

EDITORIAL
EDITORIAL**Granting of UMTS -
Licences under Scrutiny**

The latest issue to come under the scrutiny of EC state aid law is the granting of UMTS licences. At the end of the British bidding procedure, the five successful competitors paid over 4 billion pounds sterling (more than 12 billion German marks) each and in Germany the successful bidders actually paid more than 16 billion German Marks each. On the contrary, the four successful enterprises taking part in the Spanish "Beauty Contest" had to pay only 21 billion Pesetas each (less than 250 million German marks). These discrepancies raise the question of whether EC state aid law is applicable to the following situation: the granting of UMTS licences in a tendering procedure where the remuneration appears relatively low as compared to the highest offer. It has been argued that this does not appropriately reflect the scarcity of this much sought-after radiospectrum resource. Pursuant to Article 87 EC Treaty, the concept of state aid as any aid granted by a Member State or through State resources in any form whatsoever for which no adequate consideration is provided is to be interpreted broadly. When comparing the huge differences in remuneration apparent in the various award procedures for UMTS licences employed by the Member States, it is suggested that these distort competition. Therefore, it would be unwise to exclude the examination of remuneration paid for UMTS licences from the scope of state aid law as it seems possible that national bidders are favoured in "beauty contests" which would result in a distortion of competition in the internal market.


Prof. Dr. Christian Koenig

**Political Party Networks in
Europe**

by Hubert Iral and Peter Zervakis

Political parties constitute one of the most effective intermediaries in the parliamentary systems of the Member States of the European Union. They also influence the policy- and decision-making processes in the European context of multi-level governance. This counts particularly for the major mass parties (Volksparteien) in the frame of the relevant party families in the EU. In the emerging democratic systems of the East European reform states it can also be observed that there are major parties grouped along the lines of the traditional left/right cleavages more frequently taking on governmental responsibility.

POLITICAL PARTIES AND CIVIL SOCIETY

This is certainly not to downplay the role of societal actors and grass-root movements as expressions of civil society. Yet in modern societies characterized by multi-level governance, it is no longer possible to keep to the tri-partite functional differentiation between the political, societal and economic sphere which assigns parties to the political sphere and social movements to the socio-cultural sphere, thus also to civil society. The analysis of contemporary political reality shows that the boundaries have in the meantime become more blurred: On the one hand, participatory models to modern democracies show an increased influence of social actors in political decisions; on the other hand, political parties increasingly take up socio-cultural issues. This latter trend is strengthened by decentralization and regionalization processes in Europe.

Furthermore, political parties are traditionally distinguished from other policy actors by some quite distinct features: In general, they are long-lasting institutions with general concerns. In comparison to them single-issue movements are regularly no stable factors in state organizations. Whenever

new organizations enter into the policy arena, they are faced with two options: either to develop into general parties with a programmatic approach covering all relevant political issues, or disappear from the "political market". The most recent example for the first option is the development of the Green Parties all over Europe. Political parties also show structures which integrate the different regional and sectoral levels: Local party organizations constitute the spine of party organizations regardless of whether, historically, party structures have been built up bottom-up or top-down.

RESEARCH NEEDS

In this context the contribution of political parties not only within the deepening process of the Community but also outside the boundaries of the EU in view to the enlargement process towards the consolidation of a European polity should be examined.

The study must also take into account two levels, namely, the level of contents and the level of party structures. With regard to the contents, it is not clear how the process of Europeanization and the emergence of a European polity, as well as the vision and process of enlargement, have influenced the ideological orientations of political parties in Europe, both in East and West. Crucial in this connection is the role played by the different party think tanks and affiliated educational centres. With regard to party structures, the central question is how party organizations appropriate the issues of Europeanization and enlargement into their institutional practices on the European, national and local level. Relevant to this is the interaction between the national parties' institutions with their regional structures, on the one hand, and with the European party federations, on the other.

PUBLICATIONS

POLICY/WORKING PAPER SERIES:

B 09 2000

Rafael Di Tella and Robert MacCulloch: Rational Institutions Yield Hysteresis

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Marc Hallerberg: The Importance of Domestic Political Institutions: Why and How Belgium Qualified for EMU

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Weltachsen 2000. International Congress 11./12. November 1999, Bonn. Documentation.

C 70 2000

Gert Maichel: Perspektiven fur Mittel- und Osteuropa. Warum engagieren sich deutsche Unternehmen dort?

