Summary of proceedings

of: Working Party on Intellectual Property (Copyright)
on: 26 and 27 October 1992

No. prev. doc.: 9836/92 PI 114 CULTURE 114
No. Cion prop.: 5509/92 PI 33 CULTURE 21

Subject: Proposal for a Council Directive harmonizing the term of protection of copyright and certain related rights

1. At its meeting held on 26 and 27 October 1992, the Working Party on Intellectual Property (Copyright)\(^1\) re-examined Articles 1 to 6 bis, 8 and 9 of the above proposal on the basis of a non-paper which is reproduced in Annex I.

   Article 1(1), (2) and (3)(a)

2. These provisions were not discussed at this meeting.

   Article 1(3)(b)

3. Following discussion of this provision at the Working Party's previous meeting (9469/92 PI 104 CULTURE 103, points 34 to 41), the new non-paper contained drafting changes in relation to the text which had been discussed at that meeting.

4. The Spanish delegation was opposed to the inclusion of the word "only" in the first indent, as it considered that the type of work covered by this provision would normally disclose the names of the authors.

\(^1\) The Luxembourg delegation was not represented at this meeting.
The Commission representative pointed out that the inclusion of the word "only" was necessary, as where the identity of at least one of the authors was known, the term of protection would have to be that provided for under Article 1(1) or (2); any other term of protection, including that of Article 1(3)(b), would not be compatible with the Berne Convention in the case of one or more authors being known.

5. The Irish delegation expressed a scrutiny reservation with regard to the second indent of this provision, considering that the merging of the contributions of the authors in the work would not necessarily make it impossible to identify the authors.

6. The Netherlands delegation expressed a scrutiny reservation on paragraph 3(b) as a whole. It considered that provision should be made for giving protection to the person on whose initiative the work was created, independently of the protection given to identified contributors to the work.

7. The Spanish and Irish delegations expressed reservations with regard to a work of this nature being "considered to be an anonymous or pseudonymous work". The Portuguese delegation considered that it was preferable to add the qualification that it was considered to be an anonymous or pseudonymous work for the purpose of calculating the term of protection, while the Italian delegation considered that it would be sufficient to indicate that the term of protection for such works was the term provided for in Article 1(3)(a).

8. The Commission representative emphasized that under the Berne Convention, the term of protection had to be the term resulting from Article 1(1) or (2) where at least one of the authors was identified, irrespective of whether or not the various contributions to the work could be attributed to individual authors. Article 1(3)(b) could therefore apply only where none of the authors of the work could be identified. The
solution proposed in this provision did not correspond to the national laws of any Member State with regard to collective works or works considered to have been created by a legal person, but in the view of the Commission services was the only solution compatible with the Berne Convention. In the light of these explanations and of a number of observations made by delegations, the Commission representative proposed drafting changes to Article 1(3)(b), which are reproduced in Annex II.

The German, Irish and Netherlands delegations entered scrutiny reservations on the new drafting of this provision, while expressing a favourable initial reaction to it.

9. The French delegation considered that paragraph 3(c), which had been included in the previous non-paper (Annex I to 9469/92), should be maintained, at least until the outcome of the proposals put forward in the European Parliament concerning the authorship of cinematographic and audiovisual works had been determined (see point 52 below).

Article 1(5)

10. The French delegation considered that in the case of a television serial (but not in the case of a television series), the term of protection for the whole serial should be calculated from the time when the last episode was lawfully made available to the public, provided that it was stipulated in the contract that the work was not to be considered complete until the last episode was screened.

The German and Netherlands delegations also considered that where it was clear that a work was not complete, the term of protection should be calculated from the time when the last part was lawfully made available to the public.

The Danish delegation considered that where there was a link between the parts of a work, the term of protection should
previous non-paper (Annex I to 9469/92) made it even more difficult for them to accept this provision.

13. The German delegation suggested that this provision should apply not only in respect of works by a known author, but also in respect of anonymous or pseudonymous works. It therefore suggested that the word "posthumous" be deleted.

14. The Italian delegation considered that it should be made clear that this provision would not apply in respect of works which were first lawfully made available to the public in the seventy years which followed the death of the author, as the term of protection provided for in Article 1(1) would apply to such works.

The Commission representative stated his willingness to make this clear in a recital.

15. The Italian delegation considered that since the protection resulting from this provision was not copyright protection but a related right equivalent to the economic rights of copyright, this provision should follow rather than precede Article 2.

