape a Commission Communication on Content Online, due to be adopted at the end of 2006.

INNOVATION AND INVESTMENT IN R&D [2.4.2]

To mention but a few important issues in this second area of i2010:

Pre-commercial procurement of innovation might be a missing link in the European innovation cycle.⁴¹ This preliminary result of an expert report was discussed at several workshops at Vienna ("Investing in ICT Research

³⁶ COM(2006) 251 final, of May 31, 2006. For more details, cf. http://europa.eu.int/information_society/activities/sip/index_en.htm. Retrieved December 20, 2006.

³⁷ COM(2006) 688 final, of November 15, 2006.

³⁸ Vgl. IP/06/701, of May 31, 2006.

³⁹ Cf. http://ec.europa.eu/comm/avpolicy/docs/other_actions/film_online_de.pdf. Retrieved December 20, 2006.

⁴⁰ For details, see http://ec.europa.eu/comm/avpolicy/docs/other_actions/contentonline-questionnaire_de.pdf, http://ec.europa.eu/comm/avpolicy/other_actions/content_online/contributions/index_en.htm, http://ec.europa.eu/comm/avpolicy/other_actions/content_online/index_en.htm#hearing. Retrieved December 20, 2006.

and Innovation")⁴² and Brussels ("ICT Solutions for the Health Sector, for the Transport Sector, for Government),⁴³ and the Commission published a short overview paper explaining the benefits (titled "public sector needs as a driver for innovation").⁴⁴

The benefits and risk of radio frequency identification (RFID) were discussed in the context of another open public consultation.⁴⁵ The Communication which was originally planned for publication before the end of December 2006 will actually be published in the first quarter of 2007, at the latest by CeBIT 2007 (March 15th - 21st).

The intention of "making the e-economy work" is not only (and for some years already) focussing on the situation of small and medium enterprises, but it is also directed at reviewing policies and development trends in the area for eBusiness in general.⁴⁶ For example, a major event took place in November 2006 when a high-level conference debated on the "legal framework for e-business and innovation" and was looking particularly at the issue of "building trust in the virtual world".⁴⁷

In this same month, the first Joint Technology ARTEMIS was presented to the public which is a new method of co-financing key technological research. ARTEMIS was originally established as a European technology platform comprising several major European companies and is intended to be an open and pioneer model for public-private partnership in order to steer Europe's research in embedded computing systems.⁴⁸ This JTI will act as a beacon for further initiatives to follow the next one probably relating to

⁴¹ For more details, cf. http://europa.eu.int/information_society/research/pre_commercial_procurement/index_en.htm. Retrieved December 20, 2006. See also COM(2004)841 final, of December 29, 2004.

⁴² Retrieved December 20, 2006, from http://europa.eu.int/information_society/research/vienna_process/vienna_conference/index_en.htm.

⁴³ Retrieved December 20, 2006, from http://europa.eu.int/information_society/research/pre_commercial_procurement/workshops/index_en.htm.

⁴⁴ Retrieved December 20, 2006, from http://europa.eu.int/information_society/research/pre_commercial_procurement/documents/pre_commercial_procurement_0906.pdf.

⁴⁵ For details, see <http://www.rfidconsultation.eu/>. Retrieved December 20, 2006.

⁴⁶ For a survey, cf. http://europa.eu.int/information_society/ecowor/ebusiness/index_en.htm. Retrieved December 20, 2006.

⁴⁷ Retrieved December 20, 2006, from <http://ec.europa.eu/enterprise/ict/policy/legal/bxl2006/index.htm>.

⁴⁸ IP/06/1589, of November 21, 2006 ("Stronger together in ICT: Europe to pool private, national and EU research efforts in order to become more competitive"). Cf. also <http://www.artemis-office.org/dotnetnuke/>. Retrieved December 20, 2006.

nanoelectronics (ENIAC).⁴⁹

INCLUSION [2.4.3]

Finally, some main issues of the third bundle of topics - digital integration, better public services and quality of life – shall be dealt with.