Publications within the Policy/Working Paper series are available free of charge. The Discussion Paper series of publications are available for a fee of DM 8,- plus postage.

A list of all ZEI publications appearing to date can be downloaded from the internet: <http://www.zei.de>.

THE ESTABLISHMENT OF PARTY PUB

At a workshop in Bonn organized with the financial support of the German Ministry of Education in early June, ZEI initiated the establishment of an interdisciplinary and multi-national study group comprising seven internationally recognized institutes in Austria, France, Hungary, Slovakia, the Czech Republic, Bulgaria, and ZEI as coordinator. It was decided to elaborate a joint research project on the key issue: „Improving the Socio-Economic Knowledge Base”. As it is intended to locate the research on the interactions of parties “in a wider Europe” the role of political party networks in the creation of a „common European public space” should be analyzed. The research project was therefore named PARTY PUB.

Given the variety of party systems in Europe and the variety of topics regulated by the political sphere, it is obvious that the project cannot cover all topics which are of policy resonance at the present time, nor all parties existing in Europe. A deliberate selection has had to be made:

- With reference to political parties: It is to be analysed how policy issues with an explicit European dimension are appropriated and represented by political parties with representation, e.g., elected into the respective parliaments or assemblies at the European, national and local level. The notion “mass” or “catch-all” parties is pivotal, however, not applicable to all national environments.
- With reference to geographical scope: The scope of the project comprises three EU Member States and three accession countries already quite advanced in their transformation process whilst Bulgaria stands as an example for South Eastern Europe. The Baltic states will also be included, albeit to a lesser degree of detailed analysis.
- With reference to issues under study, considering the European dimension of the project, three relevant elements will be analyzed:
 - the parties’ views on the Europeanization process and the reforms under consideration,
 - the enlargement process, and
 - the role of local party organizations and the interaction with national parties and European representatives.

OBJECTIVES

Specific measurable objectives of the PARTY PUB project are:

- To outline the specific functions of political parties at all three levels and to analyze the relation between political parties and the public space;
- To understand the role of trans-national political party groups in the process of deepening and widening of the European Union and their contribution to the legitimacy problem of European institutions;
- To explore the role of national political parties in European issues in relation to European Party Federations and the European Parliament; relevant to this is the role of political parties, related foundations and think-tanks;
- To analyse the transformation of policy programmes via party organizations to the local environment and to understand the relation between party organizations and other political actors.

EXPECTED BENEFITS

The project shall:

- Increase the understanding of the transnational role of parties and party systems in the EU-Member States and in the accession countries in the context of Europeanisation
- Enhance the understanding of transnational interactions of the European Party Federations and groups in the EP with the different levels within and outside the EU and thus create an understanding for their role in the common European space.
- Open and deepen the debate on the transnational aspects of national political party organizations, related think tanks and party foundations; in this connection, increase the understanding of their responsibility for the deepening and widening of the EU both in an international and local perspective.
- Foster the role of political parties in the public space and widen the understanding of the importance of their interaction with the civil society in order to strengthen the Europeanization process and the democratic legitimacy of the Union. ■

Dr. Hubert Iral is senior fellow and Dr. Peter Zervakis is research fellow at ZEI. Both are working in the ZEI research project group “Institutions and Institutional Development in Europe”.

Threat to Price Stability in "Euroland" Shouldn't be Ignored

The EMU-Monitor discusses ECB's exchange rate policy and calls for more openness with regard to activities in the foreign exchange market.

by Bernd Hayo

At its June meeting, the EMU Monitor discussed the monetary inflation potential, fiscal policy in the Euro area, and the ECB's exchange rate policy. According to the group the general outlook for the Euro area is positive, real growth is expected to reach values above 3% for the year 2000. Inflation is likely to be close to the normative limit as set by the ECB of a 2% increase in the Harmonised Index of Consumer Prices. It is expected that the Euro will remain weak against the US Dollar during this year, as long as the US economy does not suffer an unexpected trough.

The EMU Monitor encourages national governments not to reduce their efforts regarding fiscal consolidation and structural reforms of their economies. It recommends the introduction of multiannual targets for real government spending to give more guidance to fiscal policy and to avoid the risk of procyclical spending patterns.

Regarding monetary policy, the EMU Monitor warns not to ignore apparent threats to price stability. Firstly, the impact of the "new economy" on the overall growth rate does not seem to be very high. Secondly, price pressures are building up due to the sharp rise in raw material prices. Thirdly, the excessive money growth of the last year and a half has created an increasing price gap, i.e., a difference between actual and equilibrium price level. The gradual adjustment of the price level to its equilibrium value will push the inflation rate upwards. Moreover, the group is arguing that the current practice of the ECB to adjust their money flow values is questionable from an economic point of view, and leads to an underestimate of the M3 money growth rate.