The Commission representative stated his willingness to reconsider the position of this provision in the Directive.

The Spanish delegation considered that the protection resulting from this provision should be full copyright protection.

16. With regard to the term of the protection provided for in this provision, the Commission representative noted that the longest term of protection at present in national law for works published posthumously was 50 years,2 with the exception of a 70-year term for musical compositions under French law. He

2 Under the Greek draft law, a term of 70 years is foreseen.
therefore proposed that the term of protection under this provision of the Directive should be 50 years, since musical compositions for which the term of 70 years was already running in France at the date of transposition of the Directive would benefit from the first sentence of Article 6 bis (1) as set out in the non-paper.

The Spanish delegation considered that the term of protection under this provision should be 70 years, as for copyright protection.

The German delegation, while considering that 50 years was a long term for protection for such works, was prepared to accept it as a compromise.

17. The Irish delegation considered that where the heir of the author of the work could be identified, he should be the first owner of the right provided for in this provision; where the heir could not be identified, the first owner of the right should be the person who made the work lawfully available to the public, as proposed in the non-paper.

18. In the light of the diverging positions of the various delegations concerning this provision, the Chairman stated that he would consider submitting a compromise proposal for the policy debate to be held in Council on 10 November.

Article 2(2), (3) and (4)

19. The German delegation maintained its reservation on the term of 50 years in Article 2(2), (3) and (4), indicating that it would consider lifting this reservation if the overall contents of the Directive were acceptable.
Article 2(3)

20. The Irish and United Kingdom delegations entered scrutiny reservations on Article 2(3) pending the outcome of discussions on film authorship (see point 52 below).

Article 2(4)

21. The Irish delegation withdrew its scrutiny reservation on this provision, but expressed doubts as to the need for the accompanying recital.

Article 3

22. The French and Portuguese delegations expressed their willingness to accept the Commission's proposal, although the Portuguese delegation considered that the term proposed was too long.

The Belgian delegation stated that, in the light of the explanations given by the Commission representative at the previous meeting (9469/92, point 9), it too was prepared to accept the Commission's proposal.

23. The Italian and Spanish delegations maintained their reservations on this Article, as they considered that the term of protection of photographic works only should be covered by this Directive.

24. The German and Danish delegations expressed reservations on this Article, since it would maintain the present situation whereby "simple" photographs (photographs other than photographic works) would be protected in some Member States but not in others.
25. The Commission representative put forward the idea of adding a second sentence as follows: "Member States which, on the date of adoption of the present Directive, do not protect simple photographs shall introduce such a protection."

The German and Danish delegations considered that this addition substantially improved the Commission's proposal.

The French delegation, while having doubts as to the word "simple", was prepared to accept this addition as a compromise solution.

The Greek, Spanish, Italian and Portuguese delegations expressed reservations on this addition. The Netherlands delegation also expressed doubts.

26. The Chairman announced the Presidency's intention of referring this provision to the Permanent Representatives Committee and the Council.

Article 4(1)

27. The Commission representative explained that the purpose of this provision was to avoid a situation where the term of protection for a particular work or other subject-matter could begin and end at different times in different Member States, thus creating problems for the functioning of the internal market. This provision was particularly relevant where the term of protection was calculated from the time when the work or subject matter was lawfully made available to the public (Articles 1(3)(a) and (b), (5), 1 bis and 2). The question whether or not the beginning of a term of protection in a third country would result in a term of protection beginning in the Community was not settled in this Directive, but was left to agreements to be concluded with third countries; however, the Directive did not affect provisions in the laws of a Member
State whereby publication of a work or other subject matter in a third country resulted in the beginning of protection in that Member State.

28. The Danish delegation expressed a preference for deleting Article 4(1), provided that the length of protection and the starting point of protection was harmonized throughout the Community.

The Commission representative replied that since the Directive did not harmonize aspects such as the place at which the beginning of a term of protection was triggered, Article 4(1) remained necessary.

29. The Danish and German delegations considered that the application of Article 4(1) in respect of the term of protection of films could give rise to problems, as in some Member States this term would be calculated in relation to the death of the author (or last surviving author) of the film, whereas in other Member States it would be calculated in relation to the first lawful communication to the public of the film.

30. The Commission services were invited to provide written explanations of how Article 4(1) operated in relation to other provisions of the Directive.