In the fall of 2005, the Communication published a Communication regarding “eAccessibility”.⁵⁰ In this document, it proposed several political measures for improving the access of disabled people in the field of ICT, e.g., by ensuring consistency of accessibility requirements in public procurement in Europe or by enhancing the development, introduction and implementation of certification schemes for accessible products and services.⁵¹ The Commission called on member States and stakeholders “to support voluntary positive actions to make accessible ICT products and services far more widely available in Europe”. Strengthening eAccessibility and “usability” – as core elements of “eInclusion” - were also discussed at the Ministerial Conference held at Riga in summer 2006 titled „ICT for an Inclusive Society”.⁵²

In its Interim Report to the European Council on a “European initiative for growth”, the Commission had already pointed to the importance of broadband and eTen.⁵³ In a complementary working paper, it highlighted the relevance of certain funds for these purposes by setting up guidelines and criteria for the use of Structural Funds for electronic communications.⁵⁴ Based on this financial foundation, the EU programme eTen has been deploying trans-European electronic services for all. There will be 30 new

⁴⁹ Cf. <http://cordis.europa.eu/ist/eniac/>. Retrieved December 20, 2006. For a survey, see European Technology Platforms for Information and Communication Technologies: FAQs. MEMO/06/331, of September 18, 2006. Retrieved December 20, 2006, from <http://europa.eu.int/rapid/pressReleasesAction.do?referenc e=MEMO/06/331&format=HTML &aged=0&language=EN&guiLanguage=en>.

⁵⁰ COM(2005) 425 final, of September 13, 2005.

⁵¹ For a survey, cf. http://europa.eu.int/information_society/policy/accessibility/deplo y/pubproc/index_en.htm. Retrieved December 20, 2006

⁵² Retrieved December 20, 2006, from http://ec.europa.eu/information_society/events/ict_riga_2006/index_en.htm.

⁵³ COM(2003) 579 final, of October 1, 2003.

⁵⁴ SEC (2003) 895, of July 28, 2003. Retrieved December 20, 2006, from http://ec.europa.eu/ regional_policy/sources/docoffic/working/doc/telecom_en.pdf. Cf. also COM(2004) 447 final, of June 30, 2004.

eTEN projects during the next three years.⁵⁵

A programme for the effective integration of ICT in education and training systems in Europe (2004 – 2006) consisted of four action lines: promoting digital literacy, European “virtual campuses”, “e-Twinning” of schools in Europe and promotion of teacher training, and transversal actions for the promotion of e-learning in Europe.⁵⁶

In 2005, several work-shops and an e-learning conference were held which aimed at looking at e-learning from different points of view, namely education, enterprise, employment, social, research, policy, institutional industry.⁵⁷ In October 2006, the European Parliament adopted the Commission’s ambitious proposals for a new action programme in the field of education and training which, for the first time, will cover learning opportunities from childhood to old age. This Lifelong Learning Programme will cover the period 2007-2013, and is the successor to the current Socrates, Leonardo da Vinci and eLearning programmes having a budget of € 7 bn to support projects and activities that foster interchange, cooperation and mobility between education and training systems within the EU, so that they might become a world quality reference.

The Ministerial Conference held at Riga in summer 2006 thus debated on priorities and policy objectives relating to needs of older workers and elderly people, reduction of geographical digital divides, enhancement of eAccessibility and usability and, finally, improvement of digital literacy and competences.⁵⁸

“Better public services” are first of all referring to the development of eGovernment in general. The plans of the Commission were already stated in a Communication of 2003.⁵⁹ In the spring of 2006, it published an action plan called “Acceleration eGovernment in Europe for the Benefit of All”⁶⁰ addressing five priority areas:

⁵⁵ For details, see http://ec.europa.eu/information_society/newsroom/cf/itemlongdetail.cfm?item_id=2993. Retrieved December 20, 2006.

⁵⁶ For details, cf. http://ec.europa.eu/education/programmes/elearning/index_en.html. Retrieved December 20, 2006.

⁵⁷ For details, cf. <http://www.elearningconference.org/>, and http://ec.europa.eu/education/programmes/elearning/workshops/index_en.html. Retrieved December 20, 2006.

⁵⁸ Retrieved December 20, 2006, from http://europa.eu.int/information_society/events/ict_riga_2006/doc/riga_decl_de.pdf.

⁵⁹ COM(2003) 567 final, of September 26, 2003.

⁶⁰ COM(2006) 173 final, of April 25, 2006.