With respect to the exchange rate, the EMU Monitor notes that the European System of Central Banks (ESCB) has been active in the foreign exchange market. These activities are probably due to national central banks who undertake active asset management using their foreign reserves. However, these activities do not appear to be random; in fact, the ESCB sells foreign as-

sets when the Euro is devaluing and vice versa. In economic terms, this practice is very similar to outright interventions to support the Euro. The EMU Monitor is of the opin-

ion that the uncertainties surrounding the interpretation of these effects are partially due to the lack of disaggregated data provided by the ECB, and calls for more openness in that respect.

Dr. Bernd Hayo is senior fellow of the Department „Economic and Social Issues“ at ZEI.



Alessandro Penati, Jürgen von Hagen, Manfred Neumann and Eduard Bomhoff (from left) during the press conference of the EMU Monitor in June 2000 in Frankfurt

Photo: ZEI

The EMU Monitor

The EMU Monitor - founded in 1998 on the initiative of Professor Jürgen von Hagen, director at ZEI - is a group of internationally renowned economists which regularly reviews and comments on monetary policy in the EMU. The aim of the group is to contribute to an educated public debate and to guide monetary policy in the EMU.

On 28 June 2000, the EMU Monitor gave its fifth press conference. At this point in time there remain few doubts that it has established itself as one of the three major European Central Bank (ECB) watch groups. It is not only the first group to go public, it has also proven to be very consistent in terms of members. A typical press statement by the EMU Monitor starts by summarizing the current economic environment in Euroland, and then proceeds to highlight important economic developments, criticize ECB policy decisions and show alternatives which it conceives to be superior. This

happens on the basis of detailed background papers.

On the one hand, the EMU Monitor helps to shape the formation of public attitudes towards ECB monetary policy, and thereby exerts an indirect policy influence. On the other hands, it has a direct influence as well, as its proposals and criticisms are being thoroughly discussed in the ECB itself.

The EMU Monitor has slightly grown to six members now, all of them outstanding European economists with different specializations, and either working in academia and/or at private organizations. Current members are Patrick Artus (CDC, University of Paris I, France), Eduard Bomhoff (Nyenrode University, Netherlands), Giampaolo Galli (Confindustria, Italy), Manfred Neumann (University of Bonn, Germany), Alessandro Penati (University of Milan, Italy), and Jürgen von Hagen (ZEI, Germany).

All press statements as well as the background papers can be downloaded from the Internet (www.zei.de).

The European Parliament and the National Parliaments after Amsterdam

Which role do the the European Parliament and the National Parliaments play after the Amsterdam treaty has come into force? This is the main question a ZEI research project is dealing with. On 7 and 8 July 2000 experts from the 15 Member States of the European Union met at a workshop at the Representation of North Rhine-Westphalia in Brussels to discuss this question. They accepted an invitation of ZEI senior fellow Professor Dr. Wolfgang Wessels, Jean-Monnet Chair for Political Science at the University of Cologne, who heads the project.



Uwe Thaysen, Editor of „Zeitschrift für Parlamentsfragen“ (left) and Felipe Basabe Llorens, Universidad Pontificia Comillas de Madrid, discussing the role of the European and the National Parliaments in Europe
Photo: ZEI

The aim of the workshop was to discuss with researchers and practitioners - and with the help of a theoretical framework of effectiveness and control of parliamentary activities in EU-matters - the institutional and procedural roles performed by the national parliaments of the EU Member States in European multi-level governance after the coming into force of the Amsterdam Treaty.

During the workshop the issue of interparliamentary cooperation (COSAC, Conference of Presidents and Speakers) was also raised. Whether the national parliaments can be classified as losers or winners depends completely on the point of view: Whereas Professor Wessels - relying on empirical data - supported the „loser thesis“, the parliamentarian pragmatists wanted to see the representative organ as winner because of the existence of the concept of “governmental majority and opposition”.

But do the expectations of the signatories meet the priorities of the agenda of the transatlantic alliance?