Article 4(2)

31. This provision was not discussed at this meeting.

Article 4(3) and (4)

32. Asked to give her views on these provisions, the representative of the Council Legal Service, stated that the wording of these provisions in the non-paper raised problems in relation to Article 234 of the EEC Treaty, which was to be interpreted as meaning that the rights and obligations
contracted by Member States before the entry into force of the Directive would not be affected by the provisions of the Directive, but that the Member States should take all appropriate steps to eliminate any incompatibilities between those obligations and the Directive; such steps could go as far as renegotiation or denunciation of the agreement giving rise to the obligations.

33. With regard to Article 4(3), the representative of the Council Legal Service suggested that the difficulty in relation to Article 234 of the EEC Treaty could be removed if the phrase "without prejudice to the international obligations of the Member States" were to read: "without prejudice to the international obligations of the Member States existing at the time of the adoption of this Directive".

The Working Party agreed to amend Article 4(3) in this way.

34. The representative of the Council Legal Service pointed out that the duration of the derogation under Article 4(4) was uncertain. She added that such a derogation would cause further problems if the source of the longer term of protection granted by a Member State was not an international obligation.

The Commission representative suggested that the last-mentioned difficulty be overcome by redrafting this provision to refer to a longer term of a protection resulting in particular from international obligations.

35. The French delegation asked whether, under Article 4(4), it would be possible to keep present French provisions on resale right (droit de suite) in relation to third countries.

The Commission representative replied that this would be possible under the present wording of Article 4(4).
Articles 4(5) and 9

36. Asked to give her views on Articles 4(5) and 9, the representative of the Council Legal Service considered that the delegation of powers contained in Article 4(5) was too imprecise and discretionary and failed to set out the criteria to be respected and the objectives to be pursued in taking the decisions referred to.

In the light of these observations, the Working Party agreed to delete Article 4(5), as well as Article 9 which could not remain in the absence of Article 4(5).

Article 5

37. The Working Party took note of and approved the new drafting of this Article in several language versions.

Article 6(2)

38. The French delegation considered that this provision should be deleted, as it interpreted the opinion given by the Council Legal Service on the proposal for a Council Decision concerning the accession of the Member States to the Berne and Rome Conventions as meaning that the Community had no competence in respect of moral rights.

The Commission representative considered that the Community did have competence in respect of moral rights where they affected the functioning of the internal market. He also pointed out that once the Maastricht Treaty was in force, the Community would be obliged to take account of cultural aspects under the new Article 128.

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3 9290/91 JUR 112 PI 67 CULTURE 61.
The French delegation reserved its position pending consultation of the Council Legal Service.

39. The Irish and United Kingdom delegations maintained their reservations in respect of this provision and advocated its deletion.

The Netherlands delegation was also prepared to accept its deletion.

The Danish delegation stated that it could live with this provision, but could also accept its deletion.

The German, Spanish and Italian delegations were in favour of maintaining this provision, and the Portuguese delegation had no substantive objection to maintaining it.

The Commission representative stated that the effect of deleting this provision would be that the term of protection of moral rights granted to the author would be harmonized at the term laid down in Article 1; however, Member States would remain free to provide that after the expiry of that term moral rights could be exercised by the State. Member States would also remain free to decide whether or not to grant moral rights to performers.

The Italian delegation on the other hand considered that the effect of deletion of Article 6(2) would be that moral rights would not be covered by the Directive, and therefore there would be no harmonization of the term of protection of such rights.
The Chairman invited those delegations with reservations on this provision to reconsider their position, in order to avoid lengthy discussions on the effects of its deletion.

**Article 6 bis**

40. The Commission representative informed the Working Party that amendments along the lines of Article 6 bis of the non-paper had been put forward in the European Parliament.

41. The German, Irish and Netherlands delegations expressed a scrutiny reservation on this Article, although the German delegation agreed with the principles contained in it.

**Article 6 bis (1)**

42. Following questions concerning the effects of the first sentence of Article 6 bis (1), it was noted that where, on the date of transposition of the Directive, a term of protection was running in a Member State which was longer than the term provided for in Articles 1 to 3 of the Directive, the term running would not be shortened to the length provided for in Articles 1 to 3. Examples of such longer terms were terms which had been extended to offset the effects of war; terms which had already been running in Spain at the time when the term of protection of copyright in that country had been reduced from 80 years post mortem autori (pma) to 60 years pma; and terms of protection in Germany for posthumous works published between 60 and 70 years pma which had been extended by ten years.

