17.7.2006

NOTICE TO MEMBERS No. 16/2006


In accordance with the interinstitutional agreement of 20 December 1994 (see Notice to Members No 16/96 - PE 217.343) on an accelerated working method for official codification of legislative texts, this proposal from the Commission is to be considered by a consultative working party comprising the legal services of the European Parliament, Council and Commission.

Please find attached the opinion of the consultative working party concerning the proposal in question.

The Committee on Legal Affairs is due to deliver its opinion on this text at its meeting on 11 September 2006
OPINION

FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION


Having regard to the Interinstitutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts, and in particular to point 4 thereof, the Consultative Working Party, comprising the legal services of the European Parliament, the Council and the Commission, examined the aforementioned Commission proposal at its meeting of 31 May 2006.


1. In recital 2 of the proposal for codification, corresponding to recital 1 of Directive 93/98/EEC, the final phrase: “whereas in addition certain Member States have not become party to the Rome Convention” has been deleted. However, the Working Party feels obliged to point out that two Member States, namely Cyprus and Malta, have apparently not yet become party to that Convention.

2. The text of recital 9 should be replaced by the following text, which is an adaptation of part of the text of recital 15 of Directive 2001/29/EC: “The Diplomatic Conference held under the auspices of the World Intellectual Property Organisation (WIPO) in December 1996 led to the adoption of the "WIPO Performances and Phonograms Treaty", dealing with the protection of performers and phonogram producers. That Treaty significantly updates the international protection for copyright and related rights.”

3. In recital 16, the word “sufficient” should be deleted.

1 The Consultative Working Party had all language versions of the proposal and worked on the basis of the French version, being the master-copy language version of the text under discussion.
4. The wording of Article 3(2), second subparagraph, should be replaced by the following wording, adapted from the wording of Article 11(2) of Directive 2001/29/EC: "However, where through the expiry of the term of protection granted pursuant to Article 3(2) of Directive 93/98/EEC in its version before amendment by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 the rights of producers of phonograms are no longer protected on 22 December 2002, this paragraph shall not have the effect of protecting those rights anew".

After examining the proposal, Working Party is thus able to confirm by common agreement that it is indeed confined to straightforward codification, with no substantive changes to the acts concerned.

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Jurisconsult  Jurisconsult  Director-General