

# Screening process: Croatia and Turkey

*Explanatory meeting*  
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# Directive 98/71 on the legal protection of designs

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# Directive 98/71 on the legal protection of designs

- Approximates national laws on the protection of designs in order to ensure the free movement of products incorporating designs and free competition within the Community
- Applies to design rights registered with MS' central industrial property offices; at the Benelux Design Office; under international arrangements which have effect in a MS

# Directive 98/71 on the legal protection of designs

Essential harmonisation:

- Conditions for obtaining a registered design
- Equivalence of protection in all MS for the holder of the right

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- Requirements for protection:
  - Novelty (art 4)
  - individual character (art 5)
- Harmonised invalidity and refusal grounds (art 11)
- Term of protection is for one or more periods of five years from filing, up to a total of 25 years (art 10)
- Registration confers exclusive rights to use the design, such as making, offering, putting on the market, importing, exporting products in which the design is incorporated (art 12)

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- Main exclusions from protection:
  - items incorporated into a product which are not visible during "normal" use of this product;
  - characteristics of a product's appearance which are solely dictated by its technical function;
  - characteristics of a product's appearance which have to be reproduced in order to allow the product to be mechanically connected to, or placed in, around or against, another product;
  - designs contrary to public policy or morality

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## Specific issues:

- Art 3: residents in countries party to OMC and TRIPS are also entitled to protection
- Art 6.2(b): 12-month « grace period » for a priority right
- Art 14: Protection for spare parts for repairing the appearance of a complex product not harmonised in the Directive. Commission adopted a new proposal (14/09/04)
- Art 17: possibility of cumulating copyright and design protection

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For more information:

[http://europa.eu.int/comm/internal\\_market/en/indprop/index.htm](http://europa.eu.int/comm/internal_market/en/indprop/index.htm)