

## ACTA ECJ REFERRAL / INTERIM REPORT EP MUST FACE ITS POLITICAL RESPONSIBILITY

In the face of the citizen opposition to ACTA, the EU Commission announced that it will seek the EU Court of Justice (ECJ) opinion on ACTA. **Rapporteur David Martin (S&D, UK) supports the EC strategy** with two proposals: the INTA committee should draft an **interim report** before recommending consent or rejection of ACTA; the EU Parliament should make **its own referral of ACTA to the ECJ**.

These two initiatives are useless. They aim at **delaying the final vote on ACTA and defusing the political debate** going on across the EU. They must be opposed.

### **The interim report would not bring useful information to the debate**

- According to rule 81(3), the interim report is meant to achieve “*a positive outcome of the procedure*”, which in this case means the ratification of ACTA. It is also meant to include “*recommendations for modification or implementation*”. However, **ACTA has already been negotiated and signed. It cannot be modified.**
- Rapporteur Martin wants the interim report to question the Commission regarding ACTA's “implementation”. But **the Commission's response will be non-binding, politically biased, and therefore close to meaningless.** The Commission negotiated ACTA and has already argued that “ACTA does not change EU law” (i.e. does not require implementation measures). Such interpretation is contradicted by a study commissioned by the INTA committee and a legal opinion by leading scholars.

### **A Parliamentarian referral of ACTA to the ECJ would uselessly delay the consent procedure**

- There is **only one question that the EP can ask to the ECJ**, as defined by the treaties (see art. 218.11 TFEU): the very same one that the Commission will ask in its own referral. It is narrow in scope, legalistic in nature, and leaves out important political issues. Moreover, the Parliament will have an opportunity to send its **written observations to the Court** (RoP 107.1 of the ECJ) during the Commission's referral.
- If the Parliament decided to send its own referral, **the consent vote would be postponed** (see rule 90(6) of EP RoP). No significant work would be undertaken before the ECJ has answered, **effectively freezing the debate.**

### **Both initiatives leave out the crucial political questions raised by ACTA**

An interim report and an ECJ referral would center the debate on legal issues. Through these initiatives, the EP would be perceived as escaping its political responsibility.

- MEPs must recognize that ACTA is a **vaguely worded agreement, circumventing democratic procedures to push a repressive trend** in the field of copyright, patent and trademark.
- ACTA would set in stone today's contentious policies (an impact study is still expected on EU CD and IPRED). It **would block any possibility for the EU and national lawmakers to propose positive reforms** in this field.