1. "No citizen left behind". The Commission will work with Member States to make sure that by 2010 all citizens, regardless of gender, age, nationality, income, or disability will have access to a wide range of technologies such as Digital TV, PCs and mobile phones
2. Raising efficiency also by significantly reducing administrative burdens: Under the Action Plan, the Commission and the Member States will put in place a framework for benchmarking the impact of e-government in order get this process on track.
3. Introducing of key services for citizens and business, in a first step implementing eProcurement.
4. "Safe access to services EU wide" by establishing secure systems for mutual recognition of national electronic identities for public administration web-sites and services. The Commission will help make this happen by supporting wide-scale cross-border demonstrators, identifying common specifications for electronic ID management (being a key enabler)⁶¹ and by reviewing the rules of electronic signatures.
5. Strengthening participation and democratic decision-making by promoting more and better e-democracy.⁶²

The implementation of the Action Plan largely relies on cooperation with the Member States and other stakeholders. At the EU level, the plan is supported by programmes such as MODINIS,⁶³ IDABC⁶⁴ or eTEN, and it will be monitored by a group consisting of representatives of the national eGovernment initiatives. In 2007, the fourth Ministerial Conference on eGovernment shall be held in Portugal. This meeting might be willing to further develop an "inclusive eGovernment" already called for by its predecessor at Riga. The Commission is also committed to launch pilot projects to test, at an op-

⁶¹ Cf. Wilikens, M. (2006). *Meeting on Electronic Identity Management for eGovernment*. Retrieved December 20, 2006, from http://europa.eu.int/information_society/activities/egovernment_research/doc/im_report.doc, and Hayat, M. / Rössler, T. (2006). *Proposed Framework for an Interoperable Electronic Identity Management System*. Retrieved December 20, 2006, from http://www.iaik.tugraz.at/aboutus/people/hayat/Hayat_Amir_Paper_egov06.pdf.

⁶² For a survey, cf. http://europa.eu.int/information_society/activities/egovernment_research/participation/index_en.htm. Retrieved December 20, 2006.

⁶³ Decision No 2256/2003/EC of the European Parliament and of the Council of November 17, 2003 adopting a multiannual programme (2003-2005) for the monitoring of the eEurope 2005 action plan, dissemination of good practices and the improvement of network and information security (MODINIS), OJ EU L 336 of December 23, 2003, pp. 1 et seq.

⁶⁴ Decision 2004/387/EC of the European Parliament and of the Council of April 21, 2004 on the interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens (IDABC), OJ EU L 181 of May 18, 2004, pp. 25 et seq.

erational scale, technological, legal and organizational solutions to bringing public services online.

At last, the EU institution is implementing or at least preparing some “flagships”, for example concerning “intelligent cars”,⁶⁵ “ICT of an independent living in an ageing society”,⁶⁶ “ICT for sustainable development”⁶⁷ and “digital libraries”. As to this last issue, the Commission published a Communication in 2005⁶⁸ followed by a Recommendation on digitisation and digital preservation in August 2006.⁶⁹

FIRST ANNUAL REPORT OF THE COMMISSION ON STATUS OF IMPLEMENTATION [2.4.4]

One year after the start of iEurope 2010 the Commission concluded:

„The challenges identified in the i2010 initiative remain valid but need to be addressed more vigorously. Policy makers need not just to be more aware of the need to accelerate ICT developments; they should also build policies to enhance the positive trends in the ICT sector. Particular priorities are implementation of broadband strategies, coherent approaches to content and spectrum, integrated research and innovation strategies and more ambitious public services. Today there is a greater need than ever to get Europe’s ICT policies right to catch up with our major global competitors.

Three messages will therefore continue to underpin iEurope in 2006 – 2007:

1. Urgency: the increasing recognition of the role of ICT in growth and jobs should be converted into action, through a strategic approach to the opportunities of digital convergence in National Reform Programmes that combine macro and micro policy levels. There is also a need for expeditious treatment of legislative proposals under i2010 so that Europe can benefit fully from the fast moving effects of digital convergence on growth and competitiveness.

⁶⁵ COM(2006) 59 final, February 15, 2006; for more details, cf. http://europa.eu.int/information_society/activities/esafety/intelligent_car/index_en.htm. Retrieved December 20, 2006.

⁶⁶ For a survey, cf. <http://www.aal169.org/Introduction>. Retrieved December 20, 2006.

⁶⁷ Cf. COM(2003) 542 final, of September 15, 2003; for details, see http://europa.eu.int/information_society/qualif/env/index_en.htm. Retrieved December 20, 2006.