NATO must surely continue the process of enlargement. Brussels must and will stick to the political commitment towards the new democracies of Europe, which commit themselves to the values of the Euro-Atlantic community. But only the development of each applicant country will be the measure of the quality of co-operation with NATO. The opposite strategy to enlargement would not let Europe into a future whole and free, but would leave forgotten countries inside a political and strategic vacuum, which - as seen in Bosnia and Kosovo- would cause a dramatic insecurity in Europe.

So, membership seems not to be a question of *if* but of *when*, because all applicant-countries have to take their time to implement the specific qualifications, including the implementation of the Membership Action Plan (MAP).

The Vilnius Statement is a symbol of the will of closer co-operation and partnership, which in the words of the Secretary General of NATO “*have become key elements of any successful approach to security in today’s Europe.*”

7th Transatlantic Summer Academy Successfully Concluded

ZEI, in collaboration with Professor Lothar Hönnighausen, director of the North America Program at the University of Bonn, has, for the first time, organized the 7th Transatlantic Summer Academy (TASA) from 25 June to 22 July 2000. Participants were 27 students from North America, Europe, and Asia. Thanks to the generous financial support of the German Academic Exchange Service, the Robert Bosch Foundation, the “Freundeskreis Internationaler Studenten e.V.”, Sun Microsystems AG (Germany) and Motorola AG (Germany) the organizer could award nine scholarships to students from North America and Central and Eastern Europe.

The central theme of this year’s Transatlantic Summer Academy was “Europe Facing the 21st Century. Defining the Central Issues”. The academy provided an intensive four-week interdisciplinary program of lectures, tutorials, panel discussions, and briefings in the fields of politics, economics, law, history and culture. Along with fresh perspectives on some of the most topical subjects of the previous year, many lectures were new for 2000 - from telecommunication and biotechnology to the changing faces of the former capital Bonn.

The program offered the participants sustained contact with a wide range of experts and personalities from government, politics, economics, academia and the media. As in previous years, excursions to Strasbourg, Berlin and Brussels were a central pillar of the program, offering numerous possibilities for discussion, e.g., with Walter Schwimmer, the Secretary General of the Council of Europe, Prof. Dr. Luzius Wildhaber, President of the European Court of Human Rights, and H.E. John E. Kornblum, Ambassador of the United States to Germany.

A field trip to Düsseldorf newly included into the program gave participants the opportunity to meet experts from the Landeszentralbank of North Rhine-Westphalia and Mannesmann AG as well as State Secretary Georg Adamowitsch, Chief of the State Chancellery, and to discuss with them the role of North Rhine Westphalia in Europe and the world.

The academy concluded with three simulation games in the areas of politics, economics and law. Participants were put into the shoes of decision makers; they were asked to provide proper advice to their national governments or international organizations about how to manage an emerging international crisis.

ZEI - Summer School in International Macroeconomics

From 7 – 18 August ZEI organized for the fourth time since 1997 a Summer School in International Macroeconomics in the Physikzentrum Bad Honnef. The purpose of the ZEI Summer School is to bring together young economists for a series of lectures covering the current frontiers of research in their area of interest and to create an opportunity for stimulating presentation and discussion of their own research to a group of international scholars. The participants were advanced doctoral students, post-docs, junior assistant professors and central bank economists from all over Europe, the United States and South East Asia. In total, 24 participants were admitted.

This year's summer school focused on the general topic "International Finance". The lectures by Michael Melvin of Arizona State University, Tempe, Giancarlo Corsetti of Yale University, New Haven and Ronald MacDonald of Strathclyde University, Glasgow, and the presentations given by the participants covered topics such as international financial crises, financial regulation, asset price determination, asset price volatility, market micro structure theory, and empirical finance. In a special policy session the topic "New International Financial Architecture" was discussed. Philip Wooldridge of the Bank for International Settlements first gave a general overview of the topic. The following discussion, which gave the participants the opportunity to express their own views and suggestions, was moderated by Philip Wooldridge, Michael Melvin and Jürgen von Hagen, director at ZEI. ■

Organs from a Test Tube?

The growing of organs from indiscriminate stem cells is becoming a reality. However, it is unclear whether current legislation is sufficient to curb abuse or whether current legislation should be eased in order to make possible the scientists' dream. These were some of the questions discussed by an expert panel meeting at ZEI.

by Oliver Blattner

Research into stem cells is in a similar position to that of genetic engineering twenty years ago: While supporters are expecting spectacular possibilities when treating incurable diseases, critics fear that ethical boundaries will be overstepped. This situation is exacerbated by the fact that legislation across Europe is highly inconsistent.

