

# **ANALYTICAL EXAMINATION ACQUIS COMMUNAUTAIRE**

**Brussels, 6-7 February 2006**

## **CHAPTER 7: INTELLECTUAL PROPERTY**

**Council Directive 98/93/EEC**

**Of 29 October 1993**

**Harmonising the term of protection of copyright and  
certain related rights**

## Authors' rights – Art 1

- 1) 70 years after death
- 2) **Joint authorship** (death of last surviving author)
- 3) **Anonymous works** (70 years after made available to public unless no doubt as to identity, then like 1))
- 4) **Collective works or legal person** (like 3))
- 5) **Volumes, instalments...**(separate calculation)
- 6) **If not made available within 70 yrs - Ø**

## Cinematographic or audiovisual works - Art 2

- 1) Principal Director = author  
MS can designate other co-authors
- 2) Protection expires after death of last to survive, whether or not they are designated as co-authors : principal director, author of screenplay, author of dialogue and composer of music specifically created for use in the cinematographic or audiovisual work.

# ANALYTICAL EXAMINATION ACQUIS COMMUNAUTAIRE

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## Duration of related rights – Art 3

- **1) Performers**
  - 50yrs after performance
  - If fixation of performance published/communicated to public within that 50yr period, then 50 years from date of whichever is earlier of the publication or communication.
- **2) Phonogram (record) producers**
  - 50yrs from fixation.
  - If publication within 50yr period, then 50yrs from publication.
  - If no publication, but communication to public, then 50yrs from communication to public.
  - No revival (amended by Directive 2001/29/EC -22/12/2002)

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ACQUIS COMMUNAUTAIRE**  
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## **Related rights.....Art 3....**

- **Producers of first fixation of film**
  - 50 years after fixation
  - If published/communicated to public within that 50yrs, then protection is 50yrs from whichever is earlier.
- **Broadcasting organisations**
  - 50 yrs from first transmission of the broadcast whether transmitted by wire or over the air, including by cable or satellite.

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## **Previously unpublished works - Art 4**

- **Copyright protection expired**
- **Publishes/communicates to public for first time**  
(ie. Never been published before)
- **Economic rights only**
- **25yrs from publication/communication to the public**

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## Critical and Scientific publications – Art 5

- **MS ‘may’ protect**
- **Public domain works**
- **Maximum of 30 yrs from publication**

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## Photographs – Art 6

**If they are « author's own intellectual creation » = Art 1**

**No other criteria to determine eligibility.**

**MS 'may' provide protection for 'other' photographs.**





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**Protection vis-à-vis 3rd countries – Art 7**

**Author of work not a Community national  
Term of protection = that of country of origin  
Not longer than Art 1.**

**Same situation for Art 3 – related rights.**



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## Calculation of term – Art 8

**1st January of year following the event**

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## Moral rights - Art 9

**Not harmonised**

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## Application in time – Art 10

- If longer on 1 July 1995 – can keep.
- Directive applies if protected in at least 1 MS on 1 July 1995.
- Flexibility dates for audiovisual (not necessary before 1/7/94 but must be before 1/7/97).
- MS shall adopt necessary provisions to protect in particular acquired rights of 3rd parties.
- « Butterfly case » - C-60/98

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**THANK YOU**

[http://europa.eu.int/comm/internal\\_market/copyright/index\\_en.htm](http://europa.eu.int/comm/internal_market/copyright/index_en.htm)

**Barbara NORCROSS**

**Copyright and Knowledge-based Economy**

European Commission   
Internal Market & Services DG