**Article 6 bis (2)**

43. The German delegation questioned whether the words "still protected by the legislation of at least one Member State" were appropriate, as these words would include the situations referred to in point 42 above.
The Chairman suggested replacing these words by a reference to works and subject-matter which, on the date of transposition of the Directive, would have been in protection if the Directive had already been in force.

Article 6 bis (3a)

44. The Italian and Portuguese delegations expressed reservations in respect of reviving protection for works or other subject matter which were already in the public domain. The Danish and Netherlands delegations also expressed scrutiny reservations in this respect.

The Commission representative and the Chairman pointed out that Article 6 bis (3a) was not retroactive in the sense that it did not affect anything that had been done before the transposition of the Directive; it merely revived protection which had expired in certain Member States in cases where the same works or other subject matter were still in protection in at least one other Member State. They considered that reviving protection which had already expired was not fundamentally different from creating new rights, particularly when accompanied by adequate safeguards such as those contained in paragraphs 3b and 3c of this Article.

Article 6 bis (3b)

45. The Italian and United Kingdom delegations and the Commission representative expressed a preference for the reference date in this provision being the date of adoption of the Directive rather than 1 July 1994, as they considered that the former date would give less scope for abuse.

46. In reply to a question from the Netherlands delegation, the Commission representative explained that the terms "sale or other acts of exploitation" would not include all forms of exploitation; for instance, they would not cover a broadcast.
47. The Spanish and Netherlands delegations expressed doubts in respect of the second half of this provision. The Commission representative suggested that this part of paragraph 3b could be made optional, or left to the discretion of the Member States.

Article 6 bis (3c)

48. The Danish delegation questioned whether this provision was not equivalent to a compulsory licence.

The Commission representative pointed out that since this provision was optional, there was no obligation on Denmark to apply it.

49. The Netherlands delegation asked that it be made clear how existing contracts would be affected by Article 6 bis (3a), (3b) and (3c).

The Commission representative was prepared to add a recital or a statement to the effect that Member States were free to regulate the effects of these provisions on contracts.

50. The Chairman informed the Working Party that the question of reviving terms of protection which had already expired (point 44 above) would be referred to the Permanent Representatives Committee and Council.

Article 8

51. Asked for her views on this Article, the representative of the Council Legal Service pointed out that Article 8(2) would impose obligations upon Member States which could delay national legislative procedures in areas in which the Community had not yet legislated. From the point of view of proportionality, this provision could be considered to be disproportionate to the purpose to be achieved.
The Working Party was in favour of deleting Article 8(2).

**Film authorship**

52. The Working Party was informed that the European Parliament was considering two proposals for amending the Directive to include the question of authorship of cinematographic and audiovisual works: one proposal was for a provision corresponding to Article 2(2) of Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property; the other proposal, known as the Schwartzenberg amendment, would achieve a greater degree of harmonization of authorship of such works. The Working Party held an initial exchange of views on the questions whether or not the Directive should harmonize authorship of cinematographic and audiovisual works and, if so, how this should be done.

The Commission representative stated that if the European Parliament were to adopt an amendment harmonizing the authorship of cinematographic and audiovisual works, his Institution would include a corresponding provision in its amended proposal. He considered that the Commission would be able to accept the substance of the Schwartzenberg amendment, if it were to be

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4 "For the purposes of this Directive the principal director of a cinematographic or audiovisual work shall be considered as its author or one of its authors. Member States may provide for others to be considered as its co-authors."

5 OJ No L 346 of 27.11.92, p. 61.

6 "The author(s) of an audiovisual work shall be the natural person(s) responsible for the creation of the work. In the absence of evidence to the contrary, the following shall be presumed to be the authors: the director, script-writer, dialogue-writer, adaptor and the composer of music with or without words which has been specially written for that work."
adopted by the Plenary of the European Parliament. He also considered that such a provision would have to be supplemented by an option for Member States to provide for a presumption as laid down in Article 14 bis (2)(b) of the Berne Convention.

The German, Spanish, French and Portuguese delegations indicated that they would be prepared to accept a provision corresponding to the Schwartzenberg amendment.