⁶⁸ COM(2005) 465 final, of September 30, 2005; for details, cf. http://europa.eu.int/information_society/activities/digital_libraries/index_en.htm. Retrieved December, 20, 2006.

⁶⁹ 2006/585/EC of August 24, 2006, OJ. EU L 236 of August 31, 2006, pp. 28 et seq.

2. **Partnership:** Joint action and responsibility between the Commission, the Member States and stakeholders under the Lisbon Agenda and i2010 not only to identify bottlenecks hampering innovation but also to take affirmative steps to coordinate policies across Europe in order to establish a single information space of 25 EU Member States.

3. **Action:** The EU must move from consensus on the importance of ICT for growth, jobs and the quality of life to action by vigorously implementing regulations and policies that assist competitiveness and by using the economic weight of public administrations in order to promote the emergence of innovative services for citizens and for growth and jobs”.⁷⁰

ASSESSING IEUROPE STRATEGY AND POLICIES [3]

LIMITED SCOPE OF EC POWERS [3.1]

OBJECTIVES AND ACTIVITIES [3.1.1]

The European Union intends to create an “ever closer union among the peoples of Europe” (art. 1 par. 2 EU Treaty) by fulfilling its task “to organise, in a manner demonstrating consistency and solidarity, relations between the member States and between their peoples” (Art. 1 par. 3).⁷¹ According to the order laid down in art. 2 EU Treaty, the primary objective of the Union is “to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development“. These issues are also mentioned (together with several other ones) in art. 2 EC.⁷² All those objectives may only be achieved, however, as provided in the EU or EC treaties and in accordance with the conditions and the timetable set out therein while respecting the principle of subsidiarity (in art. 5 EC Treaty).⁷³

Insofar, the list of activities to be taken by the EC in art. 3 EC Treaty seems to require some distinctions on behalf of different priorities.⁷⁴ So Community activities include according to art. 3 par. 1 a “policy in the social sphere comprising a European Social Fund” (lit. j)), the “strengthening of social and economic cohesion” (lit. k)), and the “strengthening of the competitiveness of Community industry” (lit. m)).

⁷⁰ Op. cit. (footnote 16), pp. 13 et seq.

⁷¹ Cf. Geiger (2004), pp. 13 et seq.

⁷² Cf. Geiger (2004), p. 17, pp. 162 et seq.

⁷³ Cf. Geiger (2004), pp. 18 et seq.

⁷⁴ Cf. Geiger (2004), pp. 167 et seq.

In regard to other fields, however, Community activity is restricted to the „promotion of coordination between employment policies of the Member States“ (lit. i)), the „promotion of research and technological development“ (lit. n)), „encouragement for the establishment and development of trans-European networks“ (lit. o)), a “contribution to the attainment of a high level of health protection“ (lit. p)), and to a “contribution to education and training of quality and to the flowering of the cultures of the Member States“ (lit. q)).

Moreover, there is no explicit task to implement „better public services“ or to look for the establishment of e-government laid down in the EU or EC treaties.⁷⁵ Although this objective might result from a broad understanding of art. 1 par. 2 EU Treaty according to which any decision are to be taken “as openly as possible and as closely as possible to the citizen”⁷⁶ this provision does not include any specific powers. Thus, the Union as well as its Member States are authorized to encourage the modernization of structures and procedures at the national levels only on the basis of various provisions relating to different single aspects of this program and are thereby restricted to certain limited means. Finally, the topic is neither solely nor primarily related to the “services of general economic interest“ referred to in art. 16 EC Treaty or to similar areas known (in France) as “service public“ or (in Germany and Austria) as “Daseinsvorsorge“.⁷⁷

RELEVANT COMMUNITY POLICIES [3.1.2]

Looking at the scope of EC powers more precisely, we will see that, e.g., in the fields of quality education and vocational training arts. 149 par. 4 and art. 150 par. 4 ECT Treaty do not allow „any harmonization of the laws and regulations of the Member States“,⁷⁸ and art. 151 par. 5 dealing with incentive measures and recommendations in cultural matters does provide for unanimous acts of the Council only.⁷⁹ As to trans-European networks in the area of telecommunications infrastructures the Community is on the one

⁷⁵ The action plan (footnote 60) does not mention any (EC) legal provision at all!