If the supporters of stem cell research prove to be right, stem cells will revolutionize medicine over the next decades. Scientists dream of making indiscriminate cells from nerve, liver or skin tissue. These artificial organs or partial organs shall then replace the dead or injured tissue of ill or injured people. Not only could degenerative diseases thus be cured, but the shortage of donor organs for transplants could also be remedied.

Against this background, ZEI cooperated with the Federal Association of Pharmaceutical Industry (Bundesverband der Phar-

mazeutischen Industrie - BPI) to hold an interdisciplinary expert conference on 15 June 2000, the topic of which was "test tube organs made possible by stem cell research - a challenge for European legislation". The conference was also the inaugural event of the research group on European pharmaceutical law which had been founded at ZEI on 15 September 1999. The purpose of the conference was to acquaint scientists, politicians and businessmen alike with the legal regulation of controversial biomedical research. The participants included representatives of renowned pharmaceutical companies and of new biotech-start-ups as well as scientists, doctors, moral philosophers



Dr. Edzard Schmidt-Jortzig, former Minister of Justice and member of the Enquete Commission „Law and Ethics in Modern Medicine“ Photo: ZEI

ZEI-CALENDAR

OCTOBER 2000

- 10 ZEI Europadialog (12:30 h, ZEI): Bishop Msgr. Dr. Pero Sudar, Sarajevo: "Bosnien und Herzegowina – Krisenherd oder Modell?"
- 17 ZEI Europadialog (12:30 h, ZEI): Andreas Maurer, research associate, Jean-Monnet Chair for Political Science at the University of Cologne (Topic still to be announced).

NOVEMBER 2000

- 14 ZEI Europadialog (12:30 h, ZEI): Prof. Dr. Elkhan Nuriyev, director, Center for International Studies, Baku, Aserbaidtschan, Alexander von Humboldt research fellow: "Russia and the Caucasus: Oil, Conflicts and Foreign Influences".

DECEMBER 2000

- 1 Expert Conference: "Aktuelle Fragen des EG Beihilfenrechts" at the Representation of Baden-Württemberg in Brussels.
- 5 ZEI Europadialog (12:30 h, ZEI): Dr. Mladen Staniëia, senior fellow at ZEI, director, Institute for International Relations (IMO), Zagreb (Topic still to be announced).
- 11 ZEI Europaforum (13:00 h, ZEI): Günter Verheugen, EU Commissioner, Brussels: "Die Reform der europäischen Integration und die Zukunft der europäischen Integration".
- 19 ZEI Europadialog (12:30 h, ZEI): Dr. Barthold C. Witte, member of the EKD Council, former head of the Cultural Department in the German Foreign Office: "Evangelische Kirchen zwischen nationaler Vergangenheit und europäischer Zukunft".

Further information concerning these and other conferences as well as the latest supplements can be found on the Internet: <http://www.zei.de>

and members of the Bundestag and of the Enquete Commission "Law and Ethics in Modern Medicine" – among them the former Federal Minister of Justice Professor Dr. Edzard Schmidt-Jortzig and Professor Dr. Ludger Honnefelder of Bonn University.

After some introductory remarks by Professor Dr. Christian Koenig, director at ZEI, and the managing director of the BPI, Wolfgang Windfuhr, Professor Dr. G. Björn Stark, a plastic surgeon at the university hospital Freiburg, gave a review on tissue engineering. He presented the latest research, especially concerning the growing of artificial cartilage tissue; Professor Stark's own research is mainly concerned with the growing of skin tissue from animal stem cells.

Professor Dr. Otmar D. Wiestler of Bonn University discussed the possibilities of cell research in neuropathology, e.g., to combat Alzheimer's disease. His research group is working on stem cells in order to cure this and other diseases of the nervous system.

Lawyer Dr. Horst Hasskarl of Ludwigs-hafen reviewed the legal implications of genetic engineering in general and of "stem cells and the protection of embryos in medical law". The medical lawyer pointed out that legal frameworks for biomedical research differ widely throughout Europe: While experiments on human stem cells are prohibited in Germany by law for the protection of

embryos (Embryonenschutzgesetz), such research may be carried out in other Member States. The same applies to patent law, as Eva-Maria Müller, head of ZEI's research group on European pharmaceutical law, explained. She examined EC Directive 98/44/EC on the legal protection of biotechnological inventions which, according to Müller, only superficially excludes the issuing of patents for human cloning procedures and the use of human embryos. Accordingly, there remains sufficient scope for the Member States to secure their position regarding research into stem cells which causes Müller to fear significant distortions of competition within Europe.