The United Kingdom and Irish delegations stated that their first preference would be to harmonize the term of protection of cinematographic and audiovisual works on the basis of a fixed term calculated from the first lawful communication of the work to the public. Any proposal to harmonize the authorship of such works would have to be given careful consideration. These delegations were not familiar with the approach represented by the Schwartzenberg amendment, which raised a number of problems. It was not clear to these delegations why it was necessary to include all the categories of contributors listed in that proposal, nor why the producer, who also made a creative contribution to the work, was not mentioned. Moreover, since the list included in the Schwartzenberg amendment was not exhaustive, this proposal did not result in total harmonization of film authorship, so that different people could be considered to be authors of the same work in different Member States, with the possible consequence that the term of protection expired at different dates in different Member States.

The Netherlands delegation shared a number of the doubts expressed by the United Kingdom and Irish delegations in respect of the Schwartzenberg amendment. It considered that it would be sufficient if the natural persons who had made a substantial contribution to a cinematographic or audiovisual work were to be considered to be its authors.
The Commission representative pointed out that although the Schwartzzenberg amendment did not specifically mention the producer of a cinematographic or audiovisual work, it did not rule out the possibility of him being considered as one of the authors where he had made a creative contribution to the work.
HAS ADOPTED THIS DIRECTIVE:

**Article 1**

**DURATION OF AUTHORS' RIGHTS**

1. The rights of an author of a literary or artistic work within the meaning of Article 2 of the Berne Convention shall run for the life of the author and for seventy years after his death, irrespective of the date when the work is lawfully made available to the public.

2. In the case of a work of joint authorship the term referred to in paragraph 1 shall be calculated from the death of the last surviving author.

3. a) In the case of anonymous or pseudonymous works, the term of protection shall run for seventy years after the work is lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, or if the author discloses his identity during the period referred to in the first sentence, the term of protection applicable shall be that laid down in paragraph 1.

   b) In the case where a work:

   - is created by several authors on the initiative and under the direction of a physical person or legal entity, with the understanding that it will be disclosed only by - and under the name of - that person or entity, and

   - where this work consists of contributions of authors which are merged in the work so that it is impossible to identify the authors thereof,

   the work shall be considered to be an anonymous or pseudonymous work, so that the duration shall be calculated as provided for hereabove under a).

   This paragraph is without prejudice to the rights of identified authors whose contributions are included in such works.

4. deleted.

5. Where a work is published in volumes, parts, instalments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for each such item separately.
6. In the case of works for which the term of protection is not calculated after the death of the author or authors and which have not been lawfully made available to the public within 70 years from their creation, the protection shall terminate.

**Article 1 bis**

**PROTECTION OF POSTHUMOUS WORKS**

Posthumous works, the copyright of which has elapsed according to the provisions of article 1, shall receive a protection equivalent to the economic rights of copyright for a term of [50] [70] years after the work is lawfully made available to the public. The first owner of this right shall be the person who made the work lawfully available to the public.

**Article 2**

**DURATION OF RELATED RIGHTS**

1. The rights of performers shall expire fifty years after the first lawful publication of the fixation of the performance or if there has been no publication of the fixation, after the first lawful communication to the public of the performance. However, they shall expire fifty years after the performance if there has been no lawful publication or communication to the public during that time.

2. The rights of producers of phonograms shall expire fifty years after the first lawful publication of the phonogram. However, they shall expire fifty years after the fixation was made if the phonogram has not been lawfully published during that time.

3. The rights of producers of the first fixation of a film shall expire fifty years after the first lawful communication to the public. However, they shall expire fifty years after the fixation was made if the film has not been lawfully communicated to the public during that time. The term "film" shall designate a cinematographic or audiovisual work or moving images, whether or not accompanied by sound.

4. The rights of broadcasting organizations shall expire fifty years after the first transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite.

**additional whereas clause**

whereas the rights of broadcasting organizations on their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite, should not be perpetual; that it is therefore necessary to have the term of protection running from the first transmission of a particular broadcast only; that this provision is understood to avoid a new term running in cases where a broadcast is identical to a previous one;
Article 3

Protected photographs shall have the term of protection provided for in Article 1.

Article 4

1. When any of the terms referred to in Articles 1 to 3 begins to run in a Member State it shall be considered to begin to run throughout the Community.

2. Where the country of origin of a work, within the meaning of the Berne Convention, is a third country, and the author of the work is not a Community national, the term of protection granted by the Member States shall expire on the date of expiry of the protection granted in the country of origin of the work, but may not exceed the term laid down in Article 1.