⁷⁶ The IDABC decision (footnote 64) is based upon arts. 154 (in connection with arts. 14 and 158) and 157 of the EC Treaty.

⁷⁷ For a more detailed discussion, cf. Commission Green Paper on Services of General Interest, COM(2003) 270 final, of May 21, 2003.

⁷⁸ Cf. Geiger (2004), pp. 592 and 596.

⁷⁹ Cf. Geiger (2004), p. 601.

hand obliged to promote the interconnection and interoperability of national networks as well as access to such networks (art. 154 par. 2 EC Treaty).⁸⁰ The Commission may also take any useful initiative to coordinate relevant Member States' policies (art. 155 par. 2).⁸¹ These actions, however, must be taken „within the framework of a system of open and competitive markets“, and EC bodies are only permitted to use those indirect means mentioned in art. 155 par. 1 EC Treaty (guidelines, financial and other support). Furthermore, guidelines and projects of common interest which relate to the territory of a Member State do require the approval of the State concerned (art. 156 par. 2).⁸² In regard to „industrial policy“, the Commission may once more take any useful measures for coordinating actions of Member States (art. 157 par. 2 EC Treaty). But there are no additional powers for Community bodies to be based upon art. 157 for ensuring that the conditions necessary for the competitiveness of its industries exist. The Council and the European Parliament may only decide on specific measures in support of action taken in the Member States to achieve the objectives of art. 157 par. 1.⁸³

Especially in the areas of “economic and social cohesion“ (arts. 158 et seq. EC Treaty) and “research and technological development“ (arts. 163 et seq.) the Community is entitled to reach its aims by way of financial contributions, too.⁸⁴ In those fields, provisions of EC primary law are aimed at a close coordination of activities at Community and national levels intended to reach mutual consistency. The Commission is required to promote that cooperation. At the end, Member States' policies are restrained in a high degree, at least in fact, so also their national parliaments are losing powers and responsibilities once more.⁸⁵

LEGITIMACY ISSUES [3.2]

The “legitimacy“ of European “i-policies“ is closely connected to its being shaped primarily by the Commission. Even if and insofar legally binding

⁸⁰ Cf. Geiger (2004), pp. 611 et seq.

⁸¹ Cf. Geiger (2004), p. 614.

⁸² Cf. Geiger (2004), pp. 613 et seq. and p. 616.

⁸³ Cf. Geiger (2004), p. 618.

⁸⁴ Vgl. Geiger (2004), p. 622 and p. 632.

⁸⁵ Cf. Gramlich, L. (2006), *Zwischen Legitimität und Effektivität – zur Rolle des Parlaments im Bereich des außenpolitischen Handelns*.

acts are mostly adopted by the Council (and the European Parliament)⁸⁶ and moreover, the European Council sets up the general features of EC policies, the content of these measures is broadly determined by Commission proposals and preparatory work. For sure, this body as a kind for European pre-government is initiating many various public debates, for example by establishing the single access named "your voice in Europe"⁸⁷ for consultations and other transnational fora – recently dealing with the topic of "media literacy"⁸⁸ – and commentaries received are being analyzed followed by presenting the results of this assessment (and often also the several comments) to the public. This mode of procedure does not guarantee success, however, since the discussion will in most cases not be open to every interested person. Only bigger enterprises or institutions will have enough time and sufficient expertise to look more closely at relevant documents. Thus, putting together some, but not (nearly) all private interests seems rather rarely to be the best way to find out "real" interests of the public or genuine "public interests". Most of all, this mode of behaviour will not establish a relation to the people concerned to meet their legitimate needs by way of asking them. The interests and needs of older people, of handicapped or disabled persons or the issue of growing „digital illiteracy“ are dealt with "from above", there is no dialogue between equal partners, many people feel drowned by a flood of informations which they can hardly understand because of insufficient transparency for ordinary users. So, instead of (bottom-up) "participation" there is (top-down) "inclusion". Competitiveness at a global level seems to be far more important than social cohesion and integration of human beings although these objectives are core ingredients for each and every community of (wo)men. So, to give but two examples, projects for improvement of quality of living are of minor relevance till now, and the description of "better public services" does not really care about improving citizens' participation or democratic decision-making as these topics are mentioned at the end of the list of priorities.