The discussion which followed (chaired by Professor Dr. Hans Günter Gassen of the Technical University Darmstadt) made it clear that German scientists would



Prof. Dr. G. Björn Stark, plastic surgeon at the university hospital, Freiburg Photo: ZEI

NEW PUBLICATIONS

ARTICLES

Christian Koenig/Eva-Maria Müller: "5 Jahre EMEA – Ein Zwischenruf auf die gemeinschaftlichen Zulassungsverfahren für Arzneimittel", *Pharma Recht* 2000, pp 148 ff.

Christian Koenig/Nicolai Ritter: „Die EG-beihilfenrechtliche Behandlung von Gesellschafterdarlehen“, *Zeitschrift für Wirtschaftsrecht*, pp 769 ff.

Christian Koenig/Andreas Neumann: „Rechtliches und organisatorisches Umfeld der Satellitenkommunikation“, *MultiMedia und Recht* 2000, pp 151 ff.

Christian Koenig/Jürgen Kühling: „Funktionsfähiger Wettbewerb und Regulierungsperspektiven auf den Telekommunikationsmärkten“, *Wirtschaft und Wettbewerb* 2000, pp 596 ff.

Christian Koenig/Jürgen Kühling: „Beihilfen an kleine und mittlere Unternehmen (KMU) unter Berücksichtigung der geplanten EG-Verordnung für KMU“, *Deutsches Verwaltungsblatt* 2000, pp 1025 ff.

SERIES: SCHRIFTENREIHE IM NOMOS-VERLAG, BADEN-BADEN

Volume 19:

Cornelis Theunis van der Lugt: *State Sovereignty or Ecological Sovereignty? A Study of the Regulation of Acid Rain within the European Union*, pp 376.

Volume 21:

Wojciech Boloz/Gerhard Höver (Hrsg.): *Die Einigung Europas als Herausforderung für die Kirche*, pp 255.

Volume 23:

Gerd Föhrenbach: *Die Westbindung der baltischen Staaten*, pp 269.

Volume 24:

Susanne Baier-Allen/Ljubomir Cusic (eds.): *The Challenges of Pluriculturalism in Europe*, pp 212.

Volume 25:

Ludger Kühnhardt: *Von Deutschland nach Europa. Geistiger Zusammenhalt und außenpolitischer Kontext*, pp 464.

Volume 27:

Walter Schweidler (ed.): *Werte im 21. Jahrhundert*, pp 273.

welcome an arrangement disposing of the various regulations in the EU.

On the whole, the scientists are afraid of not being able to keep up with international competition, especially from the U.S. and England. According to scientists, it is essential to work with embryonic stem cells if research is to continue as the results gained from experiments with animals are not particularly conclusive. Furthermore, this would only involve a small quantity of embryonic cells. As emphasized by Professor Stark, there are currently sufficient human stem cell lines in the U.S. on which research could be carried out. However, there is controversy among lawyers as to whether the import of these cells and experimenting thereon is legal in Germany.

In the medium term, scientists are hoping to be able to do without embryonic tissue. The latest research suggests that stem cells from the bone marrow of adults or from the umbilical cord of newborns may also be programmed to form certain organs or tissue. According to these findings, it seems that turning already differentiated cells back into pluripotent cells is no longer utopian. In order to be able to continue research on the basis of these findings, Professors Stark and Wiestler emphasized the necessity of being able to carry out experiments on embryonic stem cells in Germany.

Oliver Blattner is research associate in the research group on European pharmaceutical law at ZEI.

Christian Koenig

Professor Christian Koenig is director of the Department "Political, Legal and Institutional Issues" at ZEI.



ZEI: Professor Koenig, recently you undertook a comparative law evaluation of the liberalization of the telecommunications regulations in other countries, on behalf of the German Federal Ministry of Economics and in cooperation with the Munich ifo-Institute. Where does the central focus of this evaluation lie?

Koenig: The evaluation deals with the combined involvement of the various regulation authorities with regard to the realization of opening up the telecommunications markets of selected countries. The forerunners in this context are the telecommunications regulations of the United Kingdom and the United States, a reason why these two countries feature predominantly in this study. But also those countries whose regulations increasingly refer back to alternative structures - for example in Australia and New Zealand - were included in the evaluation.