3. The terms of protection laid down in Article 2 shall also apply in the case of rightholders who are not Community nationals, provided Member States grant them protection. However, without prejudice to the international obligations of the Member States, the term of protection granted by Member States shall expire no later than the date of expiry of the protection granted in the country of which the rightholder is a national and may not exceed the term laid down in Article 2.

4. Member States which granted, at the date of adoption of this Directive, to rightholders which are not Community nationals, a longer term of protection than that which would result from the above mentioned provisions, may maintain this protection until the conclusion of international agreements on the term of protection by copyright or related rights.

[5. Pending the conclusion by the European Community of any future international agreements on the term of protection by copyright or related rights, decisions concerning the effects on the functioning of the internal market resulting from a differentiated duration of protection may be taken by means of the procedure set out in Article 9.]

Article 5

The terms laid down in this Directive are calculated from the first day of January of the year following the event which gives rise to them.
**Article 6**

1. deleted.

2. The moral rights granted to the author shall be maintained at least until the expiry of the economic rights of the author.

**Article 6 bis**

1. This Directive shall not have the effect of shortening terms of protection which under the laws of the Member States are already running. It shall apply without prejudice to any acts of exploitation performed before 1 July 1994.

2. This Directive shall apply in respect of all copyright works, performances, phonograms, broadcasts and first fixations of films which are on 1 July 1994, still protected by the legislation of at least one Member State or meet the criteria for protection under the provisions of Directive /EEC (Rental) on that date.

3a. Where, further to the application of the provisions of paragraph 2, works or other subject matter are recalled to protection in certain Member States, the rightholders are fully reinvested with their rights.

b. Rightholders may, however, not prohibit the sale or other acts of exploitation of objects embodying works or other protected subject matters which have been produced or acquired lawfully before [the adoption of the present directive] [1 July 1994] or which result from investments made in good faith by third parties before 1 July 1994 in preparation of a publication in anticipation of the end of protection that would have occurred had the present directive not entered into force.

c. Member States may provide that rightholders shall have a right to obtain an adequate remuneration for the acts of exploitation referred to in paragraph b).

4. The provisions of the present article are without prejudice to article 13 of Directive /EEC (Rental).

**Article 7**

1. Article 8 of Directive 91/250/EEC is hereby deleted.

2. Articles 9 and 10 of Directive ... are hereby deleted.
**Article 8**

1. Member States shall immediately notify the Commission of any plan to grant new related rights, indicating the grounds for their introduction and the term of protection envisaged.

2. Member States shall defer adoption of the plans referred to in paragraph 1 for three months from the date of notification to the Commission. This period shall be extended to twelve months if, within three months of notification, the Commission informs the Member State that it intends to propose a Directive on the subject.

**Article 9**

The Commission shall be assisted by a committee of an advisory nature composed of representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

**Article 10**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 1 to 7 of this Directive by 1 July 1994.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.
2. Member States shall apply Article 8 from the date on which this Directive takes effect.

**Article 11**

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President
Revised text of Article 1(3)(b) proposed by the Commission services on 27 October 1992

3. b) In the case where a work:

- is created by several authors on the initiative and under the direction of a physical person or legal entity, with the understanding that it will be disclosed only by - and under the name of - that person or entity, and

- where this work consists of contributions of authors who are impossible to identify,

the duration shall be calculated as provided for hereabove under a) for anonymous or pseudonymous works.

This paragraph is without prejudice to the rights of identified authors whose contributions are included in such works, in which case paragraph 1 or 2 shall apply.

Texte révisé de l'article 1 paragraphe 3 lettre b) proposé par les services de la Commission le 27 octobre 1992

3. b) Pour les œuvres :

- qui sont créées par plusieurs auteurs sur l'initiative et sous la direction d'une personne physique ou morale, dont il est entendu qu'elles seront divulguées uniquement par cette personne et sous son nom, et

- qui consistent en contributions d'auteurs impossibles à identifier,

la durée est calculée conformément aux dispositions du paragraphe a) ci-dessus relatif aux œuvres anonymes ou pseudonymes.

Ce paragraphe est sans préjudice des droits des auteurs identifiés dont les contributions sont incluses dans de telles œuvres, auquel cas les paragraphes 1 ou 2 s'appliquent.