⁸⁶ See, for example, the IDABC (fn. 64) and MODINIS decisions (fn. 63); also decisions 1336/97/EC and 1376/2002/EC of the European Parliament and the Council of June 17, 1997, and July 12.72 002, respectively, OJ EC L 183 of July 11, 1997, pp. 12 et seq., and L 200 of July 30, 2002, pp. 1 et seq. relating to guidelines for trans-European telecommunications networks.

⁸⁷ Cf. <http://ec.europa.eu/yourvoice/>. Retrieved December 20, 2006.

⁸⁸ For details, cf. http://ec.europa.eu/comm/avpolicy/media_literacy/consultation/index_en.htm. Retrieved December 20, 2006.

PRIVATE VERSUS PUBLIC INTERESTS? [3.3]

Considering the different and diverging foundations of the iEurope 2010 strategy it might not be surprising at all that the various policies and objectives could have been brought together only under a rather general title, "growth and employment". Arts. 98 et seq. and arts. 125 et seq. EC Treaty are setting up a common framework for economic and employment policies which should be filled primarily by actions of Member States:⁸⁹ On the one hand, „recommendations“ (art. 99) or „guidelines“ (Art. 128) of EC bodies are no types of acts which are legally binding upon Member States, and on the other hand, they should and could influence national economic or fiscal policies but they are neither intended to nor do they really result in abolishing autonomous national decision-making.⁹⁰

The three priorities mentioned in the Communication of June 2005⁹¹ as well as the measures proposed for realizing them are said to arise from an "integrated comprehensive strategy for information society and audiovisual policy of the EU". It may be remarked that the title of the Communication does not speak of audiovisual policy at all, and that this area seems hardly to be a major issue within the document. Only a few relevant actions are being dealt with, in particular the review of the "TV without frontiers" directive, the promotion of digital libraries and the improvement of "media literacy". „Information society“ is looked at from a single market perspective, other prominent approaches are R&D and/or industrial policies. For sure, we can often read about benefits for "citizens" or for "the public", but this wording is hardly meant to emphasize an (important) objective of its own. These benefits, it is held, would be secondary effects caused by the growth of those sectors of the economy which are developing, producing or transferring ICT or of other ones which are forced to use ICT for improving their own activities. From this point of view, there are rather close relations to au-

⁸⁹ Cf. Geiger (2004), p. 477 and pp. 529 et seq.

⁹⁰ Cf. Geiger (2004), pp. 480 et seq. and p. 533.

⁹¹ Above, footnote 2.

audiovisual policy projects, e.g., MEDIA 2007⁹² or eContentplus,⁹³ and a similar reason seems to cause the extension of the scope of the audiovisual services directive (to topics like commercial communication, sponsoring, product placement⁹⁴ or “teleshopping”).

Selecting issues, setting up objectives and establishing policy priorities are topics of general importance. Each of them should get broad support by the general public at national, regional and local levels, otherwise their implementation might fail at all or at least not be effected in the short run. If ICT based products or services are offered to certain groups of users or to all citizens, improvements intended by these action will only come true if and when such offers will be accepted by the persons concerned. Moreover, users will have to pay for those products or services, at least if they are produced or delivered by commercial enterprises. Although the financial aspect of the issue is obvious, it has been rarely debated in this context.⁹⁵ More generally, the EC will not get sufficient support (or at least acceptance) for its strategy without information about the reasons for an initiative and participation at the shaping of it. Till now and for the years to come, fundamental policy issues must be discussed and resolved by bodies legitimated by democratic elections, i.e. parliaments at the European as well as at national levels. Thus it seems to be rather short-sighted that the Commission is cooperating with Member States’ governments (and stakeholders from the business sector) only since the role of parliaments – and of non-business

⁹² Cf. COM(2004) 170 final, of July 14, 2004; for the Common Position of the Council (of June 20, 2006) see http://ec.europa.eu/comm/avpolicy/media/pdf/com_pos07.pdf. For more details, cf. http://ec.europa.eu/comm/avpolicy/media/index_en.html. Retrieved December 20, 2006.

⁹³ Decision 456/2005/EC of the European Parliament and the Council of March 9, 2005 establishing a multiannual Community program to make digital content in Europe more accessible, usable and exploitable, OJ EU L 79 of March 24, 2005, pp. 1 et seq.; for details, cf. http://europa.eu.int/information_society/activities/econtentplus/index_en.htm. Retrieved December 20, 2006.