ZEI: The relationship in the past between the German Regulation Authority for Telecommunications and Post and the Federal Trade Commission cannot be described as harmonious. Does such tension also exist between the regulation authorities of other countries?

Koenig: Yes, such conflicts are definitely evident between the various regulation authorities in other countries, although not to the extent as those observed in Germany. Within other telecommunications regulatory systems, larger conflicts are avoided by way of increased institutionalization of the cooperation between general fair trading authorities and sector related regulation authorities. In this regard both transparent and participatory processes have proven to be an effective means.

ZEI: Transparency and participation are key words, which in recent times are used more frequently in the discussion surrounding suitable regulatory instruments. The European Commission also envisages an appropriate reform of the EU telecommunications regulation. How do you see the value of such a process, in particular, for the regulation of German telecommunications?

Koenig: This study has shown that transparent and participatory reform of regulation processes in other states has proven its worth. Additional to the benefits just mentioned of cooperation between the regulation authorities, this also has the positive effect in that a maximum degree of external specialist competencies can be integrated into the processes. Should the various parties be successful in bringing their viewpoints to the forefront, the degree of acceptance of regulation decisions will also in turn be heightened. This not being the least cogent reason, the EU Commission has therefore laid emphasis on the implementation of transparent and participatory processes. Even in the case where relevant initiatives are already recognized in Germany, dependence upon these processes should be intensified in the future.

ZEI: For several years now a growing convergence within the telecommunications, broadcasting and other telecommunications services can be seen. How do other states address this problem?

Koenig: Indeed considerable potential for conflict has become apparent and particularly with regard to the convergence of broadcasting platforms and the integration of content regulation with the regulation of the telecommunications platforms. To date no regulation has been able to solve the problem of convergence entirely satisfactorily. A positive step in the right direction however is the establishment of a technologically neutral common regulation, which is a strong objective of the EU Commission. Taken at an institutional level, the United States find themselves closest to a solution, where, with the Federal Communications Commission, a single regulation authority has been created whose responsibility covers the telecommunications, broadcasting and other telecommunications services. Although, in the commencement phase, the instances of conflict between the FCC and the regulation authorities of the individual Federal states as to the distribution of competencies were numerous.

ZEI: Based on the result of the evaluation you recommend several reforms to the German Telecommunications Regulation. Does this mean that the German Regulation has to shy away from comparative law?

Koenig: No, to the contrary. The study showed that the basic concept of German telecommunications law has generally by far proven its value. The recommendations for improvement relate rather to those aspects only, which essentially can be implemented within the framework of the existing law. Some recommendations, however, require law reform.

New Legal Framework for Telecommunication

Is the scope of the telecommunication law of today up to dealing with the demands of tomorrow?

by Ralf Capito

This was the key question a conference of experts, held on 30 May 2000 in Bonn, dealt with. The conference was organized by ZEI in cooperation with the Federal Ministry of Economics.

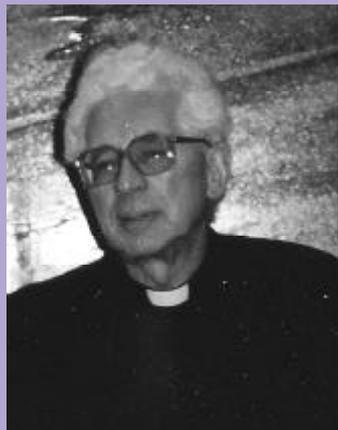
The „Review 1999“ Paper, which outlined the ideas of the EC Commission on updating the European legal framework for telecommunication, was at the center point of discussion between experts from the fields of economics, science and administration.

Eunike Prokop (GD Information Association) and Robert Klotz (GD Competition) made it clear that, in view of the „Review 1999“, the regulation of telecommunication at community level and its adaption to the development of technology and competition law should be reviewed.

In the aforementioned discussion about a new European legal framework, the points of argument were characteristic of those in the discussion about German Telecommunication Law during the last 10 years: should sector-specific regulation be brought back? How far-reaching should universal services be? Should, in the view of the increasing convergence of the media, a unified regulation of telecommunication, digital media and radio be introduced?

news in brief

During a „ZEI Europaforum“, held on 29 May 2000 at ZEI, Dr. Josef Homeyer, Bishop of Hildesheim and president of the Council of the National Conferences of Roman Catholic Bishops in Europe (ComECE) addressed the „role of religion and churches in the Europe of today - from a catholic perspective“. According to Bishop Homeyer there is a risk that the European Union will develop in a way where it ends up being a form without substance. He pointed to the ongoing individualization of human and social life in Europe and to the increasing loss of history. As a result the churches would have a role and an obligation to take care of all



Dr. Josef Homeyer, Bishop of Hildesheim at ZEI

Photo: ZEI

aspects of human existence. Thus it would be a matter of justice that everyone could have his/her fair share in social and economic progress and prosperity.



Jürgen von Hagen, director of the Department „Economic and Social Issues“ at ZEI, has been appointed by the president of the German Federal Bank to the Bank's research council, which is to be newly founded.



On 21 September 2000 the International Advisory Board of ZEI under the chairmanship of Professor Hans-Dietrich Genscher, former German Foreign Minister, met for the second time. The

Board meeting started with a public presentation of ongoing research projects at ZEI and an overview of ZEI's „Master of European Studies“ program. In its ensuing meeting the Board discussed, in particular, the long term strategy of the center as well as financial and administrative aspects.



On 15 September 2000 ZEI in cooperation with the „Bundesverband der Deutschen Industrie“ organized a workshop on „State Aid Law and SME (Small and Medium Enterprises). The introductory speech was held by Dr. Ansgar Held from the EU-Commission (GD Competition), Brussels.



The participants of the conference especially discussed the theme of deregulation with great controversy. The representatives of the competitors of *Deutsche Telekom AG*, especially Jürgen Grützner from *VATM* spoke in favour of the retention of sector-specific regulation. Dietrich Beese from the *VIAG Interkom GmbH & Co* particularly emphasized the significance of price regulation for the creation of competition. The Commission, however, took a conciliatory position with regard to this question. After the successful opening of the market in the telecommunication sector, only enterprises with dominant and not also those with considerable market influence should henceforth be regulated. The suggestion that the criteria for market demarcation should in future be determined at European level was heavily criticized by just about all the speakers. Both Dr. Ulrich Stumpf from the Academic Institution for Communication Services (WIK) and Dr. Harald Lübbert from the Federal Cartell Office contended the flexibility of the intended new rule. A demarcation of markets often refers to a specific time period. It is therefore, in this respect, not possible to have a fixed ex-ante definition of markets.

The rest of the Commission's suggestions met the general approval of the participants. The representative of the German Regulation Authority for Post and Telecommunication (*Regulierungsbehörde für Post und Telekommunikation (RegTP)*), Friedhelm Dommermuth, welcomed the Commission's call for more transparency of national decision making processes. He pointed out that the RegTP had already carried out a number of consultations and were planning further ones. The American and British Regulation Authorities, FCC and OFTEL respectively, are regarded as being the lead examples of

how to implement transparent procedures. This also represents a legal comparison study drawn up by the ifo-Institut Munich in cooperation with ZEI (see also interview with Professor Christian Koenig, page 7 of this issue) on behalf of the Federal Ministry of Economics (soon to be published by the editors of *Law and Economics*).

The attempt by the Commission with regard to the introduction of general licences was welcomed without exception. Individual licences which have until now been widely used shall, in the future, be replaced by general licences as the basis for the licencing of communication services and communication networks. Furthermore, the Commission strives for a stronger harmonization in the sphere of licencing procedures and licencing fees. According to Dr. Andrea Huber from *Deutsche Telekom AG*, subdivision of licences in different categories and diverging authorization procedures between different Member States is extremely problematic for enterprises active throughout Europe.

An academic perspective was presented by Professor Bernd Holznagel, Professor Werner Möschel, Professor Joachim Scherer and Professor Christian Koenig in a final discussion. The Expert Opinion of the Monopoly Commission was at the forefront of that discussion (Expert Opinion 29, Baden-Baden 2000; a critical opinion thereon: Koenig/Kühling, *Wirtschaft und Wettbewerb* 2000, 596). The Chairman of the Monopoly Commission, Professor Möschel, defended the plea of the Monopoly Commission for the retention of sector-specific regulation of telecommunication markets. However, Professor Koenig pointed out the methodological weaknesses of the Expert Opinion. In particular, the Monopoly Com-

mission misunderstood the potential of deregulation offered by the TKG through a sophisticated demarcation of the relevant markets.

Future regulation must eventually deal with the convergence of the data transmission platforms and the connection of the content regulation with the regulation of distribution channels. At least Professor Scherer and Professor Holznagel appeared to be convinced about that. According to Professor Holznagel, the creation of a unified Media Regulation Authority is needed to overcome the current convergence problem.

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IMPRESSUM

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