⁹⁴ This term is defined in art. 1 lit. k) of the Commission proposal (footnote 35) as „any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within audiovisual media services, normally in return for payment or for similar consideration.” According to recital 46 it is necessary to adopt rules for product placement “to ensure a level playing field, and thus enhance the competitiveness of the European media industry”.

⁹⁵ First of all, there should be asked which (kind of) users should be required to pay for (what kinds of) delivery of (which) products or services and whether there should be affordable prices especially for poorer classes. Another important issue seems to be whether producers of some basic products or services offered to the general public should be paid not only by their customers, but if they could get any additional funding from the State, for instance out of tax receipts.

parts of the „civil society“ – is no less important for an effective and swift implementation if iEurope objectives.

UNIVERSAL SERVICE IN THE FIELD OF ELECTRONIC COMMUNICATIONS: LESSONS TO BE LEARNT [3.4]

The ambiguity of the Commission's iEurope strategy can be shown by looking at a part of the project, the review of the regulatory framework for electronic communications networks and services. The reasons given for proposed modifications of the current laws in this area seem to be rather one-sided. So the need for improving radio spectrum management is justified as follows: "Maximising the social and economic potential of radio spectrum usage is essential for achieving the objectives of the EU's i2010 policy, and to support the renewed strategy for growth and jobs. In addition, improvements in the current system of spectrum management at EU level will allow operators to exploit the internal market more effectively".⁹⁶ Reasons for "consolidating the internal market" are put up in the following way: "To attract investment and reap the benefits for the internal market, Europe must deliver a consistent regulatory approach in the 25 Member States. A unified single market offers EU suppliers a large home basis for the development of innovative products, which is particularly important in areas like wireless communications where economies of scale count".⁹⁷ Regarding the issue of "strengthening consumers' and users' rights" (which is called a mere "additional" proposal),⁹⁸ the Communication underlines at first: "A central goal of the regulatory framework is to deliver substantial consumer benefits. This is in large part achieved by relying on enhanced competition to provide choice, innovative services and value for money to consumers".⁹⁹ In respect of the future role and concept of universal service, the Commission announces that it will reflect more fundamentally on the balance of sector specific and horizontal rules for protecting consumers and also about the feasibility of a "one-size-fits-all approach to universal service in a Union of 25 Member States".¹⁰⁰ So this EC institution intends to publish Green Paper

⁹⁶ COM(2006) 334 final, p. 7.

⁹⁷ COM(2006) 334 final, p. 8.

⁹⁸ COM(2006) 334 final, p. 7.

⁹⁹ COM(2006) 334 final, p. 10.

¹⁰⁰ Ibid.

on universal service in 2007. Neither the Communication nor the complementary documents are discussing the topic of “affordable” prices which are required by the 2002 Universal Services Directive (art. 3 par. 1).¹⁰¹ Moreover, the paper does not establish any closer relationship between universal service obligations and (access to) broadband services.¹⁰²

CONCLUSION [4]

There can be hardly any doubts – since there seems to be no alternative to it anyway - that using ICT effectively might benefit society and public sectors in various ways. Democratic communities whether organized as States or as local, regional or supranational bodies should take positive actions and develop strategies not only “for their people” but also “of the people” and “by the people” to meet this eminent challenge. Thus iEurope 2010 should be reshaped as soon as possible by providing for more active participation of all persons concerned. Any person must be able to engage him- or herself at an early phase of the development and in an appropriate manner which guarantees fair treatment for all and does not exclude any relevant group from relevant decisions. Only then we will get good (or even better) governance in and for Europe.

¹⁰¹ There is only a proposal for an improvement of the “quality of tariff information available to consumers”. COM(2006) 334 final, p. 10.

¹⁰² On the actual scope of universal service see art. 4 par. 2 of the Universal Service Directive (2002/22/EC) requiring “data rates that are sufficient to permit functional Internet access” in respect of connections at a fixed location to the “public telephone network” (art. 2 par. 2 lit. b)) and access to publicly available telephony services at a fixed location (art. 2 par. 2 lit. c)). In its review of the scope of universal service in accordance with art. 15 of the directive the Commission concludes that „broadband has not yet become necessary for normal participation in society, such that lack access implies social exclusion. At the present time, therefore, the conditions for including broadband services within the scope of universal service (as set out in the Directive) are not fulfilled” COM(2005) 203 final, of March 24, 2005, p